

國立中央大學九十學年度碩士班研究生入學試題卷

所別： 產業經濟研究所 丙組 科目： 英文 共 2 頁 第 1 頁

一、一般英文：仔細閱讀以下選文後以中文回答下列問題（40%）

(1) Youth violence—it leads the evening news and headlines the morning newspapers. Criminologists tell us that in less than 10 years, there will be a 23 percent increase in the number of 14-to 17-year-old males and a likely corresponding increase in violent juvenile crime. How should we respond? Enforcement? Education? Community Partnership? We need all these, and more. First, law enforcement, courts, educators and community leaders must be willing to reach beyond their traditional roles and develop an unwavering commitment to education, community supervision, law enforcement and public accountability. Then they must define joint approaches to accomplish those tasks.

1. 簡述文中所提及的解決青少年犯罪問題的方法。（10%）
2. 解釋畫線的文字 traditional roles 可能指的是什麼？（5%）

(2) Youths need structure, supervision and support to succeed. When they don't receive it, they become "problem" kids. We have to hold parents accountable, but where families don't exist, communities will have to step to the fore. In most cases the void can be filled by civic group, churches, YMCAs and Boys and Girls Club. In other instances we will need law enforcement, juvenile justice and community agencies to collaborate. An active business community can play a pivotal role. Currently, only a small percentage of corporate leaders provide the resources and environment where kids learn why an education leads to better opportunity. Critical to rebuilding our community is an investment by a much larger proportion of business leaders.

1. 翻譯畫線的文字（5%）
2. 請說明文中認為防止青少年問題如何能夠成功（10%）。

(3) Now is the time to study prevention programs, to track kids' movement through them and replicate them when they are successful. Supporting programs like Midnight baseball, SCORE (a vital school-based conflict resolution program), DARE (Drug Awareness Resistance and Education), and others do not make a public official soft on crime. Yet just as important, prevention programs alone are seldom a sufficient response to violence after it has occurred. Support of prevention programs combined with stiff sanctions for the most resistant juvenile offenders is the most effective crime fighting approach.

1. 翻譯畫線文字（10%）

二、法律英文試題部份

(1) 英翻中：請將下列英文翻譯為中文，每大題六分，共四十二分。

- A. The fundamental assumption of the economic approach, to law and everything else, is that people are rational. A mugger is a mugger for the same reason I am an economist: Given his tastes, opportunities, and abilities, it is the most attractive profession open to him. What laws are passed, how they are interpreted and enforced, ultimately depend on what behavior is in the rational interest of legislators, judges, and police.
- B. If transaction costs are zero, if, in other words, any agreement that is in the mutual benefit of the parties concerned get made, then any initial definition of property rights leads to an efficient outcome. The Result is sometimes referred to as the Coase Theorem.
- C. It is now becoming possible to identify genetic tendencies toward diseases and test for them. Some people have bad hearts, some do not. As long as nobody knows which is which, it is possible to insure against the risk of a heart attack. Suppose a cheap and reliable genetic test is discovered by which we can tell who is in which group. Consider some possible legal rules:
 - (a) The test is banned; nobody is allowed to use it.
 - (b) Individuals are permitted to get tested. Insurance companies are permitted to make testing a condition of insurance and take account of the result in setting rate.

參考用

注：背面有言

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- (c) Individuals are permitted to get tested; the results are confidential. Insurance companies are forbidden to make testing a condition of insurance and take account of the result.
- (d) Individuals are permitted to get tested, but the fact of the test (not the outcome) is recorded. Insurance companies are not permitted to require testing as a condition of insurance but are permitted to know whether or not a potential customer has been tested and to take account of that fact in setting the rate they charge him.

What are the consequences of each rule? Is it possible that, under some or all rules, the invention of the test makes us worse off?

- D. The inefficiency of monopoly is an argument for breaking up artificial monopolies or preventing their formation by laws against predatory pricing, but artificial monopolies created by predatory pricing are for the most part mythical. It is also an argument for breaking up monopolies created by government regulation of naturally competitive industries. But in the case of natural monopoly, perfect competition is simply not an option. We don't want every small town to have ten grocery stores.
- E. Many societies forbid prostitution. Many societies, until recently including ours, forbid fornication and adultery. The arguments in favor of permitting people to engage in transactions in their mutual benefit seem to apply to sex as to anything else, so why do these laws exist? The easiest to explain is the law against adultery—especially, although not exclusively, female adultery, which in most societies is more severely sanctioned than male adultery. The terms of a traditional marriage include sexual exclusivity. From the standpoint of the husband, one reason is that he wants to be sure the children he is supporting are his own. The wife does not have that problem, but she would like to be sure that her husband is not spending money that should go to her and her children on another woman and other children instead. For both there is also a link between sexual fidelity and emotional commitment—and emotional commitment, or if you prefer mutual altruism, helps reduce the problems of a bilateral monopoly bargaining game, which is one of the things a marriage is.
- F. Equity and efficiency are usually perceived as antithetical concepts. An efficient legal solution may not be equitable, and an equitable one may not be efficient. Many of the arguments used against law and economics sound like this: law should be concerned with justice and equity. Although values may not be costless for a society, lawyers should not be concerned when their pursuits is inefficient.
- G. The paradox of law and economics is that it attempts to bring together two inconsistent forms of jurisprudence: Langdellian formalism and progressive legal realism. This paradox helps to explain the confusion concerning the jurisprudence of the law and economics movement. Encouraged by the new interest in interdisciplinary legal studies and an overall desire to improve and refine mainstream jurisprudence, the first generation was correctly understood as claiming to have advocated a type of Langdellian formalism. On the other hand, these same legal scholars later renounced faith in law's autonomy and turned instead to a new instrumental analysis to critique the intellectual position of their process-oriented and fundamental-rights-oriented mentors.

(2) 中翻英：請將下列中文翻譯為英文，每題六分，共十八分。

- A. 著作權最初只適用於文字創作，然而至今已擴展到包括電腦程式、圖畫、音樂和許多其他創作上，財產權提供兩種主要功能，一為決定誰可以在何時使用何種東西，一為提供創作的誘因。這兩種功能同樣可以適用在著作權的理論基礎上。
- B. 「法律的經濟分析理論」長久以來被批評為忽略「正義」，但是我們必須區辨正義這個字的不同意義之間的差異，有時候它是指分配的正義，有時候卻是指效率而言。
- C. 一直到三十年前，「法律的經濟分析」都還是被當做「反托拉斯法的經濟分析」的同義詞。然而，新近的法律的經濟分析，卻是將經濟學廣泛運用到許多法律領域中。

參考用