

E N G L I S H

陈忠成 著

英 汉
法 律 用 语

正 误 辨 析

法 律 出 版 社

H S I L G N E

凡 例

一、本书共收词目 387 条，其中英译汉的 295 条，汉译英的 92 条。附“英汉法律词书评论”六篇。所收词目为近年来已经出版、有代表性的七种英汉法律词书中值得商榷的译名。经过考证比较、论证辨别，提出正译。

二、正文部分列入英译汉词目 295 条。先列出英文原文词目，再举出值得商榷的汉语原译，然后提出汉语正译，并逐一列出正译的英（德、日）语原文依据。

三、汉英部分列入汉译英词目 92 条。先列出汉语原文词目，再举出值得商榷的英文原译，然后提出英文正译，并逐一列出正译的依据和理由。

四、本书所收条目，英译汉部分按英文字母顺序排列；汉译英部分按汉语拼音音节顺序排列。备有条目索引，以备查检。

五、本书所收原译及论证依据都注明出处，以便比较鉴别。

图书在版编目 (CIP) 数据

英汉法律用语正误辨析/陈忠诚著. -北京: 法律出版社,
1997. 12

ISBN 7-5036-2286-5

I. 英… II. 陈… III. 法律-术语-分析-英、汉 IV. D9-61

中国版本图书馆 CIP 数据核字 (97) 第 25912 号

出版·发行/法律出版社

经销/新华书店

印刷/北苑印刷厂

开本/850×1168 毫米 1/32 印张/13.5 字数/322 千

版本/1998 年 4 月第 1 版 1998 年 4 月第 1 次印刷

印数/0,001—5,000

社址/北京市广外六里桥北里甲 1 号八一厂干休所 (100073)

电话/63266794 63266796

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书号: ISBN7-5036-2286-5/D·1904

定价: 25.00 元

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英汉法律用语正误辨析

陈忠诚 著

法律出版社

前 言

近二十年来,中外法学交流频繁,法制建设日具规模,法律(学)翻译工作亦水涨船高,成绩喜人。但由于历史原因,作为中外法律交流桥梁的法律翻译,其水平远不如科技、文学、政治等领域。因而汉英法律翻译中的失误量多质高,问题不少,令人不安。特别是法律术语之翻译,种种舛误,令人吃惊:如从1978商务版《汉英词典》至1993年上海交大版《汉英大辞典》莫不误以*legalis homo*〔奉公守法之人〕译“法人”;以《中国大百科全书·法学》为首的诸汉英词书均以“*material evidence*”误译“物证”;众词典无不误以“*rule by law*”译“法治”——尽管英语实践中的习惯用法为“*rule of law*”;“*foster parent*”明明是不同于“养父母”(即“*adoptive parent*”)的“寄父母”,却偏偏被众多词典误译成了“养父母”,同“*adoptive parent*”混为一谈了;“连带责任”在多种译品中都被当作“共同责任”(joint responsibility 或 liability)来译了……〔各例散见近年来发表的拙文:《法律英译质量调查刍议》(《政法高教研究》1997年3期)、《法律英译质量与法律英语教学质量》(《政法高教研究》1997年4期)、《关于基本法律概念之误解误译》(《南京大学学报——法学评论》1997年秋季号)和《涉外中国法律服务中使用英语译文要注意鉴别》(《上海律师》1997年11期)等]

在正如鲁迅所说的翻译离不开词典的前提下,英汉或汉

英词书作为工作“母机”，每每就是法律用语翻译错误的“策源地”，故一切工作得从肃清英汉双语词书中的种种舛误着手。我与爱妻吴幼娟女士共同策划下，有编著英汉法律用语辨正词典之议。五年来，在她大力支持、积极参与下，已有所成就，故拟精选其中最典型的材料，以专著形式先行出版，定名为《英汉法律用语正误辨析》。

本书从海内外近些年来已经出版、有代表性的七种英汉法律词书中，精选其美中不足或值得商榷的译名共 387 条（其中英译汉的 295 条、汉译英的 92 条），根据英、美、澳出版的英英法律词典十种，以及英德、英日法律词书各一种，予以考证比较、去芜存菁，经过论证辨别，提出正译。

本书每一条目先列值得论证的原有译名，再列所建议的正译，然后逐一列出正译的英（德、日）语原文根据。正译，不仅对原有的误译加以辨正，同时兼及对原译片面取义的补正。

本书不仅具有法律词典的功能，而且兼备双解词典的作用，使读者能有同时查阅多种原文词书于一举之便利。这就大大有助于读者比较、鉴别并深入理解法律词语之含义。

本书主要读者对象为国内外比较法专家、部门法专业教师、研究生；翻译（特别是法律翻译）工作者；外经、外贸、外事工作者；涉外司法工作者（包括律师）；法科学生和双语词书编纂工作者。

本书自立意至定稿前后凡五年，始终承蒙半个多世纪来与笔者同甘共苦的老伴儿吴幼娟女士（1919—1997）大力支持并积极参与。她不幸竟于本书付梓之际匆匆逝去。哀痛之余，敬以此书为之祝福：安息吧，吾爱！

陈忠诚

1997 年 12 月于上海

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