

## 95 年特種考試地方政府公務人員考試試題

等 別：三等考試

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 依憲法增修條文規定，行政院與立法院之關係，下列說明何者錯誤？
  - (A)立法委員得對行政院院長質詢
  - (B)立法院得對行政院院長提出不信任案
  - (C)行政院有向立法院提出施政方針及施政報告之責
  - (D)行政院院長之任命須經立法院同意
- 2 下列有關主權意義之敘述，何者正確？
  - (A)主權與國家可以分開
  - (B)聯合國享有主權
  - (C)主權不能與其他權力分享
  - (D)主權容許其他權力挑戰
- 3 地方民意代表連續未出席定期會達幾會期者，解除其職權？
  - (A)一會期
  - (B)二會期
  - (C)三會期
  - (D)四會期
- 4 下列有關國民教育之敘述，何者未在憲法中明文規定？
  - (A)受基本教育者其書籍由政府供給
  - (B)受基本教育者免納學費
  - (C)受國民教育是人民的義務
  - (D)受國民教育是人民的權利
- 5 下列有關憲法修改之程序之敘述，何者錯誤？
  - (A)由立法院擬定憲法修正案
  - (B)由國民大會複決
  - (C)經公告半年
  - (D)經中華民國自由地區選舉人投票複決
- 6 法人無法享有下列何種權利？
  - (A)營業自由
  - (B)國家賠償
  - (C)刑事補償
  - (D)財產所有
- 7 依司法院大法官釋字第 471 號解釋，對於違反槍砲彈藥刀械管制條例之行為人，一律宣付強制工作 3 年，不符合下列何種原則？
  - (A)比例原則
  - (B)法律優位原則
  - (C)法律保留原則
  - (D)信賴保護原則
- 8 下列何者為我國憲法明文規定外之選舉投票方式？
  - (A)普通選舉
  - (B)平等選舉
  - (C)自由選舉
  - (D)直接選舉
- 9 依司法院大法官釋字第 419 號解釋，下列敘述何者正確？
  - (A)副總統與行政院院長之職務性質顯然不相容
  - (B)依據我國憲法意旨明確指出，行政院院長應於新任總統就職時提出總辭
  - (C)立法院除憲法所規定之事項外，亦可決議要求總統為一定行為或不為一定行為
  - (D)如遇總統缺位或不能視事時，副總統如兼任行政院院長，將影響憲法所規定繼任或代行職權之設計
- 10 總統於任滿之日時，如次任總統尚未選出，或選出後之總統、副總統均未就職時，應由：
  - (A)屆滿任期之總統續任至新總統選出後為止
  - (B)屆滿任期之副總統暫代總統職權至新總統選出後為止
  - (C)行政院院長代行總統職權
  - (D)立法院院長代行總統職權
- 11 下列何者隸屬於總統府？
  - (A)中央研究院
  - (B)中央銀行
  - (C)故宮博物院
  - (D)國家圖書館
- 12 根據總統副總統選舉罷免法第 2 條之規定，下列何者不是選舉總統、副總統之方式？
  - (A)普通
  - (B)平等
  - (C)間接
  - (D)無記名
- 13 依總統副總統選舉罷免法之規定，總統、副總統選舉罷免訴訟之管轄機關為：
  - (A)最高法院
  - (B)司法院大法官
  - (C)中央選舉委員會
  - (D)中央政府所在地之高等法院
- 14 依司法院大法官釋字第 539 號解釋之見解，下列關於「審判長」與「庭長」之說明何者正確？
  - (A)審判長與庭長均屬行政性質
  - (B)審判長與庭長均屬司法性質
  - (C)審判長與庭長係不同功能之兩種職務
  - (D)庭長係合議審判時之機制

- 15 對公務員任用之資格加以審查，並對其職等加以審定，此稱之為：  
(A)考試 (B)任用 (C)銓敘 (D)撫卹
- 16 下列關於公司性質的敘述，何者為正確？  
(A)公司為一以營利為目的之社團法人組織  
(B)由於公司之股東須繳納股款或出資額，所以公司為一以財產結合為基礎之財團法人組織  
(C)由於公司為一財團法人組織，所以股東僅得以現金或公司所需財產出資，不得以勞務或個人信用出資  
(D)公司之國籍係以公司法定代表人之國籍定之
- 17 甲以為想替自己拍掉肩上頭皮屑的乙要打自己，將乙推倒，乙摔傷骨折，甲成立何罪？  
(A)成立故意傷害罪 (B)因正當防衛而不成立犯罪  
(C)因誤想防衛而成立過失傷害罪 (D)成立重傷罪
- 18 下列有關契約之要約敘述，何者錯誤？  
(A)契約之要約人因要約而受拘束 (B)價目表之寄送得視為要約  
(C)要約經拒絕者，失其拘束力 (D)對話為要約者非立時承諾，失其拘束力
- 19 下列有關行政裁量之敘述，何者正確？  
(A)行政裁量是完全自由的，毫無限制  
(B)行政裁量的結果只要還在法律規定範圍內，概屬合法  
(C)一般行政裁量仍應受到司法審查  
(D)行政裁量雖在法律規定的範圍內，仍必須符合不當聯結禁止原則，否則仍屬違法
- 20 對於我國憲法中關於總統職權的規定，下列那一項敘述是正確的？  
(A)總統發布人事任免的命令均應有行政院院長的副署  
(B)總統為決定國家安全大政方針得設立國家安全會議，而且其組織不須以法律定之  
(C)總統於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  
(D)總統為避免國家或人民緊急危難或應付財政經濟上重大變故，得不經行政院會議之決議逕行發布緊急命令，為必要的處置
- 21 下列何者並非純粹法學之主張？  
(A)專從法律規範認識法律 (B)適用法律摒除政治、經濟觀點  
(C)憲法創設法律的效力 (D)法律因社會需要而產生
- 22 現代經濟講效率，但法律制度卻不能完全考量效率，而須顧及其他因素，尤其是下列何因素？  
(A)提高利潤 (B)社會正義 (C)滿足慾望 (D)經濟成長
- 23 自民國 95 年 7 月 1 日起，我國刑法對於行為後之法律有變更之情形，採取下述何項原則？  
(A)從舊從重 (B)從新從輕 (C)從舊從輕 (D)從新從重
- 24 承租人以出租人拒絕交還押金為理由，拒絕返還房屋，這種權利屬於：  
(A)形成權 (B)抗辯權 (C)支配權 (D)請求權
- 25 對於何種行為構成了刑法第 278 條第 1 項重傷罪的規定，必須同時參考刑法第 10 條有關重傷定義的規定，始能加以解釋。這裡運用了何種法律解釋的方法？  
(A)類推適用 (B)準用 (C)體系解釋 (D)立法解釋
- 26 中央政府之行政機關所訂定的行政規則，其規範位階高於下列何者？  
(A)法律 (B)自治條例 (C)委辦規則 (D)自治規則
- 27 依據我國中央法規標準法第 22 條的規定，經廢止之法規，得僅公布或發布其名稱及施行日期，並自何時起失效？  
(A)自公布或發布日當日起失效 (B)自公布或發布日起算至第三日失效  
(C)自公布或發布日起算第七日失效 (D)自公布或發布到達機關或人民時失效
- 28 下列關於法律的發展與變遷的敘述，何者錯誤？  
(A)法律規定越來越多越細，與工業革命及社會變遷之後社會生活更形複雜有關  
(B)法律規定越來越多越細，與民主化、法治化及民眾權利意識提升有關  
(C)我國刑法等法典之草擬與制定，曾受到日本法的明顯影響  
(D)我國現行刑法法典，於民國 38 年政府遷台之後曾大幅修訂並全盤調整條文條次及條號

- 29 關於普通法與特別法的敘述，下列何者正確？  
(A) 公司法是證券交易法的特別法 (B) 可以以人、事、時、地為標準來區分  
(C) 特別法的位階高於普通法 (D) 一個法律只會有一個特別法
- 30 下列何者為上級機關對所屬下級機關發布之命令？  
(A) 法規命令 (B) 職務命令 (C) 緊急命令 (D) 執行命令
- 31 We tend to \_\_\_\_\_ our horoscopes in newspapers and magazines, and to take an interest in what they tell us.  
(A) read (B) tell (C) see (D) know
- 32 Income \_\_\_\_\_ is a serious social problem worldwide. The gap between the world's rich and poor is widening drastically.  
(A) disparity (B) indifference (C) shrinkage (D) outrage
- 33 Today people have been concerned about the potential for altering photos on computers because imaging software makes \_\_\_\_\_ easier than ever.  
(A) innovation (B) deletion (C) manipulation (D) distribution
- 34 A criminal investigation began in the spring, but prosecutors declined to \_\_\_\_\_ charges.  
(A) appeal (B) press (C) commit (D) indict
- 35 When companies cannot raise money to solve their cash-flow problem, they may become \_\_\_\_\_ and even go out of business.  
(A) competitive (B) hospitable (C) insolvent (D) pretentious
- 36 Crowds of people lined up day and night to get on the roller-coaster ride, regardless \_\_\_\_\_ the heavy rain.  
(A) for (B) with (C) of (D) on
- 37 The people who sell illegal drugs \_\_\_\_\_.  
(A) may prosecute (B) may be prosecuted (C) they may be prosecuted (D) it may prosecute
- 38 John \_\_\_\_\_ the requirements and was told to report to work the next day.  
(A) will meet (B) meet (C) met (D) will have met
- 39 The briefings that rely on asking people \_\_\_\_\_ what they have just been through may not necessarily bring cathartic help to those who have suffered traumatic events.  
(A) to reconstruct in vivid detail to go back  
(B) to go back and reconstruct in vivid detail  
(C) to reconstruct in vivid detail that they go back  
(D) to go back that they have reconstructed in vivid detail
- 40 While cigarette packs in the United States are stamped with small-print notices mentioning the risks of emphysema and birth defects, \_\_\_\_\_ often use more direct language.  
(A) packs everywhere (B) packs nowhere (C) packs elsewhere (D) packs anywhere

Inspiration and insanity do have one thing 41. Their phenomena, like dreams, come from a part of the mind which is beyond conscious control. Many accounts of how scientific discoveries were made, problems solved, poems created or tunes discovered affirm that the new idea was not consciously thought up, but “came” to the discoverer. Often, inspiration seems most active when the creator himself is passive. Occasionally, solutions to problems or new inventions originate in dreams; but, far more commonly, they appear when the creator is in a state of reverie or daydream, letting his imagination wander where it will.

The division of the mind into two parts, one considered rational and executive, 42 irrational and passive, long precedes the division into ego and unconscious which Freud made 43. The Latin word *genius* itself signified an in-dwelling life spirit which dwelt in the head. It was believed to 44 the form of a snake, and to be the part of a man which survived death. Both the word *genius* and its equivalent in Greek, the *psyche*, could equally well be replaced by some modern phrase, like the “creative unconscious.”

- 41 (A) common (B) commonly (C) in common (D) out of common

- 42 (A) another (B) the another (C) other (D) the other
- 43 (A) popular (B) popularly (C) preposterous (D) preposterously
- 44 (A) assume (B) consume (C) presume (D) resume
- 45 I'd be obliged if you'd treat this matter as strictly confidential.
- (A) I have tremendous confidence in your ability to handle this matter.
- (B) I would be very grateful if you would not tell this matter to anyone.
- (C) I would appreciate it if you would confide in me about the truth of the matter.
- (D) Under your trust, I feel it an obligation to treat this matter cautiously.
- 46 John said he would avenge Mary's wronged family.
- (A) John said he would bravely defend Mary's family at any cost.
- (B) John said he would take revenge for the wrong thing that Mary's family had done.
- (C) John said he would fight back against the wrongdoing of Mary's family.
- (D) John said he would inflict pain on anyone who had wronged Mary's family.

At the end of the 8th century Scandinavia had hardly more than two million inhabitants. But from the beginning of the 9th century its population began to increase significantly. There were several reasons for this: on the one hand the climate was getting better; it became warmer and thus harvests were becoming more abundant, the people better fed and stronger. The mortality rate of the old and infants during winter had also decreased. As the years went by, unoccupied Scandinavian territory became harder and harder to find.

To these demographic factors certain features of Viking life must be added: such as polygamy, which produced a large number of children, the obligation for young men to seek their fortune elsewhere, and Viking laws, which used exile as a punishment for criminals. There were, therefore, many reasons to take to the sea and chance one's arm beyond one's native shores.

The Vikings were a bold people, who welcomed risks and who had a passion for voyaging abroad. In the 11th century, not far from their coasts, a great trade route was opening up, passing through the ports of Frisia (now Holland) and the Rhine valley. This route became the crossroads of all commercial exchange in northern Europe.

The Vikings, attracted by all the goods which were beginning to pass so close to them, took more and more interest in the trade. Eventually this interest led to piracy and plunder.

- 47 The growth of Scandinavian population in the 9th century mainly lies in \_\_\_\_.
- (A) the stability of the climate (B) the increase of food
- (C) the decrease of old people (D) the expansion of the territory
- 48 According to the passage, which of the following statements is true about the Vikings?
- (A) They practiced being married to only one person at a time.
- (B) A family usually had many children.
- (C) Young people had to stay in their hometown to work.
- (D) They put the criminals in jail.
- 49 According to the passage, the Vikings were \_\_\_\_ people.
- (A) skeptical (B) cruel (C) brave (D) smart
- 50 The purpose for the author to mention the "great trade route" is to explain \_\_\_\_.
- (A) the Vikings' interests in transportation
- (B) the prosperity of Frisia
- (C) the beginning of commercial exchange in northern Europe
- (D) the adventure spirit of the Vikings