

SECTION I

Time—35 minutes

27 Questions

Directions: Each set of questions in this section is based on a single passage or a pair of passages. The questions are to be answered on the basis of what is stated or implied in the passage or pair of passages. For some questions, more than one of the choices could conceivably answer the question. However, you are to choose the best answer; that is, choose the response that most accurately and completely answers the question and mark that response on your answer sheet.

The United States Supreme Court's 1948 ruling in *Shelley v. Kraemer* famously disallowed state courts from enforcing racially restrictive covenants. Such covenants are, in essence, private legal obligations included in the deed to a property requiring that only members of a certain race be allowed to occupy the property. Because it prohibited the enforcement of these covenants, the Court's decision in *Shelley v. Kraemer* is justly celebrated for overturning a key instrument of housing discrimination. However, while few would deny that racially restrictive covenants are unjust, the stated legal rationale for the *Shelley* decision has nevertheless proven to be problematic.

- (15) The *Shelley* Court relied on the Fourteenth Amendment to the U.S. Constitution, which grants equal protection under the law to all U.S. citizens. This amendment had long been held to apply to state actors but not individuals. *Shelley* did not purport to alter this. But where, then, was the state action that is necessary for invoking the Fourteenth Amendment, given that the restrictive covenants were private contracts? The Court's answer was that although the restrictive covenants themselves were perfectly legal, judicial enforcement of the covenants violated the Fourteenth Amendment because responsibility for a contract's substantive provisions should be attributed to the state when a court enforces it. According to this "attribution" rationale, courts could enforce only those contractual provisions that could have been enacted into general law. Because the Fourteenth Amendment would not have allowed a law that banned members of a certain race from purchasing property, it followed from *Shelley's* analysis that judicial enforcement of racially restrictive covenants also was unconstitutional.
- (35) *Shelley's* attribution logic threatened to dissolve the distinction between state action, to which Fourteenth Amendment limitations apply, and private action, which falls outside of the Fourteenth Amendment's purview. After all, *Shelley's* approach, consistently applied, would require individuals to conform their private agreements to constitutional standards whenever, as is almost always the case, the individuals want the option of later seeking judicial enforcement. Primarily for this reason, neither the Supreme Court nor lower courts later applied *Shelley's* approach. Courts routinely enforce contracts whose substantive provisions could not have been constitutionally enacted by government. For instance, courts regularly enforce settlement agreements that limit the settling party's ability to speak publicly in various respects, despite the fact that statutory

limitations on the identical speech would represent an unconstitutional violation of free speech.

- (55) Additionally, there is a particularly noxious aspect of the *Shelley* Court's analytics—namely, the Court's conclusion that racially restrictive covenants themselves were perfectly legal. The legal rationale behind the *Shelley* decision thus failed to target the genuine problem with racially restrictive covenants: what was troubling was not the covenants' enforcement but their substantive content.
- (60)

1. The primary purpose of the passage is to
 - (A) question the reasoning behind a particular judicial decision
 - (B) draw a distinction between private action and state action
 - (C) defend the way in which scholars and courts have traditionally explained a particular judicial decision
 - (D) highlight the shortcomings of the U.S. Constitution
 - (E) extend the rationale offered in a particular judicial decision to additional cases
2. An answer to which one of the following questions would be most relevant to determining whether an action can be classified a "state action" (line 19), as the author uses that phrase in the second paragraph?
 - (A) What range of people can the action be expected to affect?
 - (B) To what agent can performance of the action be ascribed?
 - (C) What principle or principles can be said to govern the action?
 - (D) In what ways can the action be expected to affect others?
 - (E) What motivations can be attributed to those performing the action?

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3. The author's attitude towards the reasoning offered in the U.S. Supreme Court's decision in *Shelley v. Kraemer* is most accurately reflected in the author's use of which one of the following phrases?
- (A) "famously disallowed" (line 2)
 - (B) "justly celebrated" (line 9)
 - (C) "perfectly legal" (line 23)
 - (D) "consistently applied" (line 40)
 - (E) "noxious aspect" (line 54)
4. Which one of the following describes an attribution of responsibility that is most analogous to the attribution central to what the author refers to as *Shelley's* "attribution" rationale (line 28)?
- (A) If a trucking company fails to properly inspect its vehicles, the company can be held responsible for any accidents in which those vehicles are involved.
 - (B) If an individual signs a private contract, that person can be held responsible for the provisions of that contract even if the person did not read or comprehend those provisions.
 - (C) If a newspaper publishes a columnist's op-ed piece, the newspaper, and not just the columnist, can be held responsible for the content of the piece.
 - (D) If a person is in a position to rescue someone in peril, but chooses not to do so, that person can be held responsible for any injuries suffered by the person in peril.
 - (E) If a company discovers that it has manufactured and distributed a faulty product, the company is responsible for issuing a recall of that product.
5. In the second paragraph, the author asks the question, "...where, then, was the state action that is necessary for invoking the Fourteenth Amendment, given that the restrictive covenants were private contracts?" (lines 19–22) primarily in order to
- (A) demonstrate the conceptual incoherence of a distinction employed by the *Shelley* Court
 - (B) highlight a potentially confusing issue central to understanding the *Shelley* Court's decision
 - (C) suggest that the *Shelley* Court did not properly attend to the facts of the case in its decision
 - (D) cast suspicion on the motivations of the individual judges who served on the *Shelley* Court
 - (E) challenge the presuppositions upon which the Fourteenth Amendment to the U.S. Constitution is based
6. Which one of the following principles is most clearly operative in the author's argument?
- (A) If a judicial decision is deemed by legal scholars to be problematic, subsequent courts should refrain from appealing to that decision.
 - (B) If a private agreement is deemed judicially unenforceable, the substantive content of that agreement should be considered for inclusion in a statute.
 - (C) If a judicial decision fails to address the most troubling aspect of a practice, then measures should be taken to prevent this practice from continuing in an altered form.
 - (D) If courts are hesitant to apply the rationale given in a past decision, this should be taken as evidence that the rationale is questionable.
 - (E) If the rationale given in a judicial decision is found to be controversial, the decision should be supported by offering a new rationale.

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Through years of excavations and careful analysis of her finds around Krasnyi Yar in Kazakhstan, archaeologist Sandra Olsen has assembled what may be evidence of the earliest known people to have domesticated and ridden horses, a momentous development in human history. In remains of pit houses of the Botai people, who inhabited this area some 6,000 years ago, are large numbers of bones, 90 percent of them from horses. It is not immediately evident whether the horses were wild or domesticated, because unlike other animals such as dogs and sheep, domestic horses' bones are not morphologically different from those of their wild counterparts. So Olsen relies heavily on statistical tabulations of the Botai horses by sex and age at death, looking for mortality patterns that might correlate with expectations regarding domesticated herds or wild victims of hunting.

- Herders of domesticated animals used for meat or milk typically kill off all but a few males before they are fully mature, but not the females, and archaeologists have evidence of a similar pattern for prehistoric goat herding. At the Botai sites, however, Olsen has found that most of the male horses were fully grown and slightly outnumber the females. One might suppose, then, that they were wild rather than domesticated animals; with many large animal species, hunters would preferentially target adult males so as to maximize size and meat yield. However, it is different with horses. Wild horses live in two types of groups: families consisting of one stallion, six or so adult females, and their young; and bachelor pods consisting of a few males. The families stick together when attacked, but the male groups tend to scatter, so to maximize success in hunting horses, one would target the families. Thus, if the Botai had merely hunted horses, Olsen argues, the proportion of adult male bones should be lower. But if they were in domesticated herds, why were the young males not culled, as would typically occur with, say, herds of goats? Olsen reasons that if the Botai had indeed begun riding, they would likely have kept males alive to ride.

- Another clue that at least some of the horses may have been domesticated and that some may have even been ridden is in the fact that their remains include full skeletons, entire vertebral columns, and pelvises. It is unreasonable to suppose that hunters dragged whole 1,000-pound carcasses back to their dwellings. Olsen reasons that these were probably domesticated horses, together with, perhaps, some wild ones hunted and transported using the power of domesticated horses. A number of these nearly whole horse skeletons were discovered buried in a carefully arranged pattern with some of the only human remains yet found in the area, which further suggests a relationship to horses beyond that of merely hunting them as a source of meat.

7. Which one of the following most accurately expresses the main point of the passage?
- (A) Olsen's careful analysis of her finds in Kazakhstan illustrates the kinds of conclusions that archaeologists can draw based on a correlation between statistical information and expectations.
- (B) Olsen's excavations and analysis of her finds in Kazakhstan indicate that horses played a critical role in Botai culture.
- (C) Olsen's findings regarding bones excavated from ancient Botai dwellings provide evidence that the Botai people domesticated horses and may have ridden them.
- (D) Olsen's findings regarding excavations from ancient Botai dwellings provide evidence confirming that the domestication of horses was a momentous development in human history.
- (E) Olsen's findings regarding the excavation of horse skeletons and human remains from Botai dwellings suggest that horses were revered by the Botai people.
8. Which one of the following most accurately describes the author's attitude toward the conclusions that Olsen reaches?
- (A) forthright advocacy
- (B) implicit endorsement
- (C) critical ambivalence
- (D) reasoned skepticism
- (E) general disagreement
9. Which one of the following could replace the word "beyond" in line 55 while least altering the meaning of the sentence in which it appears?
- (A) basically parallel to
- (B) more elusive than
- (C) hard to grasp in relation to
- (D) less clearly defined than
- (E) more complex than

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10. If the horse remains found at the Botai sites had consisted primarily of the bones of fully grown females and young males, the findings would have provided evidence for which one of the following hypotheses?
- (A) The Botai targeted male pods when hunting horses.
 - (B) The Botai caught, trained, and rode only wild horses.
 - (C) The Botai had domesticated horses but did not ride them.
 - (D) The Botai had developed sources of food other than horses.
 - (E) The Botai incorporated the remains of horses into their cultural rituals.
11. Based on the discussion in the passage, the author would be most likely to agree with which one of the following statements?
- (A) Developing mortality patterns based on an examination of excavated animal remains is always required in order to establish whether a prehistoric culture domesticated animals.
 - (B) An analysis of evidence at a particular archaeological site is not necessarily conclusive unless it is corroborated by evidence at similar archaeological sites from the same era.
 - (C) Any prehistoric culture that consciously arranges the bones of animals in complex patterns should be considered to have reached a high level of social organization.
 - (D) The interpretation of archaeological finds at prehistoric sites often requires a consideration of facts beyond those that can be determined from the excavated remains alone.
 - (E) The morphological differences between wild and domesticated prehistoric animals help to explain why some modern animals are more easily domesticated than others.
12. The reference by the author of the passage to the practices of herders of domesticated animals (lines 19–21) serves primarily as
- (A) a point of comparison for reaching conclusions about the use of horses by the Botai
 - (B) an example of an earlier case that, like the Botai case, is inconsistent with accepted hypotheses concerning the domestication of horses
 - (C) a refutation of traditional beliefs and assumptions about Botai goat herding
 - (D) a simplification of a hypothesis about the relationship between humans and animals in cultures 6,000 years ago
 - (E) an analogy meant to clarify the facts known about the domestication of animals by the Botai 6,000 years ago
13. Which one of the following most accurately describes the organization of the passage?
- (A) A set of findings is described and then various explanations of the findings are evaluated.
 - (B) A set of specific observations is enumerated and then a general conclusion is drawn from those observations.
 - (C) A general principle is presented and then examples of the application of the principle are given.
 - (D) A hypothesis is outlined and then a line of reasoning in support of that hypothesis is developed.
 - (E) A proposition is stated and then arguments both for and against the proposition are summarized.
14. Data from which one of the following sources would be most relevant to evaluating Olsen's hypothesis?
- (A) tabulation of the number of butchered horse bones versus untouched horse bones in a Botai archaeological site
 - (B) tabulation of the number of sheep and goat bones versus the number of horse bones in a Botai archaeological site
 - (C) determination of the number of hunting tribes contemporary with the Botai as opposed to the number of modern hunting tribes in the same area
 - (D) analysis of mortality patterns in the remains of any other species of animal found at Botai sites
 - (E) analysis of the ratio of human remains to horse remains found in Botai ceremonial sites

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Passage A

Music does not always gain by association with words. Like images, words can excite the deepest emotions but are inadequate to express the emotions they excite. Music is more adequate, and hence will often seize an emotion that may have been excited by images or words, deepen its expression, and, by so doing, excite still deeper emotion. That is how words can gain by being set to music.

- (10) But to set words to music—as in opera or song—is in fact to mix two arts together. A striking effect may be produced, but at the expense of the purity of each art. Poetry is a great art; so is music. But as a medium for emotion, each is greater alone than in company, although various good ends arise from linking the two, providing that the words are subordinated to the more expressive medium of music. What good could any words do for Beethoven's *Fifth Symphony*? So too an opera is largely independent of words, and depends for its aesthetic value not upon the poetry of the libretto (the words of the opera), or even the plot or scenery, but upon its emotional range—a region dominated by the musical element.

Passage B

Throughout the history of opera, two fundamental types may be distinguished: that in which the music is primary, and that in which there is, essentially, parity between music and other factors. The former, sometimes called "singer's opera"—a term which has earned undeserved contempt—is exemplified by most Italian operas, while the latter, exemplified by the operas of German composer Richard Wagner, depend for their effect on a balance among many factors of which music is only one, albeit the most important. Theoretically, it would seem that there should be a third kind of opera, in which the music is subordinated to the other features. While the earliest operas were of this kind, their appeal was limited, and a fuller participation of music was required to establish opera on a secure basis.

- (40) In any event, in any aesthetic judgment of opera, regardless of the opera's type, neither the music nor the poetry of the libretto should be judged in isolation. The music is good not if it would make a good concert piece but if it serves the particular situation in the opera in which it occurs, contributing something not supplied by other elements. Similarly, the poetry is good not because it reads well by itself but primarily if, while embodying a sound dramatic idea, it furnishes opportunity for effective musical and scenic treatment. True, the elements of music and poetry may be considered separately, but only for purposes of analyzing their formal features. In actuality these elements are as united as hydrogen and oxygen are united in water. It is this union—further enriched and clarified by the visual action—that results in opera's inimitable character.

15. The authors of both passages attempt to answer which one of the following questions?
- (A) Is music inherently a more expressive medium than poetry?
 - (B) Is the emotive power of poetry enhanced when it is set to music?
 - (C) Should opera be accorded the same respect as other forms of classical music?
 - (D) How important are words to the artistic effectiveness of opera?
 - (E) How is opera different from all other musical art forms?
16. Which one of the following issues is addressed by the author of passage A but not by the author of passage B?
- (A) the importance of music to any aesthetic judgment of an operatic work
 - (B) how music is affected when it is combined with words
 - (C) the ability of music to evoke an emotional response in the listener
 - (D) whether music should ever be subordinated to words with which it is combined
 - (E) whether music should be judged in isolation from the libretto in opera
17. Passage B, but not passage A, includes which one of the following topics in its discussion of opera?
- (A) the importance of plot and scenery to an opera's aesthetic value
 - (B) the ability of images and words to excite deep emotion
 - (C) the consequences of combining poetry and music into a single art form
 - (D) the relative roles of music and libretto in opera
 - (E) the differences among different types of opera

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18. It can be inferred that the author of passage B has which one of the following opinions of opera in which the words are subordinated to the music?
- (A) It is primarily a popular art form.
 - (B) It has been justly criticized for betraying opera's main objectives.
 - (C) It is emotionally more expressive than other types of opera.
 - (D) It is as legitimate as other types of opera.
 - (E) It should be judged as though it were a concert piece.
19. Which one of the following is a principle that is implicit in the argument made by the author of passage B but that would most likely be rejected by the author of passage A?
- (A) An opera's nonmusical elements are essential to the opera's aesthetic value.
 - (B) Even in operas where there is relative parity among the various elements, the music is the most important element.
 - (C) An opera cannot be artistically successful unless it skillfully balances many factors.
 - (D) In order for an opera to be artistically successful, the music should not be subordinated to other features of the opera.
 - (E) An opera's libretto has formal features that can be analyzed independently of the opera's music.
20. The author of passage B defines a "singer's opera" as an opera
- (A) in which there is relative parity between the music and other elements
 - (B) in which the drama is of paramount importance
 - (C) that is generally of lower artistic merit
 - (D) from the art form's earliest historical period
 - (E) in which nonmusical elements are subordinate
21. The author of passage A would be most likely to regard the discussion in passage B regarding "a third kind of opera" (lines 33–38) as evidence of which one of the following propositions?
- (A) Both poetry and music are diminished by being joined in one art form.
 - (B) The aesthetic value of an opera depends largely on the quality of its music.
 - (C) The musical and nonmusical elements of opera are indivisible from one another.
 - (D) Music invariably gains by being combined with poetry.
 - (E) Opera requires the careful balancing of many competing but equal elements.

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According to the generally accepted theory of plate tectonics, the earth's crust consists of a dozen or so plates of solid rock moving across the mantle—the slightly fluid layer of rock between crust and core.

- (5) Most earthquakes can then be explained as a result of the grinding of these plates against one another as they collide. When two plates collide, one plate is forced under the other until it eventually merges with the underlying mantle. According to this explanation, this
- (10) process, called subduction, causes an enormous build-up of energy that is abruptly released in the form of an earthquake. Most earthquakes take place in the earth's seismic "hot zones"—regions with very high levels of subduction. Contrary to expectations,
- (15) however, global seismic data indicate that there are also regions with high levels of subduction that are nonetheless nearly free of earthquakes. Thus, until recently, there remained a crucial question for which the plate tectonics theory had no answer—how can
- (20) often intense subduction take place at certain locations with little or no seismic effect?

One group of scientists now proposes that the relative quiet of these zones is tied to the nature of the collision between the plates. In many seismic hot zones,

- (25) the plates exhibit motion in opposite directions—that is, they collide because they are moving toward each other. And because the two plates are moving in opposite directions, the subduction zone is relatively motionless relative to the underlying mantle. In
- (30) contrast, the plate collisions in the quiet subduction zones occur between two plates that are moving in the same general direction—the second plate's motion is simply faster than that of the first, and its leading edge therefore becomes subducted. But in this type of
- (35) subduction, the collision zone moves with a comparatively high velocity relative to the mantle below. Thus, rather like an oar dipped into the water from a moving boat, the overtaking plate encounters great resistance from the mantle and is forced to
- (40) descend steeply as it is absorbed into the mantle. The steep descent of the overtaking plate in this type of collision reduces the amount of contact between the two plates, and the earthquake-producing friction is thereby reduced as well. On the other hand, in
- (45) collisions in which the plates move toward each other the subducted plate receives relatively little resistance from the mantle, and so its angle of descent is correspondingly shallow, allowing for a much larger plane of contact between the two plates. Like two
- (50) sheets of sandpaper pressed together, these plates offer each other a great deal of resistance.

This proposal also provides a warning. It suggests that regions that were previously thought to be seismically innocuous—regions with low levels of

- (55) subduction—may in fact be at a significant risk of earthquakes, depending on the nature of the subduction taking place.

22. Which one of the following most accurately expresses the main point of the passage?

- (A) As a result of differences in resistance when colliding plates are moving in the same or in opposite directions, the amount of subduction in a region is strongly correlated with the number of earthquakes.
- (B) The differences between how colliding plates interact when moving in the same or in opposite directions offer scientists a plausible explanation of the rarity of earthquakes in some regions of intense subduction.
- (C) Some scientists theorize that seismic "quiet zones" with almost no earthquakes occur where plates are traveling in the same direction and, consequently, do not collide with each other.
- (D) A new version of the theory of plate tectonics that abandons the generally accepted explanation of earthquakes as resulting from the process of subduction has been posited by some scientists.
- (E) The generally accepted theory of plate tectonics is threatened by new evidence that there are regions of the earth with high levels of subduction but which, nevertheless, have relatively low levels of seismic activity.

23. According to the passage, what results when two plates moving in the same direction collide?

- (A) The trailing edge of the slower-moving plate is subducted under the faster-moving plate.
- (B) The leading edge of the slower-moving plate is subducted under the faster-moving plate.
- (C) The trailing edge of the faster-moving plate is subducted under the slower-moving plate.
- (D) The leading edge of the faster-moving plate is subducted under the slower-moving plate.
- (E) The leading edge of the smaller plate is subducted under the larger plate.

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24. Which one of the following, if true, would present the greatest challenge to the new proposal relating the amount of seismic activity to the type of collision between tectonic plates?
- (A) Some regions where seismic activity is infrequent but subduction regularly occurs are regions in which the colliding plates move across the mantle in the same direction.
 - (B) There are areas in which plates collide but in which there is little or no seismic activity.
 - (C) There are areas where a plate has descended at a shallow angle during subduction but where there have been few, if any, earthquakes.
 - (D) The size of the plane of contact between colliding plates is related only to the angle at which subduction occurs.
 - (E) There is an area where a plate descended at a steep angle during subduction but there has been little or no seismic activity.
25. Based on the information in the passage, which one of the following sentences would most logically complete the last paragraph?
- (A) Depending on the relationship between plate velocity and mantle, there is always the possibility that plate velocity could increase.
 - (B) The lower the level of subduction in an area, the greater the probability that any subduction there is occurring at a shallow angle.
 - (C) Any region where subduction occurs could suffer an increase in the level of subduction and a consequent increase in seismic activity.
 - (D) Even at low levels, the process known as subduction inevitably results in a significant amount of seismic activity.
 - (E) Even in such a region, a plate descending at a shallow angle is likely to cause a great deal of earthquake-producing friction.
26. According to the information in the passage, which one of the following kinds of regions experiences the most earthquakes?
- (A) regions where the nature of the collision between plates is such that one plate descends sharply into the mantle
 - (B) regions where resistance from the mantle during subduction is greatest
 - (C) regions where subduction occurs at shallow angles
 - (D) regions where there is the greatest amount of subduction
 - (E) regions where plates are traveling in the same general direction
27. Which one of the following statements regarding seismic activity can be inferred from the passage?
- (A) Earthquakes are frequent in any zones where there is considerable motion of colliding plates in relation to the underlying mantle.
 - (B) Earthquakes are equally likely to occur at any point along the plane of contact between two colliding plates.
 - (C) Seismic quiet zones are at particular risk due to the very gradual accumulation of energy, which gets released relatively infrequently.
 - (D) No region can be identified as a subduction zone unless earthquakes occur there.
 - (E) Earthquakes are more likely to result where there is a large plane of contact between plates during subduction.

S T O P

IF YOU FINISH BEFORE TIME IS CALLED, YOU MAY CHECK YOUR WORK ON THIS SECTION ONLY.
DO NOT WORK ON ANY OTHER SECTION IN THE TEST.