PART A : GENERAL LAW TOPICS

PASSAGE 1 : "'AREAS OF CIVIL LAW''

Directions : Read the following passages on different areas of and complete the exercises following each one.

TORT LAW

1. *Torts.* Tort law is usually described as the law of "civil wrongs," and it is hard to give a more exact definition. I commit a tort if I hit Somebody accidentally but carelessly (with my fists or my car); if I falsely call someone a thief or put this in writing (slander and libel); if I have somebody maliciously arrested, or invade somebody's privacy, or trespass on someone's land without permission.

2. This is a more or less ragbag collection of behaviors, which have little in common except that they are all defined as wrong and do not grow out of a contractual relationship between victim and "tortfeasor." They are also "civil" wrongs, which rneans they are not crimes (at least not necessarily). If I wander onto somebody's land by mistake and trample on something valuable, I may have to pay; but I have not committed a crime and I will not go to jail. It is not a crime for me to back out of a parking space and dent somebody else's fender, unless I did it willfully and recklessly. But of course I have to pay. Some torts are crimes, especially if the behavior is reckless or malicious. The ordinary tort is not.

3. A 'tort is conduct which causes injury and does not measure up to some standard which society has set. Everything listed in the last paragraph is a tort, but some torts are more important than other torts. The heart of tort law is the action for personal injury-a claim against a person or company for hurting my body in some way. Probably 95 percent of all tort claims are for personal injury. Auto accidents, nowadays, are responsible for most of them. Formerly, railroad and work accidents were the most prolific sources. Indeed, the law of torts was insignificant before the railroad age of the nineteenth century-and no wonder. This branch of law deals above all with the wrenching, grinding effects of machines on human bodies. It belongs, to the world of factories, railroads, and mines-in other words, the world of the Industrial Revolution.

4.. Basically, then, the railroad created the law of torts. Not a single treatise on the law of torts was published before 7 850, either in England or the United States. Early tort cases often came up out of railroad accidents. Nicholas Farwell, who worked for the Boston and Worcester Railroad, lost his hand in a switchyard accident, sued the railroad, and got nothing; but *Farwell v.Boston + Worcester Rr. Corp.* made legal history. In this case, the chief justice of Massachusetts, Lemuel Shaw, announced the American version of the "fellow-servant" rule. Under this rule, an employee could not sue his company for work injuries if the accident was caused by the carelessness of a coworker (a fellow-servant). This was, of course, the usual situation in a factory or mine or on the railroad. Hence the rule protected employers against almost all claims of injured workmen.

5. Despite the rule, industrial accidents in which workers like Farwell were mangled by machines were the most fertile source of tort cases in the nineteenth century. In the twentieth century, the fellow-servant rule was replaced by an administrative system-workmen's compensation-and the auto accident moved to center stage. Lately, two subfields of the law of torts have grown rapidly: medical malpractice and products liability (injuries caused by defective foods, toys, appliances, drugs, or other commodities). A study of jury trials in Cook County, Illinois (Chicago and its suburbs) between 1960 and 1979 documents how auto accidents dominate in the lower courts. Of the civil jury trials in that period, 65.5 percent were auto accident cases. Products liability cases rose from 2.3 percent to 5.8 percent at the end of the period; medical malpractice rose from 1.4 percent of the load to 3.5 percent.[5] These last two categories, however, make a noise in society out of all proportion to their numbers; the rise in medical malpractice cases generated a sense of crisis in the profession and led to reform efforts in many states, including attempts to put a ceiling on the amount that plaintiffs can recover from doctors and hospitals.

6. A fundamental concept of tort law is "negligence." This means, roughly, carelessness. Basically, if somebody causes me harm I can sue him for damages only if he was negligent. He has to be at fault. If he was as careful as he should have been (as careful as the imaginary "reasonable man" -the yardstick for measuring negligence), then I cannot recover for my injury.

7. Thousands of cases have turned on what does or does not amount to negligence. In the twentieth century, the concept has gone into something of a decline, especially in products liability cases. More and more, courts impose "strict liability"—that is, a victim can recover even if there was no negligence and if the manufacturer was as careful as is humanly possible. If a company makes jars of pickles and has good quality control, it can still happen that one jar out of a million is bad, slips through the net, and makes someone sick. The company has not been negligent, in nineteenth-century terms. But modern cases insist that the company must pay.

EXERCISE 1 : Vocabulary

Using a legal dictionary, find the meaning of the following words from this passage.

1. tort .....
.....
2. tortfeasor .....
.....
3. treatise .....
.....
4. sue .....
.....
5. liabilty .....
.....

6. reasonable man .....
.....

EXERCISE 2 : Reading Comprehension

1. Read paragraphs 1, 2, and 3 carefully again and answer these questions.
   a. What main idea runs through paragraphs 1 to 3 ?
      (1) torts are easily defined
      (2) some torts are crimes
      (3) torts covers many actions and are difficult to define
      (4) most torts are not crimes

   b. What is the **best** definition of a tort offered by the author?
      (1) a tort is a civil wrong
      (2) a tort covers many types of behavior
      (3) torts are wrongs between persons with no contractual relationship
      (4) a tort is conduct which causes injury and does not measure up to some standard which society has set

   c. What are some examples of torts in these paragraphs?
.....
.....

   d. Which of these three paragraphs gives the most information about different types of torts.

.....

   e. According to the author, which of the following contributed to an increase in tort claims? (more than one)
      (1) railroads
      (2) automobiles
      (3) personal injury claims
      (4) the Industrial Revolution
      (5) contracts
      (6) factories

2. Read paragraphs 4 and 5 carefully and answer these questions.
   a. According to the author, what was the single most important factor in the creation of tort law after 1850?
      (1) automobiles
      (2) railroads
      (3) factories
      (4) mines

b. What was the most important part of the decision in the case of **Farwell v.** Boston **&** Worcester **Rr.** Corp.?

.....

.....

c. According to the fellow-servant rule, which of these statements is correct?

(1) an employee could never sue his company for work injuries

(2) an employee could not sue his company for work injuries if the injuries were caused by the negligence of a coworker.

(3) an employee could sue his employer for any work injury

(4) an employer could never be sued by his employee for a work injury

d. According to the author, what changes took place in the 20th century in the source of tort law cases?

.....

.....

e. According to the study on civil jury trials in Chicago, **Illinios** between 1960-79, which of the following statements are true? (more than one)

(1) most of the civil jury trials invovled automobile accidents

(2) medical malpractice cases increased the most during this period

(3) product liability cases increased the most during this period

(4) medical malpractice cases increased the least during this period

f. What do you think is, the author's attitude toward the publicity given to malpractice and product liability cases?

.....

.....

3. Read paragraphs 6 and 7 again carefully and answer these questions.

a. What is the main topic of these two paragraphs?

(1) the reasonable man

(2) negligence

(3) damages

(4) strict liability

b. According to the author, why has the use of the concept of negligence declined in this century?

(1) companies are more careful

(2) There are fewer accidents

(3) the looser standard of strict liability

(4) negligence is easy to define

c. According to the theory of "strict liability" which of the following statements are true? (more than one)

(1) strict liability is being used by the courts more than the concept of negligence these days
(2) under strict liability, the injured person must prove the negligence of the tortfeasor
(3) under strict liability, a tortfeasor who has been careful may still be sued by an injured person
(4) under strict liability, an injured person may recover damages even if there is no negligence

EXERCISE 3 : Functions of Words

Many words have different forms depending on the function that word serves in the sentence. Complete the following chart with the correct forms Of these words from the passage.

	VERB	NOUN	ADJECTIVE
1.	commit	_____	_____
2.	- - -	contract	_____
3.	publish	_____	_____
4.	protect	_____	_____
5.	X	liability	_____

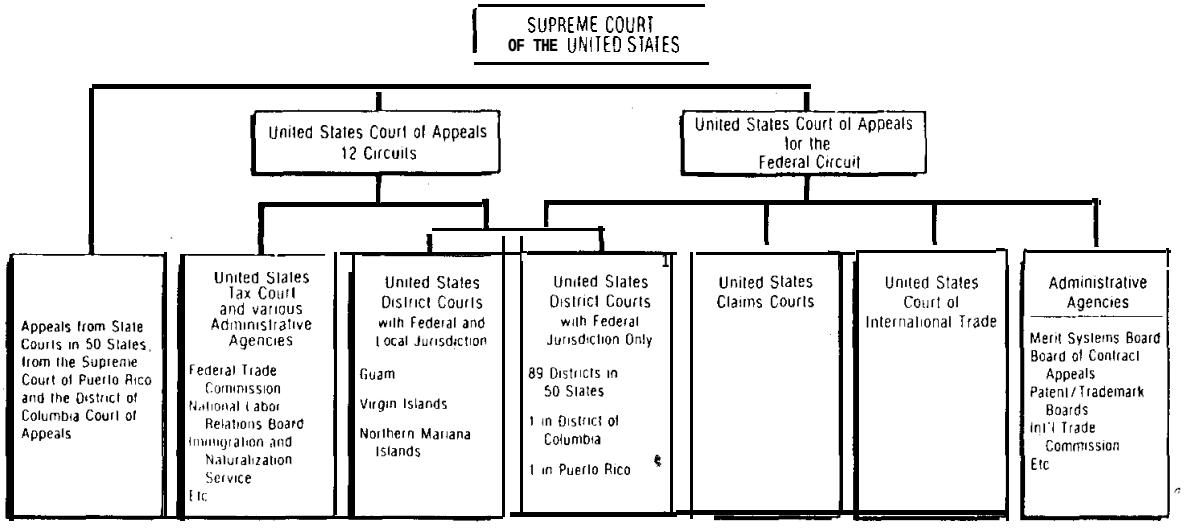
EXERCISE 4 : Discussion Points

What is the state of tort law in Thailand?
Should Thailand adopt product liability law?
Pronunciation practice-

PASSAGE 2 : "THE UNITED STATES COURT SYSTEM"

Read the following chart carefully and use it to answer the following questions

THE UNITED STATES COURT SYSTEM



Exercise 1 : Reading Comprehension

1. How many United States District Courts with federal jurisdiction only are there?
   (a) 89
   (b) 90
   (c) 91
   (d) 3

2. What court will hear the first appeal from a decision of the International Trade Commission?
   (a) U.S. Court of Appeals
   (b) U.S. Supreme Court
   (c) U.S. District Court
   (d) U.S. Courts of Appeal for the Federal Circuit

3. What type of jurisdiction does a U.S. District Court in the Virgin Islands have?
   (a) appellate jurisdiction
   (b) federal jurisdiction only
   (c) federal and local jurisdiction
   (d) original jurisdiction

4. Which court hears appeals from a state Supreme Court?
   (a) U.S. Supreme Court
   (b) U.S. Court of Appeals
   (c) U.S. Claims Courts
   (d) U.S. Court of Appeals for the Federal Circuit

5. Which court will hear the final appeal from the US. Tax Court?
   (a) U.S. Supreme Court
   (b) U.S. Court of Appeals
   (c) U.S. District Court
   (d) U.S. Court of Appeals for the Federal Circuit

6. How many districts are there with U.S. Districts Courts which have both federal and local jurisdiction?
   (a) 89
   (b) 90
   (c) 3
   (d) 91

7. How many U.S. Court of Appeals are there?
   (a) 89
   (b) 12
   (c) 13
   (d) 3

Exercise 2 : Verb Forms

Choose the Correct form of the verb "to be" or the verb "have" in the following sentences

1. There _____(present tense) one U.S. Supreme Court with nine justices.

2. There_____(present tense) 12 circuits with one U.S. Court of Appeals in each circuit.

3. Guam _____(to have) a U.S. District Court that _____(to have) both federal and lacal jurisdiction

4. Most U.S. District Courts _____(to have) federal jurisdiction Only

5. The U.S. Court of Appeals for the Federal Circuit _____(to have) twelve judges

Exercise 3 : Discussion Points

Draw a similar chart of the Thai court system, and discuss the differences and similanties between the two systems.

PASSAGE 3: "FAMILY LAW"

Read the following passage and complete the exercises

FAMILY LAW

1. Family Law. This branch of law borders on the law of succession. Most people, after all, leave their money to relatives. Family law is concerned with marital property, including the community property systems of California and other western states, What rights does a husband or wife have in the money or income of the spouse? This field also concerns marriage and divorce, child custody, and childrens' rights.

2. Family structure is changing rapidly, and family law changes with it. Divorce, for example, was once rare and difficult to get. Indeed, in the early nineteenth century some states did not grant divorces at all except through special acts of the legislature: one state, South Carolina, simply allowed no divorce. Even in "easy" states, divorce was based on the so-called fault system. A married person who wanted a divorce had to go to court and prove some "grounds" for divorce. Divorce was available only to "innocent" parties, whose spouses were guilty of adultery, desertion, cruelty, habitual drunkenness, or what-ever else was on the statutory list. Some states were much stricter than others. In New York, one of the strict states, adultery was practically speaking the only grounds for divorce.[7]

3. The nineteenth century moaned and groaned about rising divorce rates; in retrospect the rates seem ridiculously small. Only in the twentieth century has divorce become an everyday affair. But for at least a hundred years-since the 1870s or so-most divorces have been consensual. That is, there was no real contest; the courtroom proceedings were a mere ritual, a sham. The alleged grounds were often faked. Courts knew all this, but they closed their eyes to it and let the system run its course. There was a heavy, rising demand for divorce, while the stigma attached to divorced status steadily weakened. In recent years, state after state has adopted a so-called no-fault system. There is no longer any need to prove grounds-r indeed to prove anything. All that is required, essentially, is the fact that the honeymoon is over-that the marriage has broken down irretrievably. Divorce is now legally as well as socially routine. It is not even called divorce any more in California; the new name is "dissolution of marriage."

4. Easy divorce does not mean easier problems for family law. Indeed, changes in family structure, which lie behind the divorce explosion, brought certain dilemmas closer to the surface. Custody disputes are if anything more common and acrimonious than in the days before no-fault divorce. The basic legal principle in that the child's best interests come first; but in the modern world that does not carry us very far. We can no longer assume, as we once did, that "best interests" almost always means mother. Joint custody is one of many new ideas which the system is trying out, to cope with problems of the children of divorce.

Exercise 1 : Vocabulary

Using a **legal dictionary,** find the meaning of the following words from the passage

1. **community property** .....
2. divorce .....
3. dissolution .....
   .....
4. **custody** ....
   .....
5. joint custody .....
   ....

Exercise 2 : Reading Comprehension

1. According to paragraph 1, which of the following topics are included in family law?

(a) property
(b) child custody
(c) succession
(d) divorce
(e) income
(f) children's rights

2. According to the author which of these statements about divorce are true?

(a) In the 19th century, a person must have had some "grounds for a divorce
(b) most divorces are not contested by both parties
(c) divorces are easier to obtain these days
(d) today a party must prove grounds for divorce
(e) drvorce is now legally routine

3. According to paragraph 4, which of the following disputes are more common now than in the past?

(a) property drsputes
(b) support money drsputes
(c) child custody disputes
(d) drvorce drsputes

4. Which of the following was not a ground for divorce in the 19th century?

(a) drunkeness
(b) adultery
(c) desertion
(d) break down of the marriage

5. Which of the following phrases can be used Instead of the word "divorce"

(a) dissolution of marriage
(b) joint custody
(c) no-fault divorce
(d) community property

EXERCISE 3 : Functions of Words

Many words have different forms depending on the function they serve in the sentence. Complete the following chart with the correct form of these words from the passage

	VERB	NOUN	ADJECTIVE
1.	_____	_____	divorced
2.	_____	desertion	_____
3.	adopt	_____	_____
4.	_____	interests	_____
5.	assume	_____	_____

EXERCISE 4 : Discussion Points

Describe the system of divorce in Thailand?

Dbes Thailand need a Family Court?

PASSAGE4 : "BUSINESS LAW"

Read the following passage and complete the exercises.

BUSINESS ASSOCIATIONS

1. *The* Law of *Business Associations.* The corporation is the dominant form of business enterprise today-the dominant employer, the dominant force in the economy. It is also the main concern of the law of business associations. Corporations take many forms; but they have in common limited liability and a division offfunction between the owners of shares and the actual managers of the company (unless the managers themselves own the shares). Corporations are legal entities. They are "persons" in the eyes of the law, and can sue and be sued in their own names. Limited liability means that shareholders cannot lose more than the value of their shares, no matter how many debts the corporation accumulates. Shareholders, in other words, are not personally liable for the corporation's debts.

2. At the time of the Revolution, and for several generations afterwards, setting up a corporation was not easy, The incorporators had to follow a long, laborious route. Corporations were chartered one by one; each charter was a special law passed by the state legislature. Most of these early corporations held "franchises": they were little monopolies, with the right to build a bridge over some particular river or a railroad between this town and that. It seemed only right to deal with them case by case. The law was also quite strict about their powers. They were not allowed one step beyond what their charters specifically said.

3. Today, corporation law is entirely different. Basically, it is much more permissive. Anybody who wants to form a corporation fills out a form or two, pays a small fee to a state official, and that is that. Corporations, generally speaking, can last forever and can do whatever they wish, provided it is not downright illegal. Courts will generally uphold the business judgment of management. Tricky questions still arise, to be sure, about the rights of shareholders and about the duty of officers toward their companies, creditors, and others. There is also a significant measure of federal control. The Securities and Exchange Commission monitors the issue of public securities-stocks and bonds offered to the public. SEC rules are designed to promote honest disclosure of financial facts, in order to prevent the kinds of stock fraud once all too common among the gaudy wheelers and dealers of Wall Street.

4. The corporation is not the only form of business association. Most law firms, for example, are partnerships. The rights and duties of partners, in relation to each other and to third parties, raise many legal problems. 'The law of "agency," too, is closely linked to business associations. This is the branch of law that deals with principals and agents. If a pedestrian is hit by a truck that belongs to Acme Toothpick, Inc., the pedestrian will almost certainly sue the company (the "principal") even though the actual tort was committed by the driver (the "agent"). Can the pedestrian sue the truck driver instead?

Yes, but the company has more money and is a better target. And the company is liable for the acts of its agents. This is the doctrine of respondeat superior- "let the superior [principal] answer"; or, in cruder language, "soak the boss."

5. This much seems clear. But it assumes the driver was actually on company business. This is usually but not always the case. Suppose he had borrowed the truck to take his boy to a ball game. The driver is off on a "frolic," as the law quaintly puts it. Is the company still liable? In other words, if you hire people to work for you, what is the exact scope of your responsibility for what your agents do? The law of agency explores this and similar questions.

EXERCISE 1 : Vocabulary

Using a legal dictionary, find the meaning of the following words from the passage.

1 corporation .....

2. shareholders .....

3. franchise .....

4. Securities and Exchange Commission .....

5. partnership .....

6. agency .....

EXERCISE 2 : Reading Comprehension

1. According to paragraph 1, which of the following statements about corporations are true.
   (a) all corporations have one form
   (b) all corporations have limited liability
   (c) all corporations are "persons" under the law
   (d) all corporations can be sued

2. According to paragraph 2, why did it take so long for a corporation to be chartered in the early days of America?
   (a) early corporations were franchises
   (b) early corporations were monopolice
   (c) early corporations were chartered one by one
   (d) early corporations had strict laws

3. How does the court usually view a corporation's management decisions today?
   (a) usually reverse the decision
   (b) usually uphold the decision
   (c) usually consult the shareholders
   (d) usually control the corporations

4. What is the purpose of the Securities and Exchange Commission?
   (a) to protect managers
   (b) to protect corporations
   (c) to protect shareholder by requiring honest disclosure of all financial facts
   (d) to protect the government

5. Another area of the law closely linked to business associations according to this author is
   (a) succession law
   (b) agency law
   (c) International law
   (d) tort law

Exercise 3 : Discussion Points

(Compare the corporation, its characteristics and liabilities, to the business organizations created under Thai law.

'What government agency monitors the SET in Thailand?

PASSAGE 5 : "JUDGES IN THE UNITED STATES"

Directions : Read the following passage and complete the exercises following it.

The Judges

1. Judges in America are overwhelmingly lawyers; the only exceptions are a few justices of the peace and the like, in a handful of states. They are the last survivors of what was once a mighty tribe of lay judges. Basically, then, all judges are lawyers: but only a tiny percentage of lawyers are, or ever become, judges. Who are they, and where do they come from?

2. In civil-law countries like Italy or France, judging is a career of its own. Judges are civil servants, separated by training and experience at an early stage from the practicing bar. A person who wants to be a judge will typically take some competitive examination right out of law school (or after some period of practical training). Those who pass the exams become judges. They will probably stay judges for the rest of their careers. Beginners start out as beginner judges: successful judges rise to higher and better courts. Usually the sitting judge has never practiced law and never will.

3. The situation in the United States could hardly be more different. American judges are lawyers, plain and simple. Usually, they are lawyers who are, or have been, politicians. One survey of judges in the United States Courts of Appeal, for example, found that about four out of five had been "political activists" at some point in their careers. The situation is the same on state courts-perhaps more so. Judges are usually faithful party members; a seat on the bench is their reward for political service. They are also supposed to be good lawyers and to have the stuff of good judges; whether this is actually taken into account depends on where they are, who does the choosing, and so on,

4. The political nature of judgeships is underscored by the fact that in most states judges are elected, not appointed. They run for office on a regular slate, and in many states they have to attach party labels to themselves-that is, they run as Democrats or Republicans. This idea of electing judges strikes Europeans as very peculiar-as odd as if we elected doctors or policemen or government chemists. But the elective principle goes back rather far in United States history. It was of course unknown in the colonial period; it began to take hold soon after Independence and became a marked trend in the first half of the nineteenth century. Lower court judges were elected in Vermont from 1777 on; in Georgia from 1612. Mississippi decided in 1632 to elect all its judges; New York followed in 1646.

5. Why elect judges? Essentially, the election of judges is based on the same theory that justifies electing governors or congressmen: making judges responsive to the public. Precisely because judges come from political backgrounds-because they do not resemble the cold civil servants of France or Italy-some kind of public control seemed necessary. But the election system did not work out quite as expected. For one thing, few elections were actually contested in most of the states.

Electrons tended to be bland and colorless. Sitting judges did not often lose, regardless of party. There were, to be sure, some notable exceptions. The chief justice of Illinois, Charles B. Lawrence, went down to defeat in 1873.

6. The elective principle was never universal. There have always been a few states in which the governor appoints the judges (sometimes with legislative approval). Massachusetts never adopted the elective system, for example. But the main exception is and has been the federal system. The president, under the Constitution, appoints the justices of the United States Supreme Court "by and with the Advice and Consent of the Senate." The president appoints all otherfederal judges, also with senatonal consent. This has been the system since 1789 In practice, the senators play an influential role. The custom of "senatorial courtesy" gives senators a loud voice in choosing those federal judges who will sit in their states. Once appointed and confirmed, a federal judge has no time limit-no term Of Office. He serves "during good Behavior," as the Constitution puts it.

7. In practice, this means federal judges have their jobs for life, or at least until they step down voluntarily. The only way under the Constitution to get rid of a sitting federal judge is to impeach him for "Treason, Bribery, or other high Crimes and Misdemeanors." This is rare and difficult. A senile or a drunken judge-or an outright lunatic—has, in theory, the right to stay on the bench until they carry him off feet first. Obviously, this system has rts drawbacks, but it is supposed to guarantee that judges will be independent, nonpartisan, free from pressures of politics. This is worth the price of an occasional dodderer or misfit Most observers of court history seem to agree.

8.. Of course, the power to name the judges in the first place is no small power; the president will try to appoint men and women who agree with his policies. This is especially true for appointments to the Supreme Court. Still, once in office, a judge can thumb his nose at the president and the president's program; there is no recourse, no way to fire him, no effective sanction. Dwight Eisenhower came to regret that he appointed Earl Warren as chief justice; he thereby joined a long line of presidents who felt betrayed by men they put on the bench. And. of course, judges who live long serve years and years after the president who appointed them is gone.

9. A growing number of states have begun to back off from the pure elective principle. In the twentieth century, some states have adopted the so-called Missouri plan. Under this scheme the governor appoints judges, but his choice is restricted. A commission made up of lawyers and citizens draws up a list of names and gives it to the governor. The governor must choose from the list. The judge serves until the next electron; then he runs for reelection on his record. That is, he does not run *against* anybody; the public is simply asked to vote yes or no Since you cannot fight somebody with nobody, the sitting judges almost never lose. The very controversial chief justice of California, Rose Bird, came fairly close to doing so in 1978; other California justices, appointed by Governor Edmund Brown, Jr., had narrow victories in November 1982; but this California ferment is quite exceptional.

IO. Why do sitting judges so rarely lose, even in states that do not have a plan like the Missouri plan? Judicial electrons are low-key affairs. It is hard to campaign against a sitting judge. An upstart who tries to defeat a judge already in office has to walk a narrow line. The candidate, unlike candidates for Congress or the statehouse, really cannot make any promises. It is not cricket, after all, to express

an opinion about situations that might come before the court. The sitting judge will sanctimoniously hide under the mantle of the law; he will not defend his decisions, but claim that he was just doing his duty-just deciding "the law." About all a frustrated candidate can say is that he can do it all better. Meanwhile, voters on the whole neither know much about these elections, or the candidates, nor seem to care.

11. Yet there are signs the process is becoming a bit more political. Between 1916 and 1973, there had never been a real contest in New York for the office of chief judge of the court of appeals (the highest court in the state). Candidates had "always been anointed in amiablecross-endorsements by Republicans and Democrats." In 1973, Jacob Fuchsberg contested the election of Charles Breited-a brash move that offended the organized bar. Breitel, thelogical candidate, was already sitting on the court of appeals. He beat Fuchsberg; but in 1974 Fuchsberg tried again. This time he won a seat on the court as an associate justice. Both compaigns were tough and bitter. They generated a lot of publicity. This brought the office more into the public eye, which may be a good thing in the long run. The recent California elections, too, and the storm over Chief Justice Bird, focused attention on judgeships; this made them more vulnerable, politically, than they had been before.

12. Still, judicial elections are not likely to become as political as elections for governor or assemblyman. There is a deep feeling that judges, somehow and in some sense, must stand outside partisan politics. Even elected judges are less beholden to voters and to political leaders than other elected officials. And nobody but the vote-ot the governor, not the legislature—can get rid of them at all so long as they avoid gross misbehavior or incompetence. Judges are supposed to be independent, and to a surprising degree they are.

13. This does not mean that they operate outside public opinion, outside social forces, or free from the constraints of society. That would be impossible-and undesirable. It does mean that the *regime* does not dominate the bench, as it does, alas, in totalitarian countries. A Soviet judge who decided an important case against the wishes of the government, who acquitted a dissident, or who ordered the regime to grant more civil rights, would lose his job and find himself with a one-way ticket to Siberia. This simply does not happen in America. The government loses dozens of important cases each year: the regime swallows hard, but takes its medicine.

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*reprinted from : Friedman, Lawrence M. American Law W.W. Norton † Company : New York, 1984

EXERCISES

Exercise 1 : 'Vocabulary

Using **a legal dictionary,** find the meaning of the following words from the passage.

1. justice of the peace .....
2. acquit .....
3. appoint .....
4. Impeach .....
5. misdemeanor .....

Exercise 2 : Reading Comprehension

1. Which of the following statements about American judges are true?
   (a) all judges are lawyers
   (b) judges are chosen by competitive examination
   (c) only a few Lawyers ever become judges
   (d) most judges have been active in politics

2. Which of t'he following statements about judges in civil law countries are true?
   (a) civil law judges are generally practicing lawyers
   (b) civil law judges are chosen by competitive examination
   (c) civil law judges have been active in politics
   (d) civil law judges are civil servants

3. How are rnost state judges chosen in the United States?
   (a) election
   (b) appointment
   (c) examination
   (d) competition

4. According to the author, why are U.S. state judges chosen by election?
   (a) because they are practicing lawyers
   (b) because it makes judges more responsive to the public
   (c) tradition
   (d) politics

5. How many of the states elect their judges?
   (a) few
   (b) most

(c) some
(d) all

6. How are federal judges selected?
   (a) examination
   (b) election
   (c) appointment
   (d) political parties

7. What is the term of office for a federal judge
   (a) 6 years
   (b) 4 years
   (c) during good behavior
   (d) until 60 years of age

8. How can a federal judge be removed from office? A
   (a) by voluntary resignation
   (b) impeachment
   (c) compulsory retirement
   (d) by the voters

9. According to the author, what is the voter's attitude toward judicial election?
   (a) interested
   (b) excited
   (c) active
   (d) not interested

10. What is the main idea in paragraph 13?
   (a) public opinion does not influence judges
   (b) judges are dependent on their governments
   (c) judges never rule against their government
   (d) judges are independent of the government in the U.S.

Exercise 3 : Functions of Words

Many words have different forms depending on the function they serve in the sentence. Complete the following chart with the correct form of these words from the passage.

	VERB	NOUN	ADJECTIVE
1.	elect	_____	_____
2.	respond	_____	_____
3.	_____	_____	appointed
4.	impeach	_____	_____
5.	acquit	_____	_____
6.	X	_____	Independent

Exercise 4 : Discussion Points

Discuss how judges are chosen in Thailand.

How independent are Thai judges from the "regime"?

Pronunciation Practice-Reading Aloud

PASSAGE 6 : "CRIMINAL LAW"

Read the following passage and complete the exercises following it.

The Criminal Process

1. So far we have talked mostly about Jaws on the statute books. Let us turn now to the criminal process, and take a look at the life cycle of a typical felony case, in California. We begin, of course, with the crime itself-a **burglary,** let us say. Somebody breaks into a house in Athetton, California, and steals jewelry, silver, and hi-fi equipment. The people who live in the house come home and find to their horror that somebody has broken in. They call the police.

2. All too often, alas, this is nearly the end of the story. Most breakins are never solved; no arrests are made; the goods are never recovered. There is data for New York City on this point. In 1971, victims reported 501,951 felonies to the police; in four cases out of five, nothing more happened. The police made 100,739 felony arrests. Some of the people arrested were charged with more than one reported felony. Still, the police were able to "clear" by arrest only 111,624 of these half million felonies.

3. Our householders, let us assume, are among the lucky few. The police take notes, go off, and-lo and behold-in due course they find a suspect and arrest him. The police now **"book"** the suspect-that is, they record the charges, photograph the man, and take his fingerprints. He goes before a magistrate, who tells him about his rights. This judge may also set bail; and he may arrange for a "public defender," who will act as the suspect's lawyer. Sometimes the suspect will hire his own lawyer, if he has the money to do so.

4. The district attorney's office will make the next move. The staff will have to decide whether the case is strong enough to act on. Is there enough evidence to make prosecution worthwhile? If not, the case must be dropped. Let us suppose the DA thinks he can get a conviction. Before the man can be brought to trial, there is one more major hurdle. This is the "preliminary examination."

5. The preliminary examination is a kind of pretrial trial. It starts when the prosecutor files an **"information,"** that is, formal charges. These proceedings, too, take place before a **"magistrate,"** usually a municipal or police court judge. There is no jury. The magistrate hears what the prosecution has to say. He does not decide whether the accused is actually guilty. He has three choices: if he feels the prosecution has no case, he can dismiss the charges and let the accused go free: he can knock the case down to a misdemeanor: or he can decide that the state does have enough of a case, so that it pays to go on to a full-scale trial. To do this, the case must be transferred to another court, a court for felonies. In California this is called Superior Court.

6. In many states, this "information" method is not used. Screening is done by a grand jury. The grand jury is made up of laymen who are picked at random, like the members of an ordinary jury. The number of jurors varies. Texas law calls for not less than fifteen or more than twenty. Grand jurors serve for a limited time. The prosecutor shows his stuff to the grand jury and asks for an **"indictment"**

against the accused. The grand jury decides whether to indict or not to indict. If it indicts, the case will go forward for felony trial. This alternative method is also on the books in California; but the "information" method is much more common and is much preferred.

7. The prisoner's case will be finally decided in Superior Court. The judge may, of course, dismiss the matter here, too, either on his own account or because the prosecution decides not to press charges. The defendant can plead guilty and end the matter that way. His lawyer can file any one of a number of "motions" on points of law. He can, for Instance, file a motion to suppress certain evidence, on the grounds that the state gathered it illegally. This motion usually fails; under the Victim's Bill of Rights in California, passed in 1982, the failure rate should be even greater than before.

8. Most felony cases do not get this far. Only a small minority actually go to trial. The rest fall by the wayside. Yet trials are the most dramatic and familiar way of deciding on innocence or guilt. Not all trials go on before a jury. The defendant can waive his right to a jury. The judge will then handle the case by himself. This is called bench trial. If the defendant does not choose this route, the court proceeds to pick a jury

9. A jury usually consists of twelve men and women chosen from the community. They are supposed to be totally impartial. Lawyers on either side will question prospective jurors; and the lawyer can "challenge"--that is, demand dismissal of-and who seem unsuitable for one reason or another. A certain number, too, can be "peremptorily" challenged, that is, for no legal reason at all. Defendant's lawyer may have a hunch that this sour-faced, mean-looking man would be deadly for his client; he can get the man excused by peremptory challenge. In Minnesota, for example, a defendant charged with an offense "punishable by life imprisonment" is entitled to fifteen of these challenges; the state can have nine. In all other cases, defendant can have five, the state three.

10. When the jury is chosen, the trial begins. Both sides present their cases, usually through lawyers. They cross-examine each other's witnesses. The judge sees to it that the trial runs smoothly and correctly. He makes rulings on points of law and decides any questions that come up on points of evidence. A policeman may want to testify, for example, about something he heard a witness say. If the defendant objects, claiming that this testimony is "hearsay," the judge will decide which side is right.

111. At the and of the case, the judge "instructs" the jury. That is, he recites the legal rules that are supposed to guide the jury in reaching a decision. Unfortunately, such instructions usually do not instruct very well. In past times—in the early nineteenth century, for example—judges gave the jury genuine explanations of the relevant law. Today, judges simply shovel out to the jury a mess of canned, stereotyped formulas, 'written in dense legalese. Legally speaking, these instructions are quite accurate; whether the jurors can possibly fathom them is doubtful. Curiously enough, in many states the judge will refuse to explain them any better even if the jury begs and pleads.

12. In any event, the case now goes to the jury; and for the first time the jurors are truly in the driver's seat. They retire from the courtroom and deliberate in private. Generally speaking, a jury verdict has to be unanimous. Sometimes a jury "hangs"-that is, the members fail to agree. When

this happens, the prosecution will either start over again with a new trial or give up completely. In Kalven's and Zeisel's major study of jury behavior, it was found that juries, overall, hang about 5 percent of the time. They acquit roughly a third of the defendants and convict the rest.

13. How the jury goes about deciding is mostly a secret. Some jurors have been willing to talk about what happened in the jury room: and social scientists have studied the process with various techniques, including the use of experimental juries that are given hypothetical cases to decide. There are obvious drawbacks to research that uses make-believe cases. But they do have one powerful advantage: researchers can manipulate variables one at a time, for scientific purposes. This cannot be done with the messy materials of real life.

14. Some of the research findings are of uncommon interest. They shed light, for example, on the hung jury. If only one juror holds out for conviction or acquittal, the jury does not end up hung. The sole dissenter-the "minority of one"-has a "lonely and unattractive" role. The other eleven are almost sure to convert him to their side. Support from even one otherjuror makes a big difference to the hold-out.

15. Legally, the power of the jury is clear. If it finds the defendant not guilty, the defendant goes free. The jury decision is final. No matter how wrong or how foolish it seems, there is no appeal. If the jury convicts, the judge sets a date for sentencing. A convicted defendant can also try to appeal on the grounds of error at the trial. Generally speaking, "error" means legal error: it is not enough to say the jury was wrong or failed to do justice. An appeal court does not try the case over or redecide issues of fact.

16. The more serious the case, the more likely that the defendant will appeal. Practically everybody sentenced to death will appeal; in some states, these appeals are automatic. But overall only a small minority of losing defendants go on to a higher court. The rest give up and take their medicine,

Exercise 1 : Vocabulary

Using a legal dictionary, find the meanings of the following words from the passage

1. felony .....
2. public defender .....
3. magistrate .....
4. grand jury .....
5. motion .....

6. waiver .....

7. cross examine .....

8. hearsay .....

9. conviction .....

10. district attorney . . . .

Exercise 2 : Reading Comprehension

1. According to the author, most burglaries are
   (a) solved
   (b) reported
   (c) never solved
   (d) never reported

2. Who makes the decision to prosecute a felony case?
   (a) police
   (b) district attorney
   (c) judge
   (d) jury

3. Before the actual trial, a suspect often has to go to a
   (a) Information
   (b) booking
   (c) conviction
   (d) preliminary examination

4. Which of the following statements about preliminary examinations are true?
   (a) it starts with the filing of formal charges by a prosecutor
   (b) there is a jury
   (c) it takes place before a magistrate
   (d) the case may be dismissed

5. What is the duty of a Grand Jury?
   (a) to indict
   (b) to convict
   (c) to acquit
   (d) to file an information

6. According to the author, how many felony cases go to trial?
   (a) most
   (b) some
   (c) very few
   (d) none

7. Which of the following statements about juries are ture?
   (a) a jury has only men
   (b) a jury has 12 persons
   (c) jurors are chosen from citizens of the community
   (d) Jurors are supposed to be impartial
   (e) jurors are questioned by the judge

8. What happens when a jury "hangs"?
   (a) there must be a new trial
   (b) there may be a new trial
   (c) there is never a new trial
   (d) there will always be a new trial

9. According to the study on jury behavior, which of the following statements are true?
   (a) juries fail to agree about 5% of the time
   (b) juries find two-thirds of the defendants quilty
   (c) juries acquit one-third of the defendants
   (d) juries free most of the defendants

10. Which of the following statements about jury verdicts are true?
   (a) it can free a defendant
   (b) it is the final decision
   (c) the judge can change it
   (d) it can be appealed

Exercise 3 : Guessing the Meaning of Words From Contert

What can you do when you meet words in a passage you don't know, and you don't have enough time to use a dictionary? The best thing you can do is to try and guess the meaning of the words from their context-other words, sentences and even punctuation surrounding the word. These hints of clues surrounding the new words can help you guess its meaning. Look again at the following words in the passage and try to guess their meaning, and give the hint that helped you make your guess

1. burglary .....
   .....
   hint? .....
   .....

2. book .....

hint? .....

3. information .....

hint? .....

4. magistrate .....

hint? .....

5. indictment .....

hint? .....

6. instruct the jury .....

hint? .....

7. jury hangs .....

hint? .....

Exercise 4 : Verb Forms

The correct verb form depends on the person and number of the subject. For example, a 3rd person, singular subject (he, she, or it) will always have a verb that ends in "s". Find the correct verb form for the subjects of the following sentence's, Consult the passage for the correct verb, also underline the subject of the sentence.

1. A judge _____ a jury on the legal reles.
2. Most felony cases do not _____ to trial.
3. A jury _____ twelve men and women.
4. The lawyers _____ the prospective jurors.
5. If the jury _____ the defendant not guilty he will go free
6. The decision of the jury _____ final.

7. Lawyers often _____ "motions" on points of law.

8. A judge may _____ a charge against a defendant at the preliminary examination.

9. After the instructions by the judge, the case _____ to the jury.

10. A grand jury _____ made up of laymen.

Exercise 5 : Discussion Points

Discuss some of the differences between the criminal process in Thailand and in the U.S.

Discuss the role of the police in the criminal process.