

97年特種考試交通事業鐵路人員考試及 97年特種考試交通事業公路人員考試試題

資 位 別：高員三級

類 科：鐵路—各類科、公路—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)本測驗試題為單一選擇題，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 有關中華民國領土，憲法第 4 條採「依其固有之疆域」的概括規定，請問司法院大法官對所謂「固有疆域」範圍之界定，作何解釋？
(A)「固有疆域」亦即中華民國憲法所施行的區域
(B)這是重大的政治問題，不應由行使司法權的釋憲機關予以解釋
(C)所謂「固有疆域」是指自由地區台澎金馬
(D)交由民意機關決定
- 2 下列何者未於我國憲法中明文規範？
(A)有關訴訟規定 (B)有關勞資糾紛之調解 (C)國歌 (D)國旗
- 3 鄉（鎮、市）民代表大會主席與副主席，依地方制度法規定，應如何產生？
(A)分別由鄉（鎮、市）民選舉產生
(B)分別由鄉（鎮、市）民代表互選產生
(C)分別由鄉（鎮、市）民代表互選出二人後，報請縣政府各遴選其中一人產生
(D)主席由鄉（鎮、市）民代表互選產生，副主席由主席指定產生
- 4 依司法院大法官釋字第 509 號解釋，下列何者並非言論自由的主要功能？
(A)實現自我 (B)交換知識，溝通意見
(C)監督民主政治 (D)維護社會秩序
- 5 依憲法增修條文第 10 條之規定，下列何項經費應優先編列？
(A)國防經費 (B)社會福利經費 (C)教育、科學、文化經費 (D)中央對地方之補助款
- 6 祕密通訊自由不包括下列何者？
(A)人民的通信函件，不受政府非法攔截 (B)人民的電信電話，不受政府非法監聽
(C)郵電人員因職務知悉他人事情者，應嚴守祕密 (D)人民有使用大眾媒體的權利
- 7 依據司法院大法官釋字第 166 號解釋，違警罰法被宣告違憲最主要的理由為何？
(A)未經司法警察機關而得逕行逮捕
(B)違警罰法所定之罰則，違反平等原則
(C)對人民之逮捕，違反對現行犯始得逕行為之的規定
(D)對人民之審問處罰，違反由法院始得為之的規定
- 8 依司法院大法官釋字第 577 號解釋，下列何者屬商業性言論，應受言論自由之保障？
(A)商品價格 (B)商品標示 (C)商品銷售 (D)商品信譽
- 9 對於結社自由的限制，以下敘述何者錯誤？
(A)有關犯罪違法的結社 (B)主張廢除憲法、制定新憲法的結社
(C)否定人權、違反人性尊嚴的結社 (D)以暴力破壞憲法基本秩序的結社
- 10 公共設施因設置缺失致人民權利受損時，有國家賠償法之適用。下列何者非此所指之權利？
(A)生命 (B)身體 (C)名譽 (D)財產
- 11 國家賠償法與民法的關係，下列何者正確？
(A)民法規定不適用於國家賠償
(B)國家賠償法與民法規定不同時，優先適用國家賠償法
(C)國家賠償法與民法規定不同時，優先適用民法
(D)根據立法意旨而定
- 12 依我國憲法增修條文規定，立法院通過對行政院不信任案後，何者得宣告解散立法院？
(A)行政院院長 (B)立法院院長 (C)監察院院長 (D)總統

- 13 以下何者不是司法權的範圍？
(A)政策質詢權 (B)行政訴訟審判權 (C)憲法解釋權 (D)公務員懲戒權
- 14 立法院副院長之產生方式為何？
(A)由立法院院長指定立法委員擔任 (B)由行政院院長提請總統任命
(C)由總統提名，經立法院同意後任命 (D)由立法委員互選之
- 15 以下關於考試院的敘述，何者錯誤？
(A)考試院設考試委員十五人 (B)考試院副院長由總統提名，經立法院同意任命
(C)考試院掌理者包括公務人員褒獎的法制事項 (D)考試院亦得向立法院提出法律案
- 16 下列何者為普通法與特別法的關係？
(A)刑法與刑事訴訟法 (B)民法與行政法 (C)公司法與票據法 (D)刑法與陸海空軍刑法
- 17 我國民法制定時，基本上係繼受何國之民法典而來？
(A)英國、法國 (B)美國、英國 (C)德國、瑞士 (D)俄國、日本
- 18 法律案三讀通過後，最終成為正式之法律須經過：
(A)總統公布 (B)監察院審查 (C)立法院公布 (D)行政院核定
- 19 關於「立法院審議法律案的審議程序」，下列敘述何者錯誤？
(A)法律案完成二讀前，原提案者得經院會同意後撤回原案
(B)法律案交付審查後，性質相同者，得為併案審查
(C)每屆立法委員任期屆滿時，尚未議決的法案，下屆不予繼續審議
(D)三讀會時，得就審查意見或原案要旨做廣泛討論
- 20 有關「事實之推定」與「法律之擬制」之異同，下列敘述何者正確？
(A)擬制容許提出反證推翻
(B)擬制的用語，常使用「視為」、「視同」或「以……論」
(C)推定不容許提出反證推翻
(D)推定是一種法律效果的賦予，擬制是一種事實認定的方法
- 21 「舉輕明重」或「舉重明輕」係屬下列何種解釋方法？
(A)歷史解釋 (B)限縮解釋 (C)擴張解釋 (D)當然解釋
- 22 下列何者屬於「信賴保護原則」之敘述？
(A)國家機關擬廢止法規範時，應考慮訂定過渡條款
(B)國家機關不得為達目的而不擇手段
(C)國家機關作成行政處分，不應將與該行政處分目的無關的要素列入考慮
(D)國家機關應公平對待人民
- 23 有關法律授權制定的法規命令，以下敘述何者錯誤？
(A)法規命令沒有法律授權不得自定行政罰
(B)只要具有正當性，法規命令本身可以增加母法所未規定之限制，以達成行政目的
(C)法律授權行政機關制定法規命令時，須在授權目的、內容、範圍具體明確
(D)法律如果概括授權，行政機關僅得為技術性或細節性規定，否則違反法律保留原則
- 24 甲受僱於乙銀行，雙方為甲結婚時即需辭職的約定。下列敘述何者錯誤？
(A)僱傭契約仍然有效 (B)辭職的約定無效
(C)雙方需受約定的拘束 (D)辭職的約定違反公序良俗
- 25 夫妻皆為未成年之人，若二人欲協議離婚，應如何處理？
(A)應得法定代理人之同意 (B)應由法定代理人代理之
(C)毋須徵得法定代理人之同意 (D)未成年人依法不得協議離婚
- 26 甲將其土地設定地上權給乙後，甲不得再為下列何種法律行為？
(A)所有權的移轉 (B)抵押權的設定 (C)典權的設定 (D)所有權的買賣
- 27 甲砍傷乙之後後悔，將乙送醫急救，乙僅受皮肉之傷，則甲是普通傷害罪的：
(A)不能未遂 (B)障礙未遂 (C)中止未遂 (D)既遂犯
- 28 有關分期付款買賣之規定，下列敘述何者錯誤？
(A)企業經營者應告知消費者現金總價與分期付款總價之差異，否則消費者最後只要付現金總價即可
(B)企業經營者應告知消費者分期之期數，否則消費者可以自己決定分幾期
(C)企業經營者應告知消費者利率，否則消費者可以主張支付法定利率即可
(D)企業經營者應告知消費者頭期款之金額

- 29 依據全民健康保險法的規定，被保險人及投保單位對爭議案件之審議不服時，應如何救濟？
(A)提起民事訴訟 (B)申請國家賠償 (C)提起訴願及行政訴訟 (D)提出再審議
- 30 有關性別工作平等法陪產假之規定，下列敘述何者正確？
(A)雇主於受僱者之配偶分娩時，應給予受僱者陪產假
(B)受僱者於其同居伴侶分娩時，雇主亦應給予陪產假
(C)雇主於受僱者之陪產假期間，不需給付工資
(D)受僱者之陪產假之請假日數，併入病假計算
- 31 If you have any questions, please call me or _____ my office during my office hours.
(A) bring about (B) drop by (C) hang out (D) turn in
- 32 Do you know how to _____ between identical twins?
(A) distinguish (B) extinguish (C) distinct (D) extinct
- 33 The poison seeping from the factory has _____ the river which is the major source of the city's drinking water.
(A) contaminated (B) diluted (C) purified (D) swept
- 34 Water, soil, and the earth's green _____ of plants make up the world that supports the animal life of the earth.
(A) bristle (B) epistle (C) kettle (D) mantle
- 35 The film *The Last Emperor* _____ the leading actor international fame.
(A) earned (B) framed (C) ransacked (D) infested
- 36 Simon felt terribly embarrassed when he accidentally _____ his cup of coffee and spilled it all over Mary's dress.
(A) broke down (B) turned off (C) knocked over (D) put aside
- 37 This year _____ was the US drug-czar Barry McCaffery who came to celebrate America's successful drug policy.
(A) when (B) while (C) which (D) it
- 38 Doctors need years of training _____ they are ready to operate on their patients.
(A) before (B) after (C) as (D) since
- 39 With the world's population _____ to increase, we will soon face the problem of food shortages.
(A) continues (B) continued (C) continuing (D) has continued
- 40 After the fight, the former champion looked _____ he had been put through a meat grinder.
(A) how (B) as if (C) like (D) as when
- 41 Quite a few doctors admit that they have been tempted to be less than perfectly honest with their patients.
(A) Most patients prefer doctors to be perfectly honest with them.
(B) The allure to tell lies to patients is irresistible to many doctors.
(C) Telling the truth is not always too difficult for many doctors.
(D) Complete honesty is highly recommendable in medical profession.
- 42 Studies indicate that hypnosis, used in conjunction with standard pharmacological techniques, is an effective way to relieve pain during invasive medical procedures.
(A) It is suggested that normal pharmacological techniques be used with hypnosis to induce pain in patients who are injured during the invasion.
(B) Hypnosis has been proven to be a valid method to alleviate pain during surgeries if coupled with typical medication and drug treatment.
(C) It has been shown that patients receiving surgeries feel less pain if they are hypnotized completely.
(D) Studies show that hypnosis can produce similar pain-reducing effects as drug does during major surgeries.

For one hundred thousand years, humans had concerned themselves with the dead. For the most part, bodies were carefully placed in graves cut out of rock, isolated from the community or near plain dwellings. Huge stones sometimes served to seal off these recesses. The megalithic structures gave birth to an open-air architecture (some researchers see this as an attempt to imitate grottoes), intended to hold the remains of ancestors, following complex, constantly renewed rituals. The spirits of the dead, and probably of the gods—necessary to any society that makes use of symbols, as researcher Jacques Cauvin has said—thus inhabited the stones of which the vaults were built or the commemorative standing stones.

Megalithic graves were collective, and funerary rites called for a considerable expenditure of energy and a commitment by the whole community. Examination of the tomb of Pontcharaud (before 4000 B.C.), near Clermont-Ferrand, France, demonstrates the amount of attention that was devoted to the dead as well as the fear the dead inspired. Feet and hands severed, the bodies were arranged in a prone position in which they could be imagined to move only in one direction—toward the darkness of death. Moreover, heavy rocks were placed on top of them so that they could not escape toward the light. Amputation of the hands and feet must have occurred during secondary rites following death. These rites evoke the system of symbolism that transformed the corpse into a relic and made the departed an ancestor to be propitiated.

- 43 According to the passage, one of the functions of huge stones was to be a _____.
 (A) blockage (B) totem (C) landmark (D) decoration
- 44 One conclusion from the examination of the Pontcharaud tomb was _____.
 (A) people were afraid of the dead (B) people were attracted by the dead
 (C) the dead inspired people's life (D) the dead were devoted to people
- 45 Which of the following measures was NOT taken before the corpses were put to the tombs?
 (A) Cutting off the hands and feet (B) Putting bodies facing down
 (C) Piling rocks on top of the bodies (D) Placing heads toward the light
- 46 According to the passage, one of the purposes of the funeral rites in the megalithic cultures is to _____ the dead.
 (A) appease (B) invoke (C) depart from (D) cling to

Researchers have found a clear relationship between the number of ideas produced and the quality of the ideas. 47 There are two reasons for this. The first is a matter of simple probability. Creative ideas are statistically uncommon. As Alfred North Whitehead explains, "The probability is that nine hundred and ninety-nine of our ideas will come to nothing, either because they are worthless in themselves or because we shall not know how to elicit their value. 48 The thousandth idea may be the one that will change the world."

The second reason is that initial ideas are usually poorer in quality than later ideas. Just as water must run from a faucet for a while to be clear and free of particles, so thought must flow before it becomes creative. Early ideas are not usually true ideas. 49 One very plausible hypothesis is that familiar and safe responses lie closest to the surface of our consciousness and therefore are naturally thought of first. 50

- 47 (A) In any case, success in creative thinking depends on continuing the flow of ideas long enough to purge the common, habitual ones and produce the unusual and imaginative.
 (B) Not infrequently, the idea that provides a key to resolving an issue will seem, at first consideration, irrelevant.
 (C) The more ideas produced, the better the chances of having one or more good ones.
 (D) Exactly why this is so is not known.
- 48 (A) But we had better entertain them all, however skeptically.
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- 49 (A) In any case, success in creative thinking depends on continuing the flow of ideas long enough to purge the common, habitual ones and produce the unusual and imaginative.
 (B) Producing a large quantity of ideas is one of the ways to produce creative solutions.
 (C) But we had better entertain them all, however skeptically.
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