

98年公務人員特種考試司法人員考試試題

等 別：三等考試

類 科：公證人、觀護人、行政執行官、司法事務官法律事務組、法院書記官、檢察事務官各組、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)

- (D) 1. 下列關於民意代表定期改選之敘述，何者錯誤？
- (A) 為反映民意，貫徹民主憲政之途徑
 - (B) 容許有因正當理由不能改選之例外情形
 - (C) 依司法院大法官釋字第 31 號解釋，國家發生重大變故得作為不依法辦理改選之正當理由
 - (D) 立法委員任期為憲法重要事項，不得以修憲方式延長之
- (C) 2. 下列關於政黨之敘述，何者錯誤？
- (A) 政黨為現代民主政治推行之重要機制
 - (B) 政黨之組成與運作，可從人民結社自由所導出
 - (C) 政黨為憲法機關之一
 - (D) 司法院大法官享有政黨違憲解散之專屬權限
- (B) 3. 下列憲法機關的關係中，何者彼此間不具有組織人事上民主正當性之連結？
- (A) 總統與行政院
 - (B) 總統與立法院
 - (C) 立法院與監察院
 - (D) 立法院與考試院
- (D) 4. 下列何者非屬民主國原則之要素？
- (A) 立法委員選舉之比例代表制
 - (B) 總統任期制
 - (C) 立法院對監察委員之人事同意權
 - (D) 總統之刑事豁免權
- (B) 5. 下列何種情形當事人得請求國家賠償？
- (A) 在麥當勞用餐的小妹妹跌倒撞到麥當勞叔叔塑像致額頭受傷
 - (B) 戶政事務所供民眾使用的飲水機，其冷水出口冒出滾燙熱水至民眾發生燙傷意外
 - (C) 民眾誤信廣告購買藥品使用後發生嚴重副作用而休克
 - (D) 民眾於百貨公司搭乘電扶梯時，因地面濕滑跌倒致頭部外傷
- (C) 6. 政府基於維持交通秩序而規定騎樓不准設攤，依司法院大法官解釋，下列敘述何者正確？
- (A) 就私有土地而言，此已抵觸憲法保障財產權之意旨
 - (B) 騎樓之建造係為供公眾通行之用，不准設攤之規定對其財產權並未妨礙
 - (C) 此為財產權之社會義務，對人民財產權之限制尚屬輕微，無悖於憲法第 23 條比例原則
 - (D) 此規定已構成個人之特別犧牲，若國家未對其有任何補償，即與憲法保障人民財產權之規定有所違背
- (D) 7. 法律規定曾犯殺人罪經判決確定者不准辦理營業小客車駕駛人職業登記，對此規定，依司法院大法官解釋，下列敘述何者錯誤？
- (A) 此限制之目的在於增進人民對營業小客車之職業信賴
 - (B) 此規定限制人民職業選擇之自由
 - (C) 本規定是否合憲，應衡量之重要公益為乘客生命身體安全
 - (D) 此乃是對於職業選擇應具備之主觀條件之違憲限制
- (B) 8. 下列有關憲法第 16 條訴訟權之敘述，何者錯誤？
- (A) 人民得依法定程序提起訴訟
 - (B) 訴訟權之保障不包括暫時權利救濟
 - (C) 提供人民有實效之權利救濟途徑
 - (D) 人民有受公平審判的權利
- (C) 9. 依據司法院大法官解釋，下列那一項違反平等權？
- (A) 勞動基準法課雇主負擔勞工退休金之給付義務
 - (B) 耕地三七五減租條例約滿收回須補償承租人
 - (C) 因軍事審判所造成之冤獄不予賠償

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- (D)就業服務法規定外國人眷屬在勞工保險條例實施區域以外發生死亡事故者，不得請領喪葬津貼
- (B) 10. 依司法院大法官解釋，下列那一項違反憲法保障言論自由之意旨？
(A)以刑罰處罰以廣告物、出版品、廣播、電視、電子訊號、電腦網路或其他媒體、散布、播送或刊登足以引誘、媒介、暗示或其他促使人為性交易之訊息者
(B)限制人民團體之組織與活動，不得主張共產主義，或主張分裂國土
(C)規定人民舉辦有關證券投資講習業務者，須為經主管機關核准之證券顧問事業
(D)要求菸品所含之尼古丁及焦油含量，應以中文標示於菸品容器上
- (B) 11. 依司法院大法官之見解，總統所發布之緊急命令的效力等同於：
(A)行政規則 (B)法律 (C)行政命令 (D)自治規章
- (A) 12. 副署制度係源自那一國？
(A)英國 (B)德國 (C)法國 (D)日本
- (D) 13. 依據憲法增修條文第 3 條第 3 項規定，國家機關之職權、設立程序及總員額，得以法律為準則性之規定，下列何者係依據上述規定所制定？
(A)行政院組織法
(B)行政院及各級行政機關訴願審議委員會組織規程
(C)中央法規標準法
(D)中央行政機關組織基準法
- (C) 14. 依司法院大法官釋字第 585 號解釋，有關立法院之調查權，下列敘述何者錯誤？
(A)立法院為了行使憲法所定之職權，可以行使調查權以獲得必要資訊
(B)立法院可以要求人民及政府官員作證及發表意見
(C)立法院對違反協助調查義務者，不能施予罰鍰之強制處分
(D)立法院行使調查權必須以法律為適當規範
- (C) 15. 下列何者之任命，係由總統提名，經立法院同意後任命？
(A)最高法院院長 (B)銓敘部部长 (C)審計部審計長 (D)考選部部长
- (A) 16. 全民健康保險關於保險人核定案件之爭議，依法應設置何組織？
(A)全民健康保險爭議審議委員會 (B)全民健康保險申訴委員會
(C)全民健康保險調解委員會 (D)全民健康保險訴願委員會
- (D) 17. 下列何一組織係屬法人，得以自己名義，享受權利並負擔義務？
(A)獨資商號 (B)普通合夥 (C)隱名合夥 (D)有限公司
- (C) 18. 下列何者，人民不得主張信賴保護？
(A)對合法行政處分之信賴 (B)對違法行政處分之信賴
(C)對政府所為政策宣示的信賴 (D)對行政規則之信賴
- (B) 19. 遺產分割計算時，須先將遺產債務「扣還」，扣還之「債務」係指下列何者？
(A)被繼承人對於繼承人之債務 (B)繼承人對於被繼承人之債務
(C)繼承人對於繼承人之債務 (D)被繼承人對於受遺贈人之債務
- (C) 20. 台北市與台北縣發生事權爭議時，由下列何機關解決？
(A)總統 (B)法院 (C)行政院 (D)內政部
- (C) 21. 下列何者屬於私經濟行政？
(A)授予專利 (B)處以罰鍰 (C)供應水電 (D)拆除違建
- (A) 22. 證據證明力在訴訟上，應如何認定？
(A)法律如無特別規定，應由法官依自由心證判斷之
(B)應依當事人聲請判斷之
(C)各種證據的證明力，必須有法律規定才可以判斷
(D)證據證明力可以由法官依院長指示判斷之
- (C) 23. 下列何者不屬於填補法律漏洞的方法？
(A)類推適用 (B)目的性限縮
(C)不確定法律概念 (D)比附援引

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- (A) 24. 下列那一種法學理論，相當程度上促成二十世紀極權主義的政治悲劇？
(A)法實證主義 (B)自然權利論 (C)社會契約說 (D)天賦人權思想
- (D) 25. 我國家庭暴力防治法的保護令制度，主要是參考那一國的法律制度？
(A)日本 (B)德國 (C)法國 (D)美國
- (C) 26. 法律適用過程中，將具體的案例事實，置於特定法律要件之中，以獲得一定之結論，稱為：
(A)準用 (B)外延 (C)涵攝 (D)舉例
- (D) 27. 清末重要的法律西化過程中所起草的數部重要法律，主要的外國顧問為下列那一國人？
(A)德國 (B)美國 (C)荷蘭 (D)日本
- (C) 28. 法律規定如有多種解釋可能的時候，為避免該項法律被宣告為違憲，應採取可導致其合憲的解釋，以維護法律秩序的統一，此在法學方法論上，稱為？
(A)文義解釋 (B)歷史解釋 (C)體系解釋 (D)類推適用
- (D) 29. 民國 24 年公布施行的中華民國刑法，係以下列何國為參考依據？
(A)英國、俄國 (B)美國、英國 (C)俄國、日本 (D)德國、日本
- (C) 30. 不成文法的優點為：
(A)內容較具體、明確，易於施行
(B)體系較完整周密
(C)較能配合社會實際狀況，反應社會變化
(D)較難配合時代需求，從事改革
- (A) 31. Please read the author' s _____ on pages i-iii before beginning to read the novel.
(A) prologue (B) epilogue (C) dialogue (D) catalogue
- (A) 32. It is _____ to use a generic term such as "people" to refer only to white people and then racially label everyone else.
(A) ethnocentric (B) anthropological
(C) egocentric (D) authentic
- (A) 33. _____ down with heavy packages, Susie decided to hail a taxi.
(A) Weighed (B) Weighing (C) To weigh (D) Weigh
- (D) 34. We _____ for half an hour when a terrible storm attacked the island.
(A) have been playing (B) have played
(C) were playing (D) had been playing
- (D) 35. However great our problems may seem, however urgent our complaints, they are dwarfed by the predicament of countless other people on our planet.
(A) We have great problems and urgent complaints as other people do.
(B) We suffer from the predicaments of the countless people on our planet.
(C) Our problems and complaints are shared by countless people on our planet.
(D) Compared with those of others, our problems and complaints are not so serious.
- (B) 36. His head is pounding and every one of his senses is on fire.
(A) He commits some violent acts to hurt himself.
(B) He is having a headache.
(C) He feels very hot.
(D) He is injured by some brutal forces.
- (B) 37. One can survive everything, nowadays, except death, and live down everything except a good reputation.
(A) Living with a good reputation and defeating death are what we expect.
(B) Death is undefeatable whereas a good reputation is not easy to keep forever.

(C) Death is hard to avoid and a good reputation is not easy to live with.

(D) Everything except for death and a good reputation nowadays is possible.

The study of connotation sharpens our realization that no two words in the English language mean exactly the same thing. 38, no two words are exactly synonymous when we come to the point of actually using them. Sometimes two words will seem so nearly 39 in meaning that we think they are interchangeable. We might find it hard to state their differences in meaning; 40, we find that they will not serve equally well in every context. Nuances, or 41 of meaning which have gathered about them as a result of their special history or their associations, will inevitably give them different capabilities. Such nuances, we now recognize, constitute their connotations. It is these different connotations of synonymous words which prevent them from being completely interchangeable. There is, 42, a theoretically best word for every situation, and the skill of a writer is shown by how close he/she comes to this best one in his/her search for the suitable word.

- (A) 38. (A) At least (B) In case (C) By far (D) Even so
(B) 39. (A) distinct (B) alike (C) vague (D) obvious
(C) 40. (A) furthermore (B) subsequently (C) nevertheless (D) therefore
(A) 41. (A) shades (B) contrasts (C) repetitions (D) extensions
(D) 42. (A) however (B) reversely (C) moreover (D) accordingly

The plunging waterfalls and soaring crags chiseled by the Merced River draw millions of visitors each year, but the crowds are precisely what threaten the waterway and the park. Efforts to safeguard the Merced have spawned a court battle over the future of development in Yosemite National park's most popular stretch. The case may come down to the challenge facing all of America's parks: should they remain open to everyone, or should access be limited in the interest of protecting them? In November, a federal judge barred crews from finishing 60-million-dollar construction projects in Yosemite Valley. The judge sided with a small group of environmentalists who sued the federal government, saying further commercial development would bring greater numbers of visitors, thus threatening the Merced's fragile ecosystem. The government is appealing, fearing the ruling could force the National Park Service to limit parks. The case has Yosemite's most loyal advocates sharply divided over how to balance preservation with access to public lands. Even environmentalists cannot agree on how to minimize the human footprint—some believe cars should be kept out entirely; others say visitors should have to make reservations in advance.

- (B) 43. According to the passage, what threatens the ecosystem of Yosemite National Park?
(A) The Merced River (B) The visiting crowds
(C) The plunging waterfalls (D) The soaring crags
- (A) 44. What does the word "spawned" mean?
(A) Generated (B) Pledged (C) Mounted (D) Endangered
- (B) 45. According to the passage, how did the federal judge rule in the case of construction projects in Yosemite Valley?
(A) The federal government won the case.
(B) The environmentalists won the case.
(C) The National Park Service won the case.
(D) The commercial developers won the case.
- (D) 46. According to the passage, which of the following statements is NOT true?

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- (A) Environmentalists cannot agree on how to minimize the human footprint in National Parks.
- (B) The waterfalls and soaring crags in the park draw millions of visitors each year to Yosemite National Park.
- (C) A federal judge banned crews from finishing 60-million-dollar construction projects in Yosemite Valley.
- (D) Yosemite's most loyal advocates agree on how to balance preservation with access to public lands.

American public and private agencies spend millions of dollars annually attempting to persuade citizens to drink alcohol only in "moderate" amounts or not at all, particularly when operating a motor vehicle. Studies indicate that this propaganda and advertising approach is almost totally ineffective. Alcohol consumption continues to rise nationally, and alcohol-related traffic deaths, especially for teenage drivers, have increased. In contrast to the American approach, Norway has severe, but meaningful, penalties for driving while drunk. These include periods of compulsory public work (picking up trash along highways), mandatory jail sentences that do not interfere with one's work (a member of the Norwegian royal family will be equally punished if guilty). As a result, many Norwegians use taxis or the drivers not drinking when spending a night on the town.

- (A) 47. The example of the Norwegian royal family is used to illustrate _____.
 - (A) that no one is exempt from the penalty for drunk driving
 - (B) that some people are exempt from drunk driving penalties
 - (C) that a member of the Norwegian royal family is currently charged with drunk driving
 - (D) that the members of the Norwegian royal family have a problem with drunk driving
- (D) 48. The organizational pattern of this passage can be described as _____.
 - (A) cause and effect
 - (B) process
 - (C) comparison and contrast
 - (D) generalization and examples
- (C) 49. The example of Norwegians using taxis or the drivers not drinking is used to illustrate the fact that _____.
 - (A) underage drinking in Norway is controlled
 - (B) underage drinking in Norway is excessive
 - (C) Norway's penalties deter drunk driving
 - (D) Norway's penalties do not cut down on drinking
- (D) 50. The missile missed its _____ by two miles.
 - (A) fight
 - (B) head
 - (C) measurement
 - (D) target