

当代法律英语

黄 瑶 陈 东 主 编
樊林波 廖朵朵 副主编

中山大学出版社

· 广州 ·

图书在版编目 (CIP) 数据

当代法律英语/黄瑶, 陈东主编. —广州: 中山大学出版社, 2006. 9
ISBN 7-306-02706-9

I. 当… II. ①黄… ②陈… III. 法律—英语 IV. H31

中国版本图书馆 CIP 数据核字 (2006) 第 082236 号

责任编辑: 熊锡源

封面设计: 楚 天

责任校对: 易 正

责任技编: 黄少伟

出版发行: 中山大学出版社

编辑部电话: (020) 84111996, 84113349

发行部电话: (020) 84111998, 84111160

地 址: 广州市新港西路 135 号

邮 编: 510275 传真: (020) 84036565

印 刷 者:

经 销 者: 广东新华发行集团

规 格: 787mm×960mm 1/16 19.75 印张 456 千字

版次印次: 2006 年 9 月第 1 版 2006 年 9 月第 1 次印刷

定 价: 39.80 元

前 言

20 世纪 80 年代中期，中山大学法学院（原法律系）李斐南老师出版了她编写的《法学英语》，该书被许多兄弟院校采用为教材。使用过该教材的学生，在移家海外后还不忘带着这本书。到了 90 年代，李斐南和黄瑶两位老师合作编著《现代法律英语》，以其自然朴实的风格赢得中山大学法学院数届学子的赞誉。新版的《当代法律英语》除了贴近时代脉搏外（如涉及美国前总统克林顿弹劾案的国会辩论材料），也试图延续这种朴实清新的传统。

本书所精选的 38 篇课文源自 20 世纪 90 年代以来欧美国家的教科书或专著，编者对原作进行了必要的删减。通过学习这些课文，读者不仅能提高法律英语水平，而且能对相关法律制度和法律文化有大致地了解。

本书的篇章布局包括课文、课文之后的注释部分和练习题以及书末的两个附录、课文听力材料等内容。其中，课文的选材涉及当代各主要法律部门。在课文编排顺序上，编者既考虑到法律体系的逻辑，也照顾到由易到难的学习规律（如较艰深的宪法课文放在较后的位置）。课后的注释部分除了解释说明有关的法律术语外，还介绍有关外国法律的背景知识，并对部分长句、难句或关键句进行分析或汉译。为了兼顾自学者，有相当部分的课文作了较为详细的注释。练习题则形式多样。书末附录包括常见法律词汇英汉对照表和练习参考答案。

值得注意的是，课后注释的译文部分不一定是“信、达、雅”皆备的，而附录的练习“参考答案”也不一定是“标准答案”，建议读者带着批判的眼光，先自行理解、自己动手翻译，再参考相应的注释或答案，效果会更好——课后注释之所以没有采用脚注的形式，也是出于相同的考虑。读者在学习每篇课文之前先花一个小时左右听几遍听力材料，最好是采用听写的方式，能听多少就写多少，然后再与课文进行对比，定能取得事半功倍之效。需注意的是，录音材料中的男声以英音为主，而女声则以美音为主，所以有些单词发音并不完全一致，这是正常现象，并有助于读者掌握两种英语的不同特点。

读者也可留意书后所列“主要参考书目及网上资源”，特别是 Bryan A. Garner 所著《牛津现代法律用语词典》（*A Dictionary of Modern Legal Usage*，法律出版社 2003 年版，牛津大学出版社 1995 年版影印本），编者认为正如其出版说明所说“最可信赖、最具吸引力”，值得向读者推荐。

本书可供法律专业的本科高年级学生作为教材之用，亦适用于从事或有志于涉外法律工作的人士以及对法律英语感兴趣者。鉴于法学理论和法律实践两者间的紧密关系，李斐

南、黄瑶、曾报春和任崇正编译的《法律英语实务——中外法律文书编译》（中山大学出版社 2005 年版）可作为本书的姊妹篇相互补充使用。

本书的编著由四位从事法律英语教学多年的教师共同完成，具体分工情况如下：

黄 瑶 负责本书的策划、组织、统稿等事宜，并负责本书 10 篇课文的编写，其内容包括：公法、私法、刑法、合同法、知识产权法、行政法、国际法、冲突法、国际商事仲裁等。

陈 东 负责本书的统稿和审校，编写附录一“法律词汇英汉对照表”，朗诵及灌制部分听力材料，并负责本书 10 篇课文的编写，包括：公司法、破产法、WTO 法、国际货物买卖法、国际投资法、宪法等。

樊林波 负责编写本书的 8 篇课文，内容涉及法律教育、世界法系、美国商法、电子商务法、证券法、国际人权法、反垄断法、法律研究（检索）等。

廖朵朵 负责编写本书的 10 篇课文，内容包括：侵权法、法律职业、英美法基本原则、普通法、雇佣法、土地法、信托法、司法组织、刑事和民事司法程序等。

本书的出版得到中山大学出版社的大力支持，责任编辑熊锡源为本书付出了辛勤的劳动，谨此致以衷心的感谢！

主 编

2006 年 5 月于广州康乐园

目 录

Unit One	Preparation for Legal Education	(1)
Unit Two	The Legal Profession	(9)
Unit Three	World Legal Systems	(16)
Unit Four	Public Law	(22)
Unit Five	Private Law	(28)
Unit Six	Basic Principles of Common Law	(38)
Unit Seven	Common Law and Equity	(46)
Unit Eight	The English and the American Court System	(53)
Unit Nine	The Sources of Criminal Law	(60)
Unit Ten	Criminal Procedure	(69)
Unit Eleven	Civil Procedure	(76)
Unit Twelve	Nature and Classes of Contracts	(81)
Unit Thirteen	Introduction to American Uniform Commercial Code	(91)
Unit Fourteen	Law of Torts	(98)
Unit Fifteen	What is Trust?	(107)
Unit Sixteen	Trademarks, Service Marks and Copyrights	(112)
Unit Seventeen	Patents, Secret Business Information, Protection of Computer Software and Mask Work	(121)
Unit Eighteen	A Comparative Analysis of Spam Laws: the Quest for Model Law	(130)
Unit Nineteen	Law of Corporations	(136)
Unit Twenty	Law of Bankruptcy	(145)
Unit Twenty-one	Securities Regulation	(152)
Unit Twenty-two	Employment Law	(159)
Unit Twenty-three	Land law	(166)
Unit Twenty-four	Administrative Law	(170)
Unit Twenty-five	Sources of International Law	(177)
Unit Twenty-six	The World Trade Organization(I)	(187)
Unit Twenty-seven	The World Trade Organization (II)	(194)

Unit Twenty-eight	The World Trade Organization(III)	(200)
Unit Twenty-nine	The Evolution of the Meaning of the Term ‘Investment’	(205)
Unit Thirty	The OECD Guidelines for Multinational Enterprises	(210)
Unit Thirty-one	Nature and Scope of the Conflict of Laws	(218)
Unit Thirty-two	International Sales Transaction (I)	(224)
Unit Thirty-three	International Sales Transaction (II)	(230)
Unit Thirty-four	Types and Rules of International Commercial Arbitration	(236)
Unit Thirty-five	International Human Rights Law	(244)
Unit Thirty-six	The Changing Balance in Antitrust Law	(252)
Unit Thirty-seven	Constitutional Law	(258)
Unit Thirty-eight	The Legal Research Process	(266)
主要参考书目及网上资源		(277)
附录 1	法律词汇英汉对照表	(278)
附录 2	练习参考答案	(287)

Unit One

Preparation for Legal Education

Students who are successful in law schools, and who become accomplished lawyers or use their legal education successfully in other areas of professional life, come to their legal education from widely differing educational and experiential backgrounds. As undergraduate students, some have majored in subjects that are traditionally considered paths to law school, such as history, English, philosophy, political science, economics or business^[1]. Other successful law students, however, have focused their undergraduate studies in areas as diverse as art, music theory, computer science, engineering, nursing or education. Many law students enter law school directly from their undergraduate studies and without having had any substantial work experience. Others begin their legal education significantly later in life, and they bring to their law school education the insights and perspectives gained from those life experiences.

Thus, the ABA^[2] does not recommend any particular group of undergraduate majors, or courses that should be taken by those wishing to prepare for legal education; developing such a list is neither possible nor desirable. The law is too multifaceted, and the human mind too adaptable, to permit such a linear approach to preparing for law school or the practice of law. Nonetheless, there are important skills and values, and significant bodies of knowledge that can be acquired prior to law school and that will provide a sound foundation for a sophisticated legal education. This Statement presents the recommendations of the American Bar Association Section of Legal Education and Admissions to the Bar concerning preparation for a good law school experience.

There are numerous skills and values that are essential to success in law school and to competent lawyering^[3]. There also is a large body of information that law students, and attorneys, should possess. The three or four years that a student spends in obtaining a quality legal education can and do provide much of the information that a lawyer needs. Good legal education also aids in developing the many skills and values essential to competent lawyering. Sound legal education, however, must build upon and further refine skills, values and knowledge that the student already possesses. Even though a student may well be able to acquire in law school some specific fundamental skills and knowledge that the student's pre-law school

experience has not provided, the student who comes to law school lacking a broad range of basic skills and knowledge will face an extremely difficult task.

Skills and Values

Analytic and Problem Solving Skills

Students should seek courses and other experiences that will engage them in critical thinking about important issues, that will engender in them tolerance for uncertainty, and that will give them experience in structuring and evaluating arguments for and against propositions that are susceptible to reasoned debate. Students also should seek courses and other experiences that require them to apply previously developed principles or theories to new situations, and that demand that they develop solutions to new problems. Good legal education teaches students to “think like a lawyer”^[4], but the analytic and problem-solving skills required of lawyers are not fundamentally different from those employed by other professionals. The law school experience will develop and refine those crucial skills, but one must enter law school with a reasonably well developed set of analytic and problem solving abilities.

Critical Reading Abilities

Preparation for legal education should include substantial experience at close reading and critical analysis of complex textual material, for much of what law students and lawyers do involves careful reading and sophisticated comprehension of judicial opinions, statutes, documents, and other written materials^[5]. As with the other skills discussed in this Statement, the requisite critical reading abilities may be acquired in a wide range of experiences, including the close reading of complex material in literature, political or economic theory, philosophy, or history. The particular nature of the materials examined is not crucial; what is important is that law school not be the first time that a student has been rigorously engaged in the enterprise of carefully reading and understanding, and critically analyzing, complex written material of substantial length. Potential law students should also be aware that the study and practice of law require the ability to read and assimilate large amounts of material, often in a short period of time.

Writing Skills

Those seeking to prepare for legal education should develop a high degree of skill at written communication. Language is the most important tool of a lawyer, and lawyers must learn to express themselves clearly and concisely. Legal education provides good training in writing, and

particularly in the specific techniques and forms of written expression that are common in the law. Fundamental writing skills, however, should be acquired and refined before one enters law school. Those preparing for legal education should seek as many experiences as possible that will require rigorous and analytical writing, including preparing original pieces of substantial length and revising written work in response to constructive criticism.

Oral Communication and Listening Abilities

The ability to speak clearly and persuasively is another skill that is essential to success in law school and the practice of law. Lawyers also must have excellent listening skills if they are to understand their clients and others with whom they must interact daily. As with writing skills, legal education provides excellent opportunities for refining oral communication skills, and particularly for practicing the forms and techniques of oral expression that are most common in the practice of law. Before coming to law school, however, individuals should seek to develop their basic speaking and listening skills, such as by engaging in debate, making formal presentations in class, or speaking before groups in school, the community, or the workplace.

General Research Skills

Although there are many research sources and techniques that are specific to the law, an individual need not have developed any familiarity with these specific skills or materials before entering law school. However, the individual who comes to law school without ever having undertaken a project that requires significant library research and the analysis of large amounts of information obtained from that research will be at a severe disadvantage. Those wishing to prepare for legal education should select courses and seek experiences that will require them to plan a research strategy, to undertake substantial library research, and to analyze, organize and present a reasonably large amount of material. A basic ability to use a personal computer is also increasingly important for law students, both for word processing and for computerized legal research^[6].

Task Organization and Management Skills

The study and practice of law requires the ability to organize large amounts of information, to identify objectives, and to create a structure for applying that information in an efficient way in order to achieve desired results. Many law school courses, for example, are graded primarily on the basis of one examination at the end of the course, and many projects in the practice of law

require the compilation of large amounts of information from a wide variety of sources, frequently over relatively brief periods of time. Thus, those entering law schools must be prepared to organize and assimilate large amounts of information in a manner that facilitates the recall and application of that information in an effective and efficient manner. Some of the requisite experience can be obtained through undertaking school projects that require substantial research and writing, or through the preparation of major reports for an employer, a school, or a civic organization.

The Values of Serving Others and Promoting Justice

Each member of the legal profession should be dedicated both to the objectives of serving others honestly, competently, and responsibly, and to the goals of improving fairness and the quality of justice in the legal system. Those thinking of entering this profession would be well served by having some significant experience, before coming to law school, in which they devoted substantial effort toward assisting others. Participation in public service projects or similar efforts at achieving objectives established for common purposes can be particularly helpful.

Knowledge

There are generic types of knowledge that one should possess in order to have a full appreciation of the legal system in general, to understand how disputes might be resolved, to understand and apply various legal principles and standards, and to appreciate the context in which a legal problem or dispute arises. Some of the types of knowledge that are most useful, and that would most pervasively affect one's ability to derive the maximum benefit from legal education, include the following:

A broad understanding of history, particularly American history, and the various factors (social, political, economic, and cultural) that have influenced the development of the pluralistic society that presently exists in the United States^[7];

A fundamental understanding of political thought and theory, and of the contemporary American political system;

A basic understanding of ethical theory and theories of justice;

A grounding in economics, particularly elementary micro-economic theory, and an

understanding of the interaction between economic theory and public policy;

Some basic mathematical and financial skills, such as an understanding of basic pre-calculus mathematics and an ability to analyze financial data;

A basic understanding of human behavior and social interaction; and

An understanding of diverse cultures within and beyond the United States, of international institutions and issues, and of the increasing interdependence of the nations and communities within our world.

As law has become more woven into the fabric of our society, and as that society is increasingly influenced by disparate national and global forces, a broad knowledge base is essential for success in law school and for competence in the legal profession. Knowledge of specific areas of law can and will be acquired during a good legal education, but students must come to law school with much fundamental knowledge upon which legal education can build. Thus, those considering law school should focus their substantive preparation on acquiring the broad knowledge and perspectives outlined above.

—The STATEMENT Prepared by the Pre-Law Committee of the ABA
Section of Legal Education and Admissions to the American Bar Association.
<http://www.abanet.org/legaled/prelaw/prep.htm>, 2005-07-18

Notes to the Text

- [1] **As undergraduate students, some have majored in subjects that are traditionally considered paths to law school, such as history, English, philosophy, political science, economics or business.** 有些本科生早已主修传统上被认为是上法学院所必修的课程, 诸如历史、英语、哲学、政治学、经济学或商学。Economics 这里指西方经济学, 主要分支是微观经济学 (Micro-economics) 和宏观经济学 (Macro-economics)。Business 相对于 Economics, 除了研究对象有差异外, 前者还偏重于实务操作和技巧, 后者则理论性很强。
- [2] **“ABA”:** 美国全国律师协会 (the American Bar Association)。该协会是世界上最大的自愿性专业协会, 拥有 40 多万会员。美国律协的职能是: 认定法学院的适格、负

责法学继续教育、提供法学信息以及主办律师与法官的在职培训项目等。

- [3] **There are numerous skills and values that are essential to success in law school and to competent lawyering.** 有许多技能和价值观是学生在法学院阶段学业成功及之后胜任律师执业的关键。
- [4] **“Think like a lawyer”** : 像法律人那样去思考。此乃美国法学教育,特别是 J. D. (Juris Doctor 可以译为“法律科学博士”,属美国的法学第一学位,相当于法学学士)三年法学教育之目的所在——以案例为导向培养未来法律人的职业思维方式。
- [5] **Preparation for legal education should include substantial experience at close reading and critical analysis of complex textual material, for much of what law students and lawyers do involves careful reading and sophisticated comprehension of judicial opinions, statutes, documents, and other written materials.** 鉴于法科学生的大量学习和律师所从事的大量工作涉及对司法意见、法规、文件和其他书面材料的仔细阅读与全面理解,法学教育的准备应包括在仔细阅读和批判分析复杂课文材料方面的实质性经验。本句中的 judicial opinions 指法官在某一案件审理后所得出的意见、见解或裁决,常译为司法裁决(法官意见)。statute 指“法律,法规,制定法,成文法;章程”。在此句中意为“制定法”。制定法又可以表示为 enacted law 或 statutory law。documents 指“法律文件”,“公文”,“文件”,“单证”,“诉讼案卷”等,常写为 legal documents。
- [6] **A basic ability to use a personal computer is also increasingly important for law students, both for word processing and for computerized legal research.** 对于文字处理和电脑化法律检索而言,法科学生使用个人电脑的基本技能亦越来越重要。本句中的 computerized legal research 也可称作 computer-assisted legal research 或 advanced legal research (ALR),指电脑辅助下的法学综合检索与研究。
- [7] **A broad understanding of history, particularly American history, and the various factors (social, political, economic, and cultural) that have influenced the development of the pluralistic society that presently exists in the United States** 对历史,尤其是美国历史,以及影响美国现存多元社会发展的各种因素(社会、政治、经济和文化)的广泛理解。句中的“pluralistic”一词意为“多元的”。同段下文 pre-calculus mathematics 预算微积分数学。

Exercises

1. Which of the following statements are **NOT** true according to the text?

- (1) The ABA tries to recommend groups of undergraduate majors, or courses that should be taken by those wishing to prepare for legal education, as developing such a list is both possible and desirable.
- (2) Good legal education aids in developing the many skills and values essential to competent lawyering. Sound legal education must build upon and further refine skills, values and knowledge that the student already possesses.
- (3) The essential skills and values for competent lawyering are the following: analytic and problem-solving skills, critical reading abilities, writing skills, oral communication and listening abilities, general research skills, task organization and management skills, and the values of serving faithfully the interests of others while also promoting justice.
- (4) The analytic and problem-solving skills required of lawyers are fundamentally different from those employed by other professionals.
- (5) Those wishing to prepare for legal education should select courses and seek experiences that will require them to plan a research strategy, to undertake substantial library research, and to analyze, organize and present a reasonably large amount of material.
- (6) Not all the members of the legal profession should be dedicated both to the objectives of serving others honestly, competently, and responsibly, and to the goals of improving fairness and the quality of justice in the legal system.

2. Read the following passage and then translate the underlined sentences into Chinese.

Today's law students grew up immersed in digital media for entertainment, communication, and shopping. Tomorrow's lawyers will work in a powerful information culture. Increasingly students will demand that institutions of higher education provide technology-rich learning environments. This passage discusses the technology-infused curriculum of the Advanced Legal Research (ALR) course at the University of Denver College of Law. (1) The ALR Course has enhanced the legal research, technology, and analytical skills of many law students. (2) ALR is uniquely positioned to provide a number of critical skills necessary for success in law practice: information literacy, digital literacy, and critical thinking skills.

Information literacy

(3) Prior to any argument made in a brief or before the court, a lawyer must find all the mandatory and persuasive authority that exists on the issue at hand. Information currently resides in a number of formats: print; commercial online services; and free Internet sites. A cost-effective legal researcher learns to appreciate the relative benefits of information in each of these formats, develops the skills to work easily in each, and blends the results seamlessly into his/her argument.

Digital literacy

The ALR course is taught in a technology-rich learning environment. The ALR E-Curriculum is innovative, interactive, and paperless. Students work in an Internet environment during each class session. (4) In law practice today, presentation software skills are critical for presentations to juries, boards of directors, and potential clients. Web authoring skills are highly valued. Most legal employers maintain a web site for marketing their business. Lawyers who understand web authoring can either create and maintain their own sites or work more easily with those with whom they contract to do the work.

Critical thinking skills

For each research problem they encounter, lawyers need to create a research strategy for completion of that project. Research strategies include selection of the appropriate research tools to find an answer, an understanding of the time it will take to do the work, and a clear idea of the cost involved with the research. (5) Comprehensive coverage of legal research resources, strong focus on developing research strategies, and exposure to legal publishers and pricing are covered in the ALR course.

Selected from Debra S. Austin, *Educating the Lawyers of Tomorrow Using E-Curriculum*

3. *Debating Questions.*

- (1) How much do you know about Western Legal Teaching and Researching Methodologies?
- (2) What lawyering skills should we possess?

Unit Two

The Legal Profession

Solicitor^[1]

In most countries there is only one legal profession. This means that all the lawyers have roughly the same professional education leading to the same legal qualifications, and they are permitted to do all the legal work that has to be done. In England the system is different. Here the profession is divided into two types of lawyers, called Solicitors and Barristers^[2]. They both are qualified lawyers^[3], but they have a different legal training; they take different examinations to qualify, and once they have qualified they usually do different types of legal work.

Solicitors have direct contact with their clients. In most cases, barristers do not. The solicitor's relationship with a client is therefore usually more personal. In almost all cases, a client who needs the services of a barrister must go first to a solicitor, who will then instruct, or brief^[4] the barrister. This means that the solicitor will choose the barrister who is right for the case, and help to prepare the case for court. In simple cases the solicitor will usually leave the barrister to get on with the case in court on his own; in more difficult cases, the solicitor will sit behind the barrister in court and assist in the presentation of the case^[5].

A solicitor's practice is called a firm of solicitors^[6]. There are a great many firms, and they range from small country practices employing perhaps one or two solicitors to large city practices employing scores, even hundreds, of partners (solicitors entitled to say how the firm is managed, and to a share in its profits) and associate solicitors (salaried employees without these rights).

Anyone who wishes to take legal advice or have legal work done will usually go to a solicitor's office, where he will see the solicitor and tell him what he requires. This is called giving a solicitor instruction^[7]. Many solicitors deal with a range of legal work. Here are some of the types of work they do:

- Litigation^[8]: preparing cases to be tried in the civil or criminal courts.
- Commercial: giving legal advice in the field of business, and drawing up contracts.

- Conveyancing^[9]: making all the legal arrangements for the buying and selling of land, and houses or other buildings.
- Employment: assisting employees and employers in cases involving allegations of unfair dismissal, or claims for redundancy payments^[10].
- Family: such as divorce and child care.
- Immigration: representing foreign nationals or those without any national status at all, who are claiming asylum^[11] in this country, or permission to stay or work.
- Licensing: arranging to apply for licences that have to be granted by the courts or other bodies (such as licences for pubs and clubs).
- Probate: making wills for clients who, when they die, wish to leave their property to certain persons or charities; and making sure that their wishes are carried out^[12].

Barrister

The full title of a barrister is Barrister-at-law. Barristers are also known as counsel. The term ‘barristers’ derives from the fact that when they qualify they are ‘called to the Bar’, an expression which dates from the days when each courtroom was fitted with a rail or bar dividing the area actually used by the court from the general public^[13]. Only barristers were allowed to step up to the bar to plead their clients’ cases.

Students who wish to become barristers must first become members of one of the four Inns of Court^[14]. These are in London. They are called Middle Temple, Inner Temple, Lincoln’s Inn, and Gray’s Inn. In order to become a barrister, a student must pass all the necessary law exams; but he or she must also attend ‘qualifying sessions’, which include ‘dining in Hall’ and other educational activities. Dining in Hall literally means eating a number of dinners in the Great Hall of their Inn of Court. The tradition dates from the days when students received their legal education by attending lectures which were given while they were dining in Hall.

Although solicitors and barristers are all members of the legal profession, there are many important differences between them. Here are some of the main ones:

- Barristers are mainly litigation or ‘courtroom lawyers’ who actually conduct cases in court. Unlike solicitors, they have rights of audience^[15] (rights to appear) in any court in the land, and so barristers are those lawyers who appear in the more difficult cases in the Crown Court, the High Court and the various courts.
- Clients who need to go to court cannot go to see a barrister directly. They can only arrange to be represented by a barrister or to take his advice by first going to a solicitor. The solicitor will then instruct or ‘brief’ the barrister to help the client.

- Unlike solicitors, barristers cannot work in partnership with one another. All professional barristers are self-employed, although normally a number of barristers will as a matter of convenience share offices, which are known as barristers' chambers^[16], and have their work organized by the same manager, who is called a barrister's clerk. A barrister's clerk arranges court appearances and meetings between clients, solicitors, and barristers (these meetings are known as conferences). He or she also negotiated the barristers' fees.
- Another well-known and very obvious difference is the robes barristers wear. In the magistrates' courts and tribunals, such as the Employment Tribunals, they wear their business suits, like solicitors. In all other courts they wear wigs and gowns.

Law Officers

Two of the most important lawyers in the country are the Law Officers. They are the Attorney-General and his deputy the Solicitor-General^[17]. The law officers are now appointed by the Prime Minister, and are the chief legal advisers to the Government. They also have other important responsibilities such as prosecutions for certain offences, including terrorist offences and corruption, which cannot be commenced without their consent^[18]. By tradition, whenever the security of the State is involved—when, for example, a person is charged with high treason^[19]—the case is prosecuted personally by the Attorney-General. Also by tradition, the Attorney-General is the 'leader of the Bar'. Until recently, the Solicitor-General was always a barrister, but Harriet Harman is the first solicitor, and the first woman, to hold this office. The Attorney-General is also responsible for appointing the head of the prosecution service: the Director of Public Prosecutions^[20] (DPP), who is the head of the Crown Prosecution Service, the department responsible for conducting most prosecutions in England and Wales. By statute he carries out their duties under the superintendence of the Attorney-General.

Adapted from Geoffrey Rivlin, *Understanding the Law*, 2004

Notes to the Text

- [1] **Solicitor** 事务律师，主要办理一般的法律及业务咨询、财产转让、信托、公司业务、为出庭律师准备案件和提供说明等。
- [2] **Barrister** 出庭律师，指已被授予出庭律师资格并被准许在高级法院执业和在诉讼中代表当事人出庭者。另一近义词是 Attorney，在英国，多指代理人；在美国，一般指律师 (attorney-at-law)。