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教育部高校工商管理类教学指导委员会双语教学推荐教材

工商管理经典教材·核心课系列

BUSINESS ADMINISTRATION CLASSICS

商法——商科学生用

英文版·第7版

阿历克斯·亚当斯 (Alix Adams) 著

LAW FOR BUSINESS STUDENTS

..... Seventh Edition

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 中国人民大学出版社

全新版

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总 序

随着我国加入 WTO,越来越多的国内企业参与到国际竞争中来,用国际上通用的语言思考、工作、交流的能力也越来越受到重视。这样一种能力也成为我国各类人才参与竞争的一种有效工具。国家教育机构、各类院校以及一些主要的教材出版单位一直在思考,如何顺应这一发展潮流,推动各层次人员通过学习来获取这种能力。双语教学就是这种背景下的一种尝试。

双语教学在我国主要指汉语和国际通用的英语教学。事实上,双语教学在我国教育界已经不是一个陌生的词汇了,以双语教学为主的科研课题也已列入国家“十五”规划的重点课题。但从另一方面来看,双语教学从其诞生的那天起就被包围在人们的赞成与反对声中。如今,依然是有人赞成有人反对,但不论是赞成居多还是反对占上,双语教学的规模 and 影响都在原有的基础上不断扩大,且呈大发展之势。一些率先进行双语教学的院校在实践中积累了经验,不断加以改进;一些待进入者也在模仿中学习,并静待时机成熟时加入这一行列。由于我国长期缺乏讲第二语言(包括英语)的环境,开展双语教学面临特殊的困难,因此,选用合适的教材就成为双语教学成功与否的一个重要问题。我们认为,双语教学从一开始就应该使用原版的各类学科的教材,而不是由本土教师自编的教材,从而可以避免中国式英语问题,保证语言的原汁原味。各院校除应执行国家颁布的教学大纲和课程标准外,还应根据双语教学的特点和需要,适当调整教学课时的设置,合理选择优秀的、合适的双语教材。

顺应这样一种大的教育发展趋势,中国人民大学出版社同众多国际知名的大出版公司,如麦格劳-希尔出版公司、培生教育出版公司等合作,面向大学本科生层次,遴选了一批国外最优秀的管理类原版教材,涉及专业基础课,人力资源管理、市场营销及国际化管理等专业方向课,并广泛听取有着丰富的双语一线教学经验的教师的建议和意见,对原版教材进行了适当的改编,删减了一些不适合我国国情和不适合教学的内容;另一方面,根据教育部对双语教学教材篇幅合理、定价低的要求,我们更是努力区别于目前市场上形形色色的各类英文版、英文影印版的大部头,将目标受众锁定在大学本科层次。本套教材尤其突出了以下一些特点:

- 保持英文原版教材的特色。本套双语教材根据国内教学实际需要,对原书进行了一定的改编,主要是删减了一些不适合教学以及不符合我国国情的内容,但在体系结构和内容特色方面都保持了原版教材的风貌。专家们的认真改编和审定,使本套教材既保持了学术上的完整性,又贴近中国实际;既方便教师教学,又方便学生理解和掌握。

- 突出管理类专业教材的实用性。本套教材既强调学术的基础性,又兼顾应用的广泛性;既侧重让学生掌握基本的理论知识、专业术语和专业表达方式,又考虑到教材和管理实践的紧密结合,有助于学生形成专业的思维能力,培养实际的管理技能。

● 体系经过精心组织。本套教材在体系架构上充分考虑到当前我国在本科教育阶段推广双语教学的进度安排，首先针对那些课程内容国际化程度较高的学科进行双语教材开发，在其专业模块内精心选择各专业教材。这种安排既有利于我国教师摸索双语教学的经验，使得双语教学贴近现实教学的需要；也有利于我们收集关于双语教学教材的建议，更好地推出后续的双语教材及教辅材料。

● 篇幅合理，价格相对较低。为适应国内双语教学内容和课时上的实际需要，本套教材进行了一定的删减和改编，使总体篇幅更为合理；而采取低定价，则充分考虑到了学生实际的购买能力，从而使本套教材得以真正走近广大读者。

● 提供强大的教学支持。依托国际大出版公司的力量，本套教材为教师提供了配套的教辅材料，如教师手册、PowerPoint 讲义、试题库等，并配有内容极为丰富的网络资源，从而使教学更为便利。

本套教材是在双语教学教材出版方面的一种尝试。我们在选书、改编及出版的过程中得到了国内许多高校的专家、教师的支持和指导，在此深表谢意。同时，为使后续推出的教材更适于教学，我们也真诚地期待广大读者提出宝贵的意见和建议。需要说明的是，尽管我们在改编的过程中已加以注意，但由于各教材的作者所处的政治、经济和文化背景不同，书中内容仍可能有不妥之处，望读者在阅读时注意比较和甄别。

徐二明

中国人民大学商学院

Preface

Over 30 years of teaching law on a variety of further and higher education courses from GCSE to post-graduate level taught me much about the difficulties experienced by students in grasping legal concepts. It can be particularly hard for students following an intensive course of which law forms only one part. Hopefully, this text will meet their needs. I have tried to make it accessible, without over-simplification of the subject matter.

I have aimed to express the law, as far as possible, in accessible terms for the lay person and with a light touch, in the hope that it may not only instruct its readers, but also entertain them a little as well and maybe encourage them to pursue further study of the law. It is a subject that I love and would like to encourage others to love it at least a little.

Many thanks to all at Pearson who have helped me in the creation of this edition, especially my publisher Zoe Botterill. I greatly value her continuing support and practical assistance. Particular thanks also to editorial assistant Gabriella Playford for all her help.



Photo: Alix Adams

Last but definitely not least, many thanks to my partner Cherry Potts. As ever, her emotional support and encouragement have been crucial to the editing process. She has also given me lots of patient practical assistance and the technical support crucial to a somewhat Luddite author, for whom some aspects of computer use remain a mystery.

Alix Adams

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PART 1

Introduction: Getting started

CHAPTER 1

Study skills

Introduction

This chapter, which aims to help you to acquire the skills essential to the successful study of law is divided into four sections:

- 1 starting to study;
- 2 good study habits;
- 3 writing law assignments;
- 4 revision and examination technique.



Starting to study

Get rid of your misconceptions

Many of you will be studying law for the first time and as one component of a course. You may be feeling nervous about it because it feels remote or difficult and even perhaps boring. In practice (and particularly if you follow the advice in this chapter), you will probably find law much more interesting than you thought when you began your studies. Contrary to common belief, the study of law is not primarily concerned with ancient, dry and precise regulations that you have to learn by heart. Most of your studies are involved with quite modern cases, that have come to court just because the law was not precise and consequently gave rise to the dispute. This book looks at how the law applies to real-life situations, which will help you to recall the legal principles on which it is based. Effective communication of your *understanding* of those principles is the main requirement for examination success.

Remembering all the cases by name and being able to quote extracts from statutes word for word is icing on the cake – impressive, but not essential.

Law is relevant to you

Remember that the law responds and develops as required by the society within which it operates. For example, until 1935 the driving test was not compulsory because road safety had not assumed the importance it enjoys today. Then there was much less motorised traffic moving more slowly than today and consequently many fewer accidents. The law affects you personally every day of your life. For example, it determines your eligibility for a student loan, your rights to treatment under the National Health Service and your entitlements and responsibilities as a consumer, business owner, employer or employee.

Widen your horizons

Your studies will be more rewarding if you do not consider law as something to be thought about only when you are in class or reading a relevant text. The effects of many areas of the law are widely reported and discussed in the media. Such reports can help you to see how the law works (or does not work), as well as reminding you of what you have studied. Stay in touch with the news, try to look at a quality daily paper and look out for relevant TV and radio programmes. Some suggestions for resources appear in Appendix 1. The Internet is an excellent research tool. Try visiting the websites suggested by the web activity references at the end of Chapters 3–23.

Make connections

The more you study, the easier it gets. Studying law is rather like doing a large jigsaw without the help of a picture – progress is initially slow while the framework is established, but patience is rewarded. Once the picture begins to reveal itself you can see more easily how the different pieces fit together and then the task gets easier and quicker.

Try not to think of each topic as a separate entity to be ‘done’ and neatly filed away in the memory. Exploit the links with other related topics; this aids both recollection and understanding. Exam and assignment questions may involve a problem, raising issues about a number of different topics; the ability to see connections is vital to an effective response. To help you do this, frequent cross-references appear in the text. Pondering on the questions in the ‘Worth thinking about?’ boxes in each of the subsequent chapters and

maybe discussing these with your classmates will help with the process.

Read and practise applying your knowledge

Somebody (not a lawyer) once told the author that law is a very 'paper-based subject'. This made it sound a bit like origami, but nevertheless did contain some truth. Reading thoroughly and widely is essential; practising the written skills required by the examinations is also crucial.

Hopefully you will find this book accessible, but if you are new to the study of law it would take magical powers to understand it all fully at a first reading. Be prepared to go back and re-read a section that you do not understand. The chapter summaries may help you to grasp the main points of each chapter. Often it is best to try to get a general picture on the first reading of a topic that you find hard, pressing on even if you do not understand it. You will still get something from it, and on each subsequent reading it will become clearer.

Get all the writing practice that you can. Homework provides safe space to make mistakes; and it is much better to make them then rather than in the exam. Try the quizzes and assignments in this book. Prepare written answers to tutorial questions and be prepared to participate when attending them. This is much more valuable (and more fun) than listening mutely to other people's answers.



Good study habits

Create a structure for learning

Success in your studies depends more on being well organised than having a flair for the subject. Settling yourself into a reasonably structured regime is very helpful but isn't necessarily all that easy when you are starting something new, maybe away from home for the first time and excited by all the attractions on offer in this new phase of your life. Possibly all this newness is a bit daunting and you are feeling a bit anxious or homesick. Either way, some structure will help.

Taking care of yourself

This is your first priority. Remember that your brain is part of your body! This very obvious statement still needs reinforcement for many students who ignore their need for proper food and sleep and relaxation. It is easy to let these apparently simple requirements slip under the pressure of a new and taxing academic course, pursuit of a social life, and the part-time job that most students will find necessary. Many of you, particularly mature students, may have caring responsibilities that may have to take priority.

However, try to eat a balanced diet and get a reasonable amount of sleep. Be prepared to acknowledge that you may from time to time need some extra support. If you are ill, or having any other problems that hinder your studies, tell your lecturers or personal tutor what is going on, as they are often able to help. Counselling services may also be available at your university or college that can be very helpful.