

103 年公務人員特種考試司法人員考試試題

考試別：司法人員

等 別：四等考試

類科組：各類科

科 目：法學知識與英文（包括中華民國憲法、法學緒論、英文）

- (A) 1. 依憲法第 156 條之規定，國家為奠定民族生存發展之基礎，應有下列何種作為？
(A)保護母性，並實施婦女兒童福利政策
(B)協助女性充實自我，廣設女性獎學金
(C)訂定公務員女性錄取員額最低比例
(D)獎勵婦女適齡生育
- (B) 2. 下列何者非屬我國憲法所明定之教育文化基本國策？
(A)邊遠及貧瘠地區之教育文化經費，由國庫補助之
(B)全國公私立之教育文化機關，應確保其自治權，不受國家之法律監督
(C)各級政府應廣設獎學金名額，以扶助學行俱優無力升學之學生
(D)重要之教育文化事業，得由中央辦理或補助之
- (D) 3. 依憲法增修條文之規定，修憲案至少須公告多久？
(A)3 個月 (B)4 個月 (C)5 個月 (D)6 個月
- (B) 4. 關於國家徵收人民土地，下列敘述何者錯誤？
(A)涉及財產權之剝奪 (B)須因公用目的始得為之
(C)應給予合理補償 (D)應儘速發放補償
- (A) 5. 依司法院釋字第 364 號解釋之意旨，以廣播及電視方式表達意見，主要係屬於下列何一憲法條文所保障之範圍？
(A)憲法第 11 條之言論自由 (B)憲法第 12 條之秘密通訊自由
(C)憲法第 14 條之集會結社自由 (D)憲法第 15 條之工作權
- (B) 6. 人民罷免權之行使與下列何者不具關連性？
(A)直接民權之體現 (B)法律責任之追究
(C)政治好惡之表現 (D)信任基礎之瓦解
- (C) 7. 有關行政院院長、副總統代行總統職務的情形，下列何者錯誤？
(A)總統與副總統均缺位時，由行政院院長代行職權
(B)總統任期屆滿，屆期次任總統尚未選出，由行政院院長代行職權
(C)副總統缺位時，由行政院院長代行副總統職權
(D)總統不能視事時由副總統代行職權
- (C) 8. 依憲法增修條文第 6 條之規定，下列那個機關掌理公務人員任免、考績、級俸、陞遷、褒獎之法制事項？
(A)行政院 (B)司法院 (C)考試院 (D)監察院
- (A) 9. 總統對於刑事犯罪之罪名與刑罰加以赦免，稱為：
(A)大赦 (B)褒揚 (C)假釋 (D)復權
- (C) 10. 依憲法增修條文的規定，於立法院院會進行期間，立法院應於行政院移請立法院覆議案送達後至遲幾日內作成決議？
(A)7 日 (B)10 日 (C)15 日 (D)20 日
- (D) 11. 政黨在立法委員選舉中須獲得多少比例以上政黨選舉票方能分配不分區代表席次？
(A)百分之一 (B)百分之二 (C)百分之三 (D)百分之五
- (B) 12. 依據憲法規定，司法院之組織，由那個機關制定？
(A)司法院 (B)立法院 (C)行政院 (D)考試院
- (D) 13. 下列何者，不屬於司法院大法官之職權？
(A)解釋憲法 (B)統一解釋法律
(C)審理政黨違憲之解散事件 (D)審理公務員懲戒案件

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- (A) 14. 直轄市法規與國家法律抵觸者，其結果如何？
(A)無效 (B)得撤銷 (C)效力未定 (D)得撤回
- (B) 15. 依憲法增修條文之規定，考試委員如何產生？
(A)由總統任命之
(B)由總統提名，經立法院同意後任命之
(C)由總統提名，經監察院同意後任命之
(D)由行政院院長提請總統任命之
- (C) 16. 試問下列何者不是成文法源？
(A)國際條約 (B)行政命令 (C)習慣 (D)憲法
- (B) 17. 行政命令之訂定，原則上須經預告程序者，為下列何種？
(A)職權命令 (B)法規命令 (C)行政規則 (D)法律
- (A) 18. 有關法規範的制訂，下列敘述何者錯誤？
(A)關於國家各級機關之組織，均得由主管機關依職權定之
(B)法律應經立法院通過，總統公布
(C)下級機關之命令不得抵觸上級機關之命令
(D)應以法律規定之事項，不得以命令定之
- (C) 19. 憲法第 20 條規定人民有依法律服兵役之義務，其中「人民」應解釋為僅指男子。此為何種解釋方式？
(A)擴張解釋 (B)當然解釋 (C)限縮解釋 (D)補正解釋
- (A) 20. 民國 92 年制定的公民投票法第 35 條第 1 項規定：「行政院公民投票審議委員會，置委員二十一人，任期三年，由各政黨依立法院各黨團席次比例推荐，送交主管機關提請總統任命之。」此一規定，司法院大法官解釋認為違反下列何種原則？
(A)權力分立原則 (B)平等原則 (C)社會國原則 (D)法律保留原則
- (B) 21. 所得稅法對夫妻免徵贈與稅，但卻不及於「同居」之事實配偶。此一法律規定，依司法院大法官解釋有無違憲之虞？
(A)沒有。因為同居制度違反公序良俗的認知
(B)沒有。因為婚姻制度受憲法特別保障
(C)有。違反平等權
(D)有。違反對一般人格權保護
- (D) 22. 甲男已婚，有妻有子，卻與外遇對象乙女來往多年，乙女無謀生能力而依賴甲男供給日常生活所需。此時若甲男意外死亡，請問乙女就甲男之遺產得為如何之請求？
(A)特留分 (B)應繼分 (C)贍養費 (D)遺產酌給
- (B) 23. 關於承攬契約與買賣契約之比較，下列何者錯誤？
(A)均為有償契約 (B)均為繼續性契約
(C)均有物之瑕疵擔保責任之規定 (D)均為不要式契約
- (D) 24. 甲和乙在修剪花草契約中約定，由乙負責使丙為甲修剪花草。有關甲、乙、丙間之權利義務關係，下列敘述何者正確？
(A)甲乙間契約內容涉及第三人，違反契約相對性原則，其契約無效
(B)丙不為給付時，甲乙間之契約失其效力
(C)甲乙間契約有效成立，丙不為給付時，丙應對甲負賠償責任
(D)甲乙間契約有效成立，丙不為給付時，乙應對甲負賠償責任
- (C) 25. 在夢遊中所為的動作不會被評價成犯罪，因為整個事實中欠缺了那個犯罪成立要件？
(A)違法性 (B)責任能力 (C)刑法上的行為 (D)因果關係
- (D) 26. 裝修工人甲受屋主乙委託，將乙宅的圍牆拆除，甲的拆除行為不構成毀損罪是因為：
(A)客觀處罰條件未成就 (B)具備阻卻罪責(責任)事由
(C)欠缺刑法上的行為 (D)具備排除違法性事由
- (B) 27. 董事會不為或不能行使職權時，法院得選任下列何人代行董事長及董事會職權？
(A)監察人 (B)臨時管理人 (C)檢察官 (D)主管機關
- (D) 28. 下列關於「控制與從屬公司」之敘述，何者錯誤？

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- (A)一公司持有他公司有表決權股份超過他公司已發行股份半數者，為控制與從屬關係
(B)一公司直接或間接控制他公司人事、財務或業務經營者，為控制與從屬關係
(C)從屬公司持有控制公司之股份無表決權
(D)控制公司持有從屬公司之股份無表決權
- (A) 29. 為協調勞資關係，促進勞資合作，提高工作效率，下列何者依法應舉辦勞資會議？
(A)事業單位 (B)職工福利委員會
(C)企業工會 (D)勞動部
- (B) 30. 受僱於臺北市某電腦公司之甲女，一日與同事聊天時發現，年資績效皆與其相同之同事乙男所領薪資，每月較其多出 5 千元。下列敘述何者正確？
(A)薪資之給付屬福利措施，可依性別給予不同之待遇
(B)雇主對於員工薪資之給付，僅因性別給予差別待遇，已構成性別歧視
(C)雇主即使能提出獎懲或其他非因性別之正當理由，該薪資之差別待遇依然構成性別歧視
(D)雇主若主張男性員工社會、家庭責任較女性沉重，則該薪資之差別待遇不會構成性別歧視
- (B) 31. Overly thick soups can be _____ by mixing them with a small amount of liquid.
(A)conceded (B)diluted (C)grazed (D)migrated
- (B) 32. Leonardo da Vinci was _____ by mathematics, applied it to his paintings and for many years thought it contained the key to all knowledge.
(A)besieged (B)fascinated (C)imposed (D)prescribed
- (B) 33. Alison is a _____ leader who is not afraid of making important decisions under stressful, critical conditions.
(A)secure (B)decisive (C)vivid (D)sociable
- (B) 34. The school library was not able to _____ to Joan' s needs, so she had to pay a regular visit to the city library.
(A)appeal (B)cater (C)apply (D)resort
- (A) 35. I am sorry. This book is not _____; it has been out of print for ten years.
(A)available (B)edible (C)portable (D)variable
- (A) 36. Social networks like facebook and twitter have _____ young people' s social life and communicating mode.
(A)dominated (B)demand (C)deported (D)discharged

第 37 題至第 41 題為題組

Until recently, most American school textbooks told only part of Columbus' s story, and that part made him look like a brave hero. He was presented as the man who discovered the "New World." But a more balanced presentation would have shown another side to the story: it would have described some values and beliefs that Columbus shared with most European travelers of that time and with the kings and queens of their nations in the "Old World." First of all, they were hungry for gold, and were willing to do anything to get it. Second, they believed that they had the right to claim other people' s land for their own nations (especially if the inhabitants there were not Christians, were uncivilized, and looked very different from them). Finally, they believed that they had a right to do anything they pleased with the native inhabitants of those lands.

On his first voyage, Columbus claimed all the lands that he found for the king and queen of Spain. He gave Spanish names to many of the islands that he discovered. He took ten native Indians captives and forced them to return to Spain with him, but four of them died on shipboard. During their captivity the remaining six were taught Spanish, and Columbus took them back to America on his second voyage to serve as interpreters.

From the very first voyage, Columbus suggested the possibility of making the

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Indians slaves to the king and queen of Spain. On the second voyage, he put this idea into practice in the most brutal way possible.

- (B) 37. What is this passage mainly about ?
(A)European travelers.
(B)The explorer Columbus.
(C)Who discovered the New World.
(D)The New World and the Old World
- (C) 38. What does the author think about most American school textbooks in presenting Columbus' voyages ?
(A)They told the truth.
(B)They were boring but accurate.
(C)They did not present all the facts.
(D)They were informative and interesting.
- (A) 39. According to the passage, what did Columbus do to the native inhabitants on those lands he found ?
(A)He occupied their lands. (B)He hired them to work for him.
(C)He made their lives better. (D) He gave them Spanish names.
- (D) 40. Which of the following correctly describes the values and beliefs of Columbus and most European travelers of his time ?
(A)They believed that all men were created equal
(B)They considered it wrong to change people' s religious faith.
(C)They believed moral standards were more important than gold.
(D)They thought they had the right to rule the inhabitants in the New World.
- (B) 41. What is the author' s attitude towards Columbus ?
(A)Admirable (B)Critical (C)Indifferent (D)Sympathetic

第 42 題至第 45 題為題組

People have always told stories that explain how the world came to be and how people arrived on it. On the Northwest Coast of North America, Native Americans tell about Raven. Raven is a giant bird that can 42 human form by pushing up his beak and shrugging off his wings, which then become a coat. According to tradition, the universe 43 a wide ocean that covered swampy ground. Birds and sea creatures lived in and around it. Raven made the earth by picking up stones with his beak and dropping them into the ocean. When the earth was big enough, Raven flew down and walked on the shore, looking out at the vast ocean and feeling lonely. Then he began to hear tiny voices, 44 seemed to be coming from a clam shell at his feet. Raven pried open the clam shell with his mighty claws and peered in. Inside the clam shell 45 people. As the story goes, Raven coaxed them out of the shell and set them on the land, and they were the first people of the Haida tribe of the Northwest Coast.

- (A) 42. (A)transform himself into (B) expose himself to
(C)separate himself from (D)occupy himself with
- (C) 43. (A)was used to being (B)would soon be
(C)used to be (D)has been
- (B) 44. (A)where (B)which (C)that (D)what
- (B) 45. (A)was (B)were (C)had (D)had been

第 46 題至第 50 題為題組

The term "First Lady" is used to refer to the wife of an elected official. In many countries, it is usually 46 for the wife of the President. The term is also used to describe the leading woman of a certain profession, which is 47

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Martha Graham, the great American dancer, is often referred to as the first lady of modern dance.

Though the term has been adopted by countries all over the world, it is commonly 48 back to Dolley Madison, wife of the fourth U.S. President, James Madison. While her husband was serving as Secretary of State for third President Thomas Jefferson, Dolley was often asked by Jefferson, a widower, to serve as his First Lady for official ceremonial functions. She then continued her service through her husband's two 49 as President. When she died in 1849. Legend 50 it that then-President Zachary Taylor called her "First Lady" in his eulogy. However, no record of this speech has ever been found.

- (D) 46. (A)arranged (B)occupied (C)provided (D)reserved
(B) 47. (A)what (B)why (C)when (D)who
(A) 48. (A)traced (B)referred (C)exchanged (D)allocated
(C) 49. (A)times (B)rounds (C)terms (D)marks
(B) 50. (A)gets (B)has (C)says (D)takes

公
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