

## 97 年公務人員特種考試第二次司法人員考試試題

等別：三等考試

類科：公證人、觀護人、司法事務官各組、法院書記官、檢查事務官各組、監獄官、公職法醫師

科目：法學知識與英文（包括中華民國憲法、法學緒論、英文）

- (C) 1. 依憲法增修條文第10 條之規定，下列敘述何者錯誤？  
(A)國家肯定多元文化，並積極維護發展原住民族語言及文化  
(B)國家應推行全民健康保險，並促進現代和傳統醫藥之研究發展  
(C)教育、科學、文化之經費，尤其國民教育之經費應優先編列，並須受憲法第164 條規定之比例限制  
(D)國家對於僑居外國國民之政治參與，應予保障
- (A) 2. 下列何者被司法院大法官解釋視為重大之政治問題，不應由行使司法權之釋憲機關予以解釋？  
(A)國家領土之範圍如何界定  
(B)何種條約以外之國際書面協定應送立法院審議  
(C)副總統得否兼任行政院院長  
(D)憲法增修條文與具有本質重要性之憲法規範是否相牴觸
- (C) 3. 不具中華民國國籍之外國人未受憲法保障的基本權利為：  
(A)表現自由 (B)宗教自由 (C)入境自由 (D)人身自由
- (D) 4. 依司法院大法官釋字第535 號解釋，臨檢所實施之檢查、路檢、取締或盤查等行為，與下列何種人民自由或權利無關？  
(A)行動自由 (B)財產權 (C)隱私權 (D)思想自由
- (B) 5. 依司法院大法官釋字第445 號解釋之見解，下列敘述何者正確？  
(A)未經依法設立或經撤銷許可或命令解散之團體，以該團體名義申請者，仍應許可其集會  
(B)國家為保障人民之集會自由，應提供適當的集會場所  
(C)集會遊行法關於禁制區的規定，抵觸憲法保障的意旨  
(D)對於不遵從解散及制止命令之首謀者，科以刑責，係抵觸憲法第23 條之規定
- (A) 6. 基於何種理由，立法院議決行政院提出之預算案，不得為增加支出或增減預算項目？  
(A)責任政治 (B)國民主權 (C)施政延續性 (D)法律保留原則
- (A) 7. 公務員違法侵害人民權益，國家須負賠償責任，下列敘述何者正確？  
(A)公務員故意或重大過失時，國家對其有求償權  
(B)公務員僅負行政責任  
(C)國家與公務員負連帶賠償責任  
(D)除非能證明公務員為故意，否則國家對其無求償權利
- (B) 8. 有關總統解散立法院之敘述，下列何者錯誤？  
(A)立法院通過對行政院院長之不信任案後十日內，經諮詢立法院院長後，得宣告解散立法院  
(B)解散立法院須經行政院院長之副署  
(C)總統解散立法院後，應於六十日內舉行立法委員選舉  
(D)總統於戒嚴或緊急命令生效期間，不得解散立法院
- (C) 9. 依憲法本文及增修條文之規定，總統任命下列何人時，無須經立法院之同意？  
(A)審計長 (B)司法院大法官 (C)行政院政務委員 (D)監察委員
- (D) 10. 下列何者不具有法律提案權？  
(A)行政院 (B)司法院 (C)監察院 (D)總統
- (A) 11. 我國向他國宣戰之程序為：  
(A)行政院會議議決—立法院議決—總統宣布  
(B)總統宣布—行政院會議議決—立法院追認  
(C)總統宣布—行政院會議議決—國防部議決

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- (D)國防部議決—行政院會議議決—總統宣布
- (C) 12. 立法委員中應採政黨比例代表方式選出者，為下列何者？  
(A)平地原住民 (B)山地原住民 (C)僑居國外國民 (D)職業代表名額
- (B) 13. 立法委員於下列何種場所所發表之言論，應受言論免責權之保障？  
(A)選舉政見會 (B)立法院內黨團協商  
(C)電視台談話性節目 (D)法院
- (A) 14. 依憲法增修條文規定，考試委員及監察委員，有何相同之處？  
(A)均由總統提名經立法院同意任命之  
(B)均由行政院院長任命之  
(C)職權相同  
(D)人數相同
- (C) 15. 依憲法本文之規定，行政院會議之成員，不包含下列何者？  
(A)行政院副院長 (B)外交部部長 (C)參謀總長 (D)不管部會政務委員
- (C) 16. 股份有限公司要將公司主要部分資產出售於他人時，應經以下何者決議始得為之？  
(A)董事長 (B)董事會 (C)股東會 (D)持股最多之股東
- (D) 17. 下列何者非法律之名稱？  
(A)律 (B)條例 (C)通則 (D)標準
- (C) 18. 有關兩願離婚之方式，下列敘述何者錯誤？  
(A)應以書面為之 (B)應有二人以上證人之簽名  
(C)應舉行公開儀式 (D)應向戶政機關為離婚之登記
- (A) 19. 下列何機關，不隸屬於行政院？  
(A)審計部 (B)公平交易委員會  
(C)國家通訊傳播委員會 (D)主計處
- (D) 20. 法律經立法院通過後，須經何者公布始發生效力？  
(A)立法院院長 (B)行政院院長 (C)司法院院長 (D)總統
- (B) 21. 下列何種議案經立法院議決後，行政院認為窒礙難行時，得經總統核可，移請立法院覆議？  
(A)大赦案 (B)預算案 (C)戒嚴案 (D)宣戰案
- (C) 22. 限制行為能力人甲於公園垃圾桶內拾獲一只棄置手錶，甲甚為喜愛，如何取得該錶所有權？  
(A)應經其法定代理人同意 (B)先由法定代理人取得所有權，再移轉給甲  
(C)甲直接占有取得所有權 (D)無法取得所有權
- (B) 23. 以廣告聲明對於完成一定行為之人給與報酬者，行為人若不知有廣告而完成廣告所定行為，有無報酬請求權？  
(A)無報酬請求權 (B)有報酬請求權 (C)民法未明文規定 (D)依廣告內容決定
- (C) 24. 民國18年5月制定通過的我國民法，深受許多國家民法發展之影響；下列何者不屬於當時立法之重要參考對象？  
(A)德國民法典 (B)瑞士民法典 (C)英國民法 (D)日本民法
- (A) 25. 檢察官執行死刑為何不成立犯罪，因為係屬：  
(A)依法令的行為 (B)正當防衛 (C)緊急避難 (D)得承諾的行為
- (B) 26. 股東倘於股東會未能親自出席，則可以書面載明授權範圍，請他人代理出席，此種表決權行使之方式稱為：  
(A)親自表決 (B)委託書表決 (C)使者表決 (D)遠距表決
- (A) 27. 下列何種勞工所請的假，雇主並無須給付工資？  
(A)事假 (B)喪假 (C)婚假 (D)公假
- (D) 28. 下列何者不是勞動基準法所定義的雇主？  
(A)僱用勞工之事業主  
(B)事業經營之負責人

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(C)代表事業主處理有關勞工事務之人

(D)勞資會議的資方代表

- (C) 29. 一位私營補習班的男性美語老師，遭雇主以「穿著打扮不男不女、疑似同性戀、不適合文教工作」為由解僱。性別工作平等法在此解僱案的適用可能性為何？  
(A)不適用性別工作平等法，因為該美語補習班為私營機構  
(B)不適用性別工作平等法，因為該位被解僱的教師為男性  
(C)適用性別工作平等法，雇主的解僱行為可能構成違法的性傾向歧視  
(D)適用性別工作平等法，但雇主的解僱行為係因其工作不適任，為合理行使解僱權
- (A) 30. 民法第222 條規定：「故意或重大過失之責任，不得預先免除。」下列敘述，何者正確？  
(A)依反對解釋，「非故意或非重大過失之責任，得預先免除」  
(B)依當然解釋，「輕過失責任，當然亦不得預先免除」  
(C)依限縮解釋，「輕過失責任，不得預先免除」  
(D)依擴張解釋，「無過失，亦應負責」
- (D) 31. Although it claimed to be the most expensive movie ever made, it didn' t \_\_\_\_\_ the audience' s expectation.  
(A) drop in on (B) get along with  
(C) cut down on (D) live up to
- (A) 32. John and I had a fight the other day, so he turned his \_\_\_\_\_ on me and refused to talk to me anymore.  
(A) back (B) head (C) face (D) shoulder
- (C) 33. The government \_\_\_\_\_ taxes to increase the salaries of government employees.  
(A) rises (B) is raised (C) has raised (D) has been rising
- (D) 34. According to a local \_\_\_\_\_, the earthquake that rocked Clarion Island registered 7.9 on the Richter Scale.  
(A) animist (B) cardiologist  
(C) otologist (D) seismologist
- (B) 35. It is difficult for poor language learners to organize their linguistic input into a coherent system; \_\_\_\_\_, they see the input as an unconnected, untidy collection of individual items.  
(A) on the one hand (B) instead  
(C) by and by (D) furthermore
- (A) 36. In the traditional domain of "hard" or military-based power, the United States is unequalled \_\_\_\_\_ any other nation, including Russia and China.  
(A) by (B) to (C) against (D) with
- (C) 37. On all these shores there are echoes of \_\_\_\_\_: of the flow of time, obliterating yet containing all that has gone before.  
(A) here and there (B) this and that  
(C) past and future (D) up and down
- (A) 38. A group of scientists have warned the United States against weaponizing space, saying the move would be prohibitively expensive and could spark a new arms race in the cosmos.  
(A) Scientists have been against the United States' weaponizing space because this move would cost a huge amount of money and could initiate a new arms race in space.  
(B) Scientists have warned the United States not to travel into space because it could be extremely expensive and dangerous.  
(C) Scientists have been against the United States to arm the moon with expensive weapons because it will destroy the space.

- (D) Many scientists in the United States have warned the government not to weaponize the cosmos because it is too expensive.
- (C) 39. For developing countries, migration eases the pressure to employ the poor.
- (A) For developing countries, more poor people are employed because of foreign investment.
- (B) Developing countries solve their migration problems by employing more poor people.
- (C) Poor people's working abroad eases the pressure of unemployment in developing countries.
- (D) Migrating people to developing countries is a way to ease the pressure to employ the poor.
- (B) 40. What is most obvious in this book are all those details of daily living which make Mrs. Smith anything but common.
- (A) Mrs. Smith is quite an ordinary person as the book shows all the details of her daily living.
- (B) The book's detailed description of Mrs. Smith's daily life shows that she is an unusual person.
- (C) Mrs. Smith is obviously a common person because of the details of daily living shown in this book.
- (D) The details of Mrs. Smith's daily life in the book show what a common person she is.

Art ultimately must be valued because of its capacity to improve the quality of life: by increasing 41 others and our surroundings, by sharpening our perceptions, by reshaping our values so that moral and societal concerns 42 material well-being. Of all the arts, theater has perhaps the greatest potential as a humanizing force, for at its best it asks us to enter 43 into the lives of others so we may understand their aspirations and motivations. Through role-playing (either in daily life or in the theater) we come to understand who and what we are and to see ourselves in relation to others. Perhaps most important, in a world given increasingly to violence, the value of being able to understand and feel for others as human beings cannot be overestimated, because violence 44 most fully when we so dehumanize others that we 45 think of their hopes, aims, and sufferings but treat them as objects to be manipulated.

- (C) 41. (A) our sense about (B) our sensation of  
(C) our sensitivity to (D) our sensibility into
- (A) 42. (A) take precedence over (B) take pleasure in  
(C) recede from (D) proceed from
- (A) 43. (A) imaginatively (B) realistically  
(C) morally (D) increasingly
- (D) 44. (A) crashes (B) perishes (C) vanishes (D) flourishes
- (B) 45. (A) have to (B) no longer (C) would rather (D) prefer to

Long before Admiral Byrd's well-publicized expeditions and the race to the South Pole by Scott and Amundsen, other, now long-forgotten explorers, adventurers and ordinary seal hunters made or tried to make their way to Antarctica. Today, scientists regularly bivouac for months on end in the vast frozen wastes of Antarctica, and adventurous travelers can even find tours to take them to the bottom of the world. But it was not so long ago that a voyage to the South Pole was a perilous undertaking, one that required tremendous courage, stamina, and skill.

Before explorers actually saw this frozen continent, its existence was posited by geographers, though 18th-century seafarers ventured no further than the ring of cold air and icy water, the Antarctic Convergence, which surrounded it. The discovery and exploitation of Antarctica is the subject of Alan Gurney's book, *Below the Convergence*.

Gurney, a Scots yacht designer and photographer, tells the story of some dozen of those men, beginning with the astronomer Halley (of comet fame) in 1699 and finishes with an 1839 whaling/sealing ship—the Eliza Scott— whose crew discovered boulders imbedded in Antarctic ice, a geological mystery that caught Darwin's interest. But to mention only the detailed accounts of these voyages—and they are very detailed— fails to give a sense of the treasure-trove quality of this unusual book. Along the way are interesting discussions of the history of astronomy, geography, navigation (especially the problems of working out correct longitude), cartography and ornithology (how the penguin got its name), diet (the problem of scurvy) and the economics of the whale-oil trade. And how many of us have seriously considered the question “Is there indeed a ‘Southern Ocean’ below the Pacific?” Gurney's somewhat dogged interest in describing exactly which routes various ships took to get from here to there is more than made up for by his curiosity about what they encountered along the way. This book, written for serious sailors, should entertain anyone curious about history's backwater.

- (D) 46. This passage is most likely taken from \_\_\_\_.
- (A) the atlas of the Antarctic Convergence
  - (B) the bibliography of a thesis on penguins
  - (C) the mechanical manual of the Eliza Scott
  - (D) the book review section of an online bookstore
- (C) 47. According to the passage, which of the following statements about Antarctica is true?
- (A) Antarctica and the South Pole do not belong to the same area on earth.
  - (B) By the 18th century geographers had already been to the ice world by sea.
  - (C) The Antarctic Convergence encircles the Antarctic continent.
  - (D) Nowadays tours will take travelers to places under the ice.
- (B) 48. According to the passage, which of the following subjects is NOT mentioned in *Below the Convergence*?
- (A) The discovery of ice rocks
  - (B) The discovery of a gold mine
  - (C) The linguistic origins of penguins
  - (D) The discussion of standardizing longitude
- (D) 49. Which of the following words is closest in meaning to “bivouac” in the first paragraph?
- (A) Inflame
  - (B) Observe
  - (C) Research
  - (D) Shelter
- (A) 50. What does “history's backwater” in the last paragraph refer to?
- (A) Antarctica
  - (B) Alan Gurney's book
  - (C) Water around the South Pole
  - (D) The history of Gurney's journeys