

科目：民法(財產法)

系所組：財經法律學系碩士班

一、甲在其土地上施工建築房屋，因施工不慎，致鄰地乙的A房屋因而部分倒塌，承租A房屋開餐廳之丙及乙均因而不能營業。另庚出賣B汽車予丁，並約定如庚未依約如期履行債務，由庚支付十萬元(新台幣，以下同)之懲罰性違約金予丁。庚已依約如期給付B汽車予丁，惟B汽車之煞車不良，丁駕駛B汽車外出因而發生車禍事故，致丁及車上所載妻子戊遭受重傷。試附理由分別說明下列問題：

(一)乙、丙得否向甲請求損害賠償?能否以民法第794條有關施工建築房屋不得損害鄰地建築物之規定為請求權基礎?(15分)

(二)丁得對庚為如何主張而請求如何之損害賠償?丁可否請求庚支付十萬元之懲罰性違約金?(15分)

(三)戊得對庚為如何主張而請求如何之損害賠償?(10分)

二、甲授與代理權給乙，由乙全權處理甲所有之L牌機車包之交易事宜。丙向乙表示願意以新台幣(以下同)五萬元購買該機車包，但乙覺得價錢太低，不欲同意，後因丁以名牌包鑑定師的身份向乙詐欺，稱該機車包僅為仿冒品，價格低廉，乙信以為真，即以甲之代理人身份以五萬元將該機車包出賣給丙並讓與之。丙取得該機車包後又將之以二十萬出賣並讓與給善意的戊。

請分析甲、乙、丙、丁、戊之法律關係。(30分)

三、甲將其A地先後設定普通地上權於乙及普通抵押權於丙。試問：

(一)在地上權及抵押權存續期間，甲得否復將A地設定讓與擔保於丁?(10分)

(二)甲、乙、丙於何種情況下，得拋棄或終止地上權或抵押權?(20分)

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科目：商事法(證券交易法、公司法)

系所組：財經法律學系碩士班

- 一、A 為經營建築業務且股票已經在台灣證券交易所上市之股份有限公司（以下簡稱 A 上市公司），其董事長甲明知 B 水電裝潢工程股份有限公司（以下簡稱 B 水電公司）無施作某工程之能力，亦不實際施作，竟與 B 水電公司負責人乙共同基於意圖為自己或他人之利益，違背甲之職務與基於不法利益之犯意聯絡，佯由乙以 B 公司名義承包施作某工程，將工程款扣除補貼稅額後，再平分退回予甲之方式，造成 A 上市公司資產新臺幣 1 億 1080 萬元之損害，甲與乙此行為構成違反證券交易法之何一規定，應如何論罪處罰，試請檢具理由說明之。(50 分)
- 二、A 股份有限公司(以下簡稱”A”)之章程，並未規定禁止或限制股東轉讓股份；惟 A 分別與股東訂立”股份不得轉讓”之契約，或股東相互間簽訂”股份不得轉讓”之契約。試問:A 之股東甲意外死亡、或將其持有之股份壹拾萬股背書轉讓予乙，A 得否依公司法第 163 條之規定，主張其繼承人或乙並未取得股份?立論依據?(25 分)
- 三、甲經由 A 有限公司(以下簡稱”A”)董事長乙委任為經理人，甲就任後對外即以”A 之經理人甲”之名義，與丙等進行交易。試問:若 A 之章程並未規定經理人之權限範圍，而委任契約亦未規定，則該等交易行為之效力是否及於 A?立論依據?(25 分)

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科目：英文

系所組：財經法律學系碩士班

1. Parliament is the _____ organ and composed of the Monarch, the House of Lords, and the House of Commons.
(A) administrative (B) executive (C) legislative (D) judicial
2. She decided to file a(n) _____ with the court after experiencing terrible racial discrimination at work.
(A) complaint (B) answer (C) response (D) motion
3. Once a contract is _____, it shall be implemented.
(A) done (B) signed (C) induced (D) authorized
4. She won the case, _____ proved she was an able lawyer.
(A) it (B) which (C) that (D) with which
5. The drug is not harmful _____, but is dangerous when taken with alcohol.
(A) *actus reus* (B) *de facto* (C) *status quo* (D) *per se*
6. The courts are not _____ for the most part to give opinions on hypothetical cases as opposed to real cases involving actual litigation between citizens.
(A) allowed (B) forbidden (C) insisted (D) given
7. A conviction for murder can occur only if it is established, not simply that the accused brought about the death of another, but also that this was done with _____ aforethought.
(A) discretion (B) consensus (C) malice (D) guilty
8. The arms sales will be _____ on the approval of Congress.
(A) contingent (B) conducive (C) convinced (D) incumbent
9. Traditional societies may rely almost exclusive on custom as the source of legal rules and resolve disputes through conciliation or _____ by village elders, or by some other moral or divine authority.
(A) impetus (B) homogeneity (C) blameworthiness (D) mediation
10. Moreover, candidates for election, their spouses, relatives and in-laws to the second _____ cannot be members of electoral bureaus.
(A) family (B) kinship (C) guardian (D) adoption
11. An Act of Parliament is _____ to be in force from the very day of its commencement.
(A) doubted (B) deemed (C) argued (D) hoped
12. _____ means breach or infraction, as of a law, right, or obligation.
(A) Compensation (B) Stricture (C) Dispel (D) Infringement
13. The governor resigned amid a corruption investigation and the threat of _____.
(A) interrogation (B) larceny (C) impeachment (D) severance
14. _____ is a court process to seek judicial review of a decision of a lower court or government agency.
(A) Authentication (B) Equality of arms (C) Injunction (D) Certiorari

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科目：英文

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15. It is the _____ for American lawyers to designate themselves "Esquire".
(A) conveyance (B) defamation (C) convention (D) demarcation
16. In the United States and other countries where the legal system distinguishes between very serious crimes and less serious ones, a _____ is a less serious crime.
(A) slaughter (B) felony (C) mischief (D) misdemeanor
17. A _____ is the statement of a witness, reduced to writing; it is used, for example, to get testimony from people who are too feeble, too sick, or too far away to come to the courtroom in person.
(A) deposition (B) dock (C) confidentiality (D) confiscation
18. The _____ sale rule prevents you from claiming a loss on a sale of stock if you buy replacement stock within 30 days before or after the sale.
(A) swing (B) wash (C) swap (D) short
19. The new censorship laws are serious _____ on freedom of expression.
(A) encroachments (B) echoes (C) endowments (D) expungements
20. _____ is a legal action for a breach for a breach of contract or promise not under seal.
(A) An ejectment (B) An abatement (C) An assumpsit (D) Defamation
21. There is a pecuniary incentive either to buy the site license or to upgrade to the license from the single user version. In the preceding sentence, the term "pecuniary" refers to _____.
(A) money (B) law (C) patent (D) copyright
22. On his _____ as magistrate, he was involved in a scandal.
(A) confession (B) misconduct (C) standing (D) cabinet
23. A _____ contract is an agreement to sell goods at an inclusive price, comprising the cost of the goods, the marine insurance premium for the value of the goods and the freight or the cost of transportation.
(A) FOB (B) FCA (C) CIP (D) CIF
24. The asset that is used to secure a promise is called _____ property.
(A) credit (B) chattel (C) lien (D) collateral
25. If you wish to start a business, you have a variety of legal types from which to choose. Aside from corporation, the most common types are sole proprietorship and _____.
(A) guardianship (B) partnership (C) lordship (D) craftsmanship
26. All human beings are _____ with reason and conscience.
(A) naturalized (B) domiciled (C) ratified (D) endowed
27. Everyone is _____ to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
(A) trespassed (B) entitled (C) succeeded (D) ratified

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科目：英文

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28. No one shall be held in slavery or servitude; slavery and the slave trade shall be ___ in all their forms.
(A) embezzled (B) misappropriated (C) prohibited (D) annexed
29. No distinction shall be made on the basis of the political, ___ or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
(A) jurisdictional (B) slander (C) next heirs (D) double jeopardy
30. No one shall be subjected to torture or to cruel, inhuman or ___ treatment or punishment.
(A) reversal (B) opposite (C) divergent (D) degrading
31. Everyone has the right to ___ everywhere as a person before the law.
(A) reviewability (B) recognition (C) reversion (D) revenue
32. All are equal before the law without any _____.
(A) joint venture (B) de facto (C) endorsement (D) discrimination
33. No one shall be subjected to arbitrary arrest, detention or _____.
(A) exile (B) lineage (C) monarchy (D) emancipation
34. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial ____, in the determination of his rights and obligations and of any criminal charge against him.
(A) jurisprudence (B) tribunal (C) impressment (D) dwelling
35. No one shall be arbitrarily ___ of his nationality nor denied the right to change his nationality.
(A) hijacked (B) deprived (C) sworn (D) committed
36. Nor shall a heavier penalty be imposed than the one that was ___ at the time the penal offence was committed.
(A) malpractice (B) disposable (C) applicable (D) default
37. As to punitive damages, the judge instructed that mere ___ was not evidence of actual malice, and would not justify an award of punitive damages.
(A) negligence (B) heiress (C) clause (D) inheritance
38. The jury ___ for respondent, and the State Supreme Court affirmed.
(A) coerced (B) foreclosed (C) cited (D) found
39. Expression does not lose constitutional ___ to which it would otherwise be entitled because it appears in the form of a paid advertisement.
(A) provision (B) pandemic (C) protection (D) podium
40. Factual error, content defamatory of official reputation, or both, are insufficient to warrant an award of damages for false statements unless "actual malice" -- knowledge that statements are false or in ___ disregard of the truth -- is alleged and proved.
(A) reckless (B) warrant (C) duress (D) duplicate

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41. The _____ was constitutionally insufficient to support the judgment for respondent, since it failed to support a finding that the statements were made with actual malice or that they related to respondent.
(A) forprise (B) formula (C) evidence (D) fornication
42. _____ means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person.
(A) Formula (B) Profiling (C) Deed (D) Eligibility
43. _____ means any information relating to an identified or identifiable natural person.
(A) Personal data (B) Big data (C) Data mining (D) Algorithm
44. _____ of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes.
(A) Consent (B) Writ (C) Mortgage (D) Warranty
45. _____ means a natural or legal person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity.
(A) Remedy (B) Enterprise (C) Extortion (D) Certificate
46. Over time, gradual changes in the technological and social environment caused a _____ in the law.
(A) shift (B) omission (C) optionee (D) opacity
47. The Constitution's Bill of Rights protects individual privacy from government _____ in a handful of ways and does little to protect from non-governmental actors.
(A) presumption (B) publicity (C) intrusion (D) convention
48. The Court's holding means that the government must obtain a warrant supported by _____ cause to obtain this information.
(A) probable (B) partial (C) optional (D) paternal
49. Under this "state action doctrine," only government action is subject to _____ under the Constitution, but purely private conduct is not proscribed, "no matter how unfair that conduct may be."
(A) holder (B) confession (C) scrutiny (D) covenant
50. Data controllers must be responsible for and able to demonstrate _____ with the "General Data Protection Regulation's" principles.
(A) rule (B) compliance (C) debt (D) endorsement

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