

等 別：四等考試

類 科：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）

考試時間：1 小時

座號：\_\_\_\_\_

※注意：(一)本試題為單一選擇題，請選出一個正確或最適當的答案，複選作答者，該題不予計分。

(二)本科目共 50 題，每題 2 分，須用 2B 鉛筆在試卡上依題號清楚劃記，於本試題上作答者，不予計分。

(三)禁止使用電子計算器。

- 1 下列何種事項不屬於國民主權之具體表現？  
(A)公民投票 (B)民意代表之定期改選 (C)制定憲法 (D)法官終身職之保障
- 2 憲法第 12 條規定，人民有秘密通訊之自由，下列說明何者錯誤？  
(A)旨在確保人民就通訊之有無、對象、時間、方式及內容等事項，有不受國家及他人任意侵擾之權利  
(B)其乃憲法保障言論自由之具體態樣之一  
(C)國家若採取限制手段，應有法律為其依據  
(D)限制之要件應具體、明確，不得逾越必要之範圍，所踐行之程序並應合理、正當
- 3 司法院釋字第 396 號認為懲戒案件之審議，「應本正當法律程序之原則，對於被付懲戒人予以充分之程序保障」。下列何者不屬於此種程序保障之必要內容？  
(A)辯護制度 (B)三級三審制度  
(C)給被付懲戒人最後陳述之機會 (D)直接審理、言詞辯論
- 4 由我國憲法對下列何種基本人權的保障中，可導出對政黨自由之保障？  
(A)人身自由 (B)居住遷徙自由 (C)集會結社自由 (D)宗教信仰自由
- 5 外國人在我國無法享有下列那一項基本權？  
(A)言論自由 (B)參政權 (C)財產權 (D)人身自由權
- 6 依司法院釋字第 579 號解釋，下列關於國家徵收私人土地，發放補償費之敘述，何者錯誤？  
(A)國家徵收私人土地對被徵收財產之權利人而言，係為公共利益所受之特別犧牲，故應給予相當之補償  
(B)國家徵收私人土地應發放補償費，係基於財產權保障  
(C)國家所應給予之徵收補償，須符合補償與損失必須相當之原則  
(D)徵收補償之發放標準以及是否合理，立法機關有絕對自由之形成空間，無須考量社會經濟發展
- 7 為防立法怠惰，人民應有：  
(A)罷免權 (B)複決權 (C)創制權 (D)制憲權
- 8 國家年度總預算案由什麼機關向什麼機關提出？  
(A)由行政院向總統提出 (B)由行政院向立法院提出  
(C)由行政院向監察院提出 (D)由司法院向立法院提出
- 9 下列何人不得依憲法第 67 條第 2 項至立法院各委員會備詢？  
(A)中央銀行總裁 (B)交通部部長 (C)司法院秘書長 (D)考試院院長
- 10 依司法院釋字第 459 號解釋，如不服徵兵機關兵役體位之判定，役男得如何提出救濟？  
(A)提起民事訴訟 (B)提起訴願及行政訴訟  
(C)提起國家賠償訴訟 (D)向公務員懲戒委員會聲明異議
- 11 下列何種權限非屬監察院所有？  
(A)彈劾權 (B)糾正權 (C)糾舉權 (D)同意權
- 12 我國憲法對人民基本權的保障，係採用何種規定方式？  
(A)僅採列舉式 (B)僅採概括式  
(C)以列舉為主，概括為輔 (D)以概括為主，列舉為輔
- 13 依我國憲法第 172 條之規定，命令與憲法或法律牴觸者無效。各級法院法官於審理個案，認為所適用之命令有牴觸憲法或法律之情形者，其應如何處理？  
(A)宣告無效 (B)拒絕適用 (C)聲請立法院解釋 (D)聲請行政院解釋

- 14 依憲法增修條文第 10 條之規定，國家對於身心障礙者之保障、輔導與照顧，其終極目標為何？  
(A)使其能自立與發展 (B)使其能自行使用公共設施  
(C)使其行使參政權 (D)使其能受高等教育
- 15 根據憲法增修條文第 10 條第 6 項，明定國家應促進其下列何者之實質平等？  
(A)人民受教育機會 (B)兩性地位 (C)資方與勞方 (D)公營事業與私營事業
- 16 下列何種行為並不成立犯罪？  
(A)普通傷害未遂行為 (B)重傷害未遂行為 (C)過失傷害行為 (D)背信未遂行為
- 17 下列何者並非行政權行使之基本原則？  
(A)法律保留原則 (B)罪刑法定原則 (C)比例原則 (D)信賴保護原則
- 18 下列何者為第四順位法定繼承人？  
(A)父母 (B)父母之兄弟姊妹 (C)祖父母 (D)兄弟姊妹
- 19 下列有關刑法上公務員執行職務犯罪之敘述，何者錯誤？  
(A)公務員即使因過失而讓職務上依法逮捕拘禁之人脫逃，仍應受處罰  
(B)公務員假借職務上之機會，故意傷害他人身體者，其所成立之傷害罪，應加重其刑至三分之一  
(C)公務員在離職之後，無故洩漏因職務而知悉之他人工商秘密者，仍應受處罰  
(D)公務員登載於職務上所掌管之公文書上之事項，即使不實，只要公務員並非明知，即不受處罰
- 20 下列關於公司之敘述，何者正確？  
(A)股份有限公司之董事必須是公司之股東  
(B)股份有限公司之監察人不得單獨行使監察權  
(C)有限公司之不執行業務股東，均得行使監察權  
(D)有限公司之董事非得其他全體股東過半數之同意，不得將其出資轉讓於他人
- 21 下列關於消費者保護法之敘述，何者錯誤？  
(A)定型化契約中之定型化契約條款若抵觸個別磋商條款之約定，其抵觸部分無效  
(B)依消費者保護法所提起之訴訟，不管是否企業經營者故意所致之損害，消費者均得請求損害額三倍以下之懲罰性賠償金  
(C)未經消費者要約而對之郵寄或投遞之商品，消費者不負保管義務  
(D)郵購或訪問買賣之消費者，對所收受之商品不願買受時，得於收受商品後七日內退回商品
- 22 下列何者不屬於勞動基準法所規定之定期勞動契約？  
(A)特定性工作 (B)季節性工作 (C)短期性工作 (D)周期性工作
- 23 下列有關刑法上公務員受賄之敘述，何者錯誤？  
(A)只有對於違背職務之行為行賄，才對行賄者處罰  
(B)若於擔任公務員之前預先受賄，則不論有無履行，均應依準受賄罪處罰  
(C)不論是否違背職務，只要受賄，便加以處罰  
(D)所收受之賄賂，即使已不能沒收，仍應追徵其價額
- 24 下列何種法律不能採用類推適用之方法解決法律漏洞問題？  
(A)民法 (B)海商法 (C)票據法 (D)刑法
- 25 下列關於民法上代理制度的敘述，何者正確？  
(A)法律行為與事實行為均可委由他人代理為之 (B)限制行為能力人亦可為他人之代理人  
(C)民法上僅承認意定代理 (D)身分行為可委由他人以自己名義代為
- 26 下列何者並非形成有效之婚姻關係的要件？  
(A)雙方當事人均非重婚 (B)二人以上之證人  
(C)向戶政機關為結婚之登記 (D)公開之儀式
- 27 家庭暴力防治法中的「暫時保護令」應由何單位核發？  
(A)法院 (B)地檢署  
(C)警察局 (D)主管機關：直轄市政府或縣（市）政府
- 28 以下何者為「刑罰」？  
(A)沒入 (B)抵償 (C)警告性處分 (D)罰鍰
- 29 下列何者為刑事訴訟程序中的非常救濟程序？  
(A)再議程序 (B)抗告程序 (C)再審程序 (D)保全程序

- 30 行政罰之裁處權經過幾年期間消滅？  
(A) 5 年 (B) 3 年  
(C) 10 年 (D) 視所涉之行政罰種類而定
- 31 As the greenhouse effect is getting worse, many people start to worry whether they could \_\_\_\_\_ the heat in the summer.  
(A) deduce (B) fulfill (C) derive (D) survive
- 32 Because the singer was too nervous, she was \_\_\_\_\_ in the third round of the competition and could not compete for the championship.  
(A) eliminated (B) participated (C) maintained (D) endangered
- 33 The soup tastes a little \_\_\_\_\_. Let's add some salt and pepper into it.  
(A) bland (B) positive (C) fragile (D) thrifty
- 34 \_\_\_\_\_ the victims who died in the terrorists' attack last month, the city is going to hold a series of music concerts.  
(A) In need of (B) In search of (C) In memory of (D) In footsteps of
- 35 She was reading the story with tears \_\_\_\_\_ down her cheeks.  
(A) rolled (B) roll (C) rolling (D) to roll
- 36 \_\_\_\_\_ he will come or not is still open to question.  
(A) The fact that (B) That (C) What (D) Whether
- 37 The \_\_\_\_\_ you work, the \_\_\_\_\_ chance you will have to win promotion.  
(A) hardly . . . good (B) hardly . . . better (C) harder . . . good (D) harder . . . better
- 38 Jack cannot understand why Bob said that, and \_\_\_\_\_.  
(A) Tim can, too (B) so can Tim (C) nor does Tim (D) Tim can't, either
- 39 Sam: I've just got my bank statement and I'm afraid I'm in the red.  
Josh: \_\_\_\_\_  
Sam: I mean, would you please lend me some?  
(A) How dare you waste so much money on those video games?  
(B) So? What on earth are you going to say?  
(C) Do you mean you cannot put up with the red tape?  
(D) You really must earn as much money as possible to make ends meet.
- 40 Sam: Alex, can I talk to you about something?  
Alex: \_\_\_\_\_  
Sam: You know, last night I couldn't study because of all the noise. And I couldn't sleep, either. You guys kept me up till 3:00 a.m.  
(A) Sure, what's up? (B) Sorry, I'm busy. (C) Never mind. (D) No, thank you.
- 41 Stacey: This chocolate looks delicious.  
Fanny: Don't tell me you're going to eat it all at once.  
Stacey: Sure I am. Why not?  
Fanny: You can consider saving some for later.  
Stacey: So that you can steal it? \_\_\_\_\_  
(A) Help yourself. (B) Lucky you. (C) No way. (D) Not at all.

The other day I was in the grocery store and witnessed an incredible display of patience. The 42 clerk had just been scolded by an angry customer, clearly without good cause. 43 being reactive, the clerk reduced the anger by remaining calm. When it was my 44 to pay for my groceries, I said to her, "I'm so 45 with the way you handled that customer." She looked me right in the eye and said, "Thank you, Sir. Do you know you are the first person 46 to give me a compliment in this store?" It took less than two seconds to let her know, yet it was a highlight of her day, and of mine.

請依上文回答第 42 題至第 46 題。

- 42 (A) countdown (B) takeout (C) breakaway (D) checkout  
43 (A) Not only (B) Rather than (C) In case of (D) With regard to  
44 (A) turn (B) way (C) time (D) chance  
45 (A) horrified (B) puzzled (C) impressed (D) qualified  
46 (A) ever (B) once (C) yet (D) still

The question of how people learn a second language is one that has received a great deal of scientific attention. Research has offered evidence that has been used to support a number of conflicting claims about second language (SL) learning. However, there is one fundamental observation that is less open to dispute than others. If success in adult second language learning is measured by how close the learner comes to the level of a native speaker, it is possible and quite common for adults to achieve a high degree of success in learning SL grammar and vocabulary. Strangely enough, the same degree of success does not seem to be attainable in SL phonology; adult SL learners who sound like native speakers are extremely rare, perhaps even nonexistent.

How have scientists attempted to account for the remarkable inability of adult second language learners to acquire a nativelike pronunciation in the second language? One likely explanation is to be found in the so-called critical period theory. Proponents of this theory argue that the acquisition of native-speaker pronunciation in any language is biologically possible only until about the age of twelve. But it must be emphasized that there is too much counterevidence for such a conclusion to be valid; there are too many cases of adults who acquire adequate or good pronunciation in a second language through instruction and practice. While they will never be mistaken for native speakers, their efforts are rewarded by speech that is perfectly comprehensible.

請依上文回答第 47 題至第 50 題。

- 47 Which of the following conclusions has been agreed upon by SL researchers?  
(A) No scientific experiments have been conducted to study second language learning.  
(B) It is hard for adult SL learners to excel in grammar and vocabulary.  
(C) It is uncommon for adult SL learners to sound like native speakers.  
(D) Success in adult second language learning should not be measured by how nativelike the SL learners can be.
- 48 According to the critical period theory, why is it difficult for adult SL learners to acquire a nativelike pronunciation?  
(A) They are too critical about the acquisition of nativelike pronunciation.  
(B) They learn the language after the age of twelve.  
(C) They fail to learn well because they lack instruction and practice.  
(D) They are not getting rewards for their efforts.
- 49 What does the author suggest about SL learning?  
(A) Too much evidence shows that the critical period theory is valid.  
(B) Through instruction and practice, adult SL learners can acquire good pronunciation.  
(C) Second language learning is biologically determined.  
(D) SL learners who sound like native speakers are totally nonexistent.
- 50 According to the passage, what does the word “phonology” mean?  
(A) The study of second language acquisition.  
(B) The study of grammar and vocabulary in a particular language.  
(C) The study of sounds in a particular language.  
(D) The study of reading comprehension.