

Mark Scheme (Results)

Summer 2007

GCE

GCE Government and Politics (6501) 01

Markscheme. Unit Test 5 - Governing the USA. June 2007

1. What is 'judicial activism', and why has it been politically controversial?
(Total 20 marks)

Indicative Content

Candidates should be able to explain the meaning of the term "judicial activism" and the philosophy which underpins it.

The term refers to judges making public policy through their judgements, rather than adhering strictly to precedent and deferring to the elected branches of government to amend policy as appropriate. (It is not a general term for political bias or the political nature of court appointments)

The justifications for judicial activism include:

- Judges are responsible for resolving current problems and addressing current needs.
- The Constitution provides a guide, but it must be interpreted to understand what it means in the modern world.
- This is not to deny the wisdom of the Founding Fathers, but their world is dead and gone and the principles of the Constitution have to be applied to contemporary reality.
- The elected branches of government do not always address highly controversial issues, such as race and abortion, abdicating responsibility to unelected judges.

Politically, judicial activism has been controversial because opponents of this philosophy argue that it enables unelected people to determine policy, in the guise of interpreting the constitution, which is fundamentally undemocratic.

Supporters argue that it provides a means for the values of the constitution to be applied to the modern world. Crucially, it enables judges to address the "third rails" of US politics, controversial social issues which the elected branches are reluctant to deal with, such as racial segregation in the 1950's.

In making judgements, consider the following:

- Understanding of the meaning of judicial activism and arguments in its favour (AO1)
- Evaluation of the controversial nature of judicial activism. (AO2)
- Relevant examples and illustrations. This is likely to include *Brown v. Board of Education* but credit should be given for more current examples, such as gay rights being extended by *Lawrence v. Texas*. (AO1)

Level Three Descriptor (13-20 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication.

Level Two Descriptor (7-12 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Answers at this level may provide several examples of judicial activism without analysing the arguments for and against. Use should be made of political vocabulary and a reasonable level of written communication. A good demonstration of knowledge of political processes and some of the relationships between them.

Sound comprehension of the context of the question, with some good examples. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-6 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication. A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Answers which describe judicial activism but do not provide arguments in support of this philosophy, cannot exceed this level. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

2. How flexible is the US constitution?

(Total 20 marks)

Indicative Content

Candidates should demonstrate an understanding of the mechanism for formally amending the constitution and that judicial review serves to update the constitution without formally amending it.

They should also demonstrate awareness that while some in the USA believe that the constitution strikes the right balance between, on one hand, entrenched rights and, on the other hand, flexibility, others disagree.

Those who believe it strikes the right balance argue that even in times of crisis, governments have been able to respond effectively without infringing the liberties of the citizens. Or, on the rare occasions that the core principles of freedom and liberty have been breached, such as President Lincoln suspending Constitutional freedoms during the Civil War or Japanese-Americans being denied their Constitutional rights during World War II the balance has been restored once the crisis passed.

Others argue that the constitution is too flexible and complain that it has allowed the government in Washington DC to use periods of crisis to steadily undermine those mechanisms in the constitution which protect liberty, especially Federalism which should protect citizens from the accumulation of power by the national government. The result is that the balance between effective government and personal freedom has tilted dangerously away from liberty, undermining the core principle of the Constitution.

A third group argue that the protection of civil liberties, which is held responsible for the relatively rigid framework of the constitution, has always been applied too selectively. Pointing to the lengthy campaigns required for marginalized groups such as women, Native Americans and African Americans to be granted equality under the law, it is argued that the federal government should more actively defend civil liberties than permitted by conventional interpretations of the constitution.

In making judgements, consider the following:

- Knowledge of the formal and informal mechanisms for amending the constitution (AO1)
- Understanding that there are a range of views on whether the constitution strikes the right balance (AO1)
- Evaluation of the views on whether the constitution strikes the right balance (AO2)

Level Three Descriptor (13-20 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication. Answers at this level will analyse at least two viewpoints on whether the constitution strikes the right balance between entrenched rights and effective government.

Level Two Descriptor (7-12 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Use should be made of political vocabulary and a reasonable level of written communication. A good demonstration of knowledge of political processes and some of the relationships between them. Sound comprehension of the context of the question, with some good examples. Answers at this level may well demonstrate knowledge of the mechanisms for amending the constitution without any effective evaluation of viewpoints on whether the constitution is too flexible, too inflexible or strikes that correct balance. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-6 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication. A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

3. How important is the role of the Vice President?

(Total 20 marks)

Indicative Content

Candidates should demonstrate an understanding that, once considered a position of minimal importance, Vice Presidents have grown in stature since World War II. This is because:

- The Vice President has played a significant role in winning elections by “balancing the ticket” and compensating for perceived weaknesses in the Presidential candidate.
- Some Vice Presidents have played important advisory roles to the President, such as Al Gore on environmental policy in relation to President Clinton.
- Some Vice Presidents have played an important role in liaising with the party and colleagues in Congress, such as Dick Cheney.
- Of the 11 most recent Vice Presidents, four have gone on to be President and three more were chosen as their party’s presidential candidates.
- Most importantly, as the role and complexity of the federal government has grown, Presidents have felt the need to give Vice Presidents increasingly high-profile roles to support the President in running the Executive Branch.

In making judgements, consider the following:

- Understanding of the changing roles of Vice Presidents (AO1)
- Evaluation of the reasons that Vice Presidents have grown in importance (AO2)
- Relevant examples and illustrations (AO1)

Level Three Descriptor (13-20 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. Answers at this level will analyse the political forces that have led to the increasing importance of Vice Presidents. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication.

Level Two Descriptor (7-12 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Use should be made of political vocabulary and a reasonable level of written communication. A good demonstration of knowledge of political processes and some of the relationships between them. Sound comprehension of the context of the question, with some good examples. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. Answers which describe the role played by Vice President Cheney, without analysing why Vice Presidents have grown in importance cannot rise above this level. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-6 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication.

A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

4. To what extent are the two chambers of Congress equal in power?

(Total 20 marks)

Indicative Content

Candidates should demonstrate an understanding that in its most important role, legislating, the two houses are equal in power. Overall, however, the Senate is widely seen as more prestigious than the House of Representatives for the following reasons:

- Senators represent an entire State, rather than only a district.
- The Senate is seen as a recruiting pool for presidential and vice-presidential candidates

For example, both John Kerry and John Edwards, the Democratic presidential ticket in 2004, were serving Senators.

More important are the reasons that the Senate is widely seen as more powerful than the House of Representatives:

- The exclusive powers of the Senate: ratification of treaties and confirmation of presidential nominees
- Senators, because of filibusters, can hinder the work of government even if they are in a minority. This is a power of itself and a significant bargaining chip.

For example, President Clinton did not send the Kyoto treaty for ratification after he signed it because the U.S. Senate had unanimously passed the Byrd-Hagel Resolution which made clear that they did not believe that such a treaty would be in the best interests of the USA.

However, the House of Representatives has the exclusive power to initiate money bills, both houses have equal power in the passage of legislation (the central function of Congress), both must approve the initiation of constitutional amendments and members of both houses receive equal salaries.

In making judgements, consider the following:

- Understanding of the factors which make the Senate more powerful and prestigious than the House of Representatives (AO1)
- Understanding of the factors which make the House of Representatives equal to the Senate in several important respects (AO1)
- Evaluation of the impact of the points made (AO2)
- Relevant examples and illustrations (AO1)

Level Three Descriptor (13-20 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication.

Level Two Descriptor (7-12 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Use should be made of political vocabulary and a reasonable level of written communication. A good demonstration of knowledge of political processes and some of the relationships between them. Sound comprehension of the context of the question, with some good examples. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-6 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication.

A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

5. Are second-term presidents invariably “lame ducks”?

(Total 60 marks)

Indicative Content

Candidates should recognise that a President will be held accountable in a second term for the consequences of policies enacted in the first term. It is common, therefore, for the popularity of Presidents to fall in the second term which may have the effect of setbacks for the President’s party in the sixth year of the presidency, making it increasingly difficult to enact policies. These trends are exacerbated by the nature of a two-term limit which leads politicians and commentators tend to look to the future during the second term, with the incumbent of the White House increasingly pushed to the margins.

When evaluating whether this has happened in the second term of George W Bush, the following negative factors could be considered:

- The centrepiece of his second term domestic policy, social security reform, has disappeared without trace
- His party has been embroiled in allegations of sleaze, which has reached the office of the Vice President with the resignation of “Scooter” Libby
- More bad news than good has emanated from Iraq since the US led invasion
- The plan to create middle-east stability through encouraging greater democracy has been set back by the election of Hamas in Palestine
- The reputation of the White House of effective crisis management, established by the events of 9/11, has been damaged by the response to Hurricane Katrina in the summer of 2005
- The White House suffered the embarrassment of having to withdraw a Supreme Court nominee, Harriet Miers.
- As a result of these setbacks, especially the war in Iraq, the Republican Party lost control of both the House of Representatives and the Senate in the 2006 mid-term elections, making it more difficult for the President to enact his legislative agenda.

The following positive factors could also be considered:

- The economy has grown rapidly through the second term
- Two staunch conservatives have been put on the Supreme Court against highly publicised liberal opposition
- The White House staff has been reorganised to give it renewed vigour.

When reaching a conclusion, candidates should evaluate whether any of these setbacks are typical for a second term President, i.e. the result of being a “lame duck”, or simply political misfortune.

In making judgements, consider the following:

- Understanding of the factors which cause Presidents to become “lame ducks” in their second term (AO1)
- Knowledge of the key political developments in President Bush’s second term (AO1)
- Evaluation of whether second term political setbacks are the result of being a “lame duck” or political misfortune (AO2)
- Analytical argument developed throughout the essay (AO2)
- Relevant examples and illustrations (AO1)

Level Three Descriptor (39-60 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. At this level, candidates must evaluate developments in President Bush's presidency in the context of the factors which tend to make most Presidents "lame ducks" in their second term. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication.

Level Two Descriptor (21-38 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Use should be made of political vocabulary and a reasonable level of written communication.

A good demonstration of knowledge of political processes and some of the relationships between them. Sound comprehension of the context of the question, with some good examples. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. Candidates who analyse events in the second term of George W Bush but fail to put them in a wider political context are unlikely to exceed this level. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-20 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication.

A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Candidates describe developments in President Bush's second term, without analysis, cannot exceed this level. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

6. How effectively does Congress fulfil its constitutional roles?

(Total 60 marks)

Indicative Content

Candidates should demonstrate an understanding of the roles of a legislature, and an ability to evaluate how effectively they are fulfilled in the USA, using recent, relevant examples where possible.

- **Scrutiny.** Separation of powers means that most people who enter Congress expect to build their career there. When scrutinising the Executive branch, therefore, most members of Congress do not have to consider the effect on their careers of potentially embarrassing their own party. Furthermore, the resources available to Congress means that it is able to mount detailed examinations of the Executive branch whenever it is inclined to do so, as illustrated by the work of the 9/11 Commission.

However, factors such as party loyalty and shared ideological goals may undermine effective scrutiny, as was the case when the Republicans controlled both Congress and the White House between 2002 and 2006.

- **Legislating.** Bills initiated by both the President and members of Congress are almost certain to be substantially modified as they go through the legislative process, making it very difficult for the President or any political faction to force through their policy agenda.

However, the process of passing legislation is often seen as inefficient and the apparent lack of concern for the Federal deficit when securing lucrative contracts for their districts results in spending decisions which are widely seen as wasteful. Furthermore, public interest groups believe that too many legislative provisions benefit the Pressure Groups that fund the re-election campaigns of members of Congress.

- **Representation.** Facing election every two years, Congressmen expect to be judged mainly by their record of providing federal resources to their district. As a result, even if the population profile of a district changes, making it more sympathetic to the other main party, an incumbent Congressman can be confident of re-election if he or she has a strong record of “bringing home the bacon”.

However, this may be seen as being at the expense of the wider national interest, e.g. addressing the budget deficit.

In making judgements, consider the following:

- Understanding of the roles of Congress (AO1)
- Evaluation of the effectiveness of fulfilling those roles (AO2)
- Analytical argument developed throughout the essay (AO2)
- Relevant examples, preferably recent, and illustrations (AO1)

Level Three Descriptor (39-60 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. Candidates must analyse all three roles of Congress to reach this level. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication.

Level Two Descriptor (21-38 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Answers, however detailed, which focus largely on just one of the roles of Congress cannot exceed this level. Use should be made of political vocabulary and a reasonable level of written communication.

A good demonstration of knowledge of political processes and some of the relationships between them. Sound comprehension of the context of the question, with some good examples. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-20 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication.

A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

7. 'Federal government increasingly dominates state governments in the USA.' Discuss.
(Total 60 marks)

Indicative Content

Candidates should demonstrate awareness that developments since the New Deal in the 1930's has led to the increasing dominance of the federal government, peaking in the 1960's with President Johnson's Great Society programme. They should also be aware that New Federalism, in various guises, has tended to reverse this trend since the presidency of Richard Nixon.

Central to this question, however, have been the developments since George W Bush took office and the events of 9/11. He came to power committed to a fiscal conservative agenda, believing that if taxes were cut the national government would be forced to do less and people would increasingly rely on their personal resources and local government, which understood their needs. However, as a result of 9/11, the national government has spent billions of dollars on reconstruction in New York City, military interventions in Afghanistan and Iraq and the development of new weapons to fight a different kind of conflict in which the enemy is not a conventional army. Instead of the government becoming less intrusive, a new government department for Homeland Security has been set up which can direct State and City governments to provide protection against potential terrorist attacks.

Candidates should be aware that reductions of the powers of the States may not be linked to the 'war on terror'. One of the most significant measures of President George W Bush's first term was the passage of the No Child Left Behind Act, not only increased spending by the national government but extended control over an area of policy that was traditionally the responsibility of the States. In return for additional federal funding, the States were required to introduce a federal system of accountability which meant that unless schools met specified targets students would be allowed to transfer to other schools which were meeting the targets.

Despite the apparent tide of power flowing in the direction of the national government, the States have demonstrated a willingness to assert themselves whenever the opportunity arises. For example, with the President refusing to sign international agreements on measures to tackle climate change, eleven States have (or plan to) introduced air quality regulations which are much more strict than the federal government's. With these States, including California and New York, accounting for about one third of auto sales they may create a situation in which it becomes uneconomic for car companies to produce two varieties of each of their models and simply build cars with lower emissions.

In making judgements, consider the following:

- Evaluation which weighs up reductions and assertions of power of the States (AO2)
- Analytical argument developed throughout the essay (AO2)
- Relevant examples and illustrations (AO1)

Level Three Descriptor (39-60 marks)

A high level of skill demonstrated in analysis, interpretation and evaluation. Arguments and explanations expressed in a clearly structured manner, making appropriate use of political vocabulary and an excellent standard of vocabulary.

A comprehensive demonstration of knowledge and excellent contextual awareness with detailed evidence and examples. Answers at this level will recognise that while the Federal government has extended its powers since 9/11, the States have asserted power over policy whenever possible. Analysis displays a sophisticated awareness of differing viewpoints and clear and full evaluation of the issues. Some use of political vocabulary with an excellent standard of written communication.

Level Two Descriptor (21-38 marks)

A sound ability demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a structured manner. Answers which only recognise extension in Federal power or assertions of State power are unlikely to exceed this level. Use should be made of political vocabulary and a reasonable level of written communication.

A good demonstration of knowledge of political processes and some of the relationships between them. Sound comprehension of the context of the question, with some good examples. Analysis displays an awareness of differing viewpoints and good attempts at evaluation. A reasonable level of written communication with some use of political vocabulary.

Level One Descriptor (1-20 marks)

A limited level of skill demonstrated in analysis, interpretation and evaluation; arguments and explanations expressed in a less structured manner, making occasional use of political vocabulary and a basic level of written communication.

A limited demonstration of knowledge of political institutions and processes and some of the relationships between them. Superficial contextual awareness of part of the question may be evident, with limited examples. Limited analysis with some awareness of differing viewpoints and basic attempts at evaluation. Conclusions may have limited relevance to the preceding discussion. A basic level of written communication with occasional use of political vocabulary.

Unit 4 Marking Grid

Levels	Performance Criteria	1-4 20 marks	5-7 60 marks
3	Excellent	17-20	51-60
	Very good	15-16	45-50
	Good	13-14	39-44
2	Sound	11-12	33-38
	Basic	9-10	27-32
	Limited	7-8	21-26
1	Weak	5-6	15-20
	Poor	3-4	9-14
	Very poor	0-2	0-8

Unit 5

Levels	Performance Criteria	1-4 20 marks	5-7 60 marks
3	Excellent	17-20	51-60
	Very good	15-16	45-50
	Good	13-14	39-44
2	Sound	11-12	33-38
	Basic	9-10	27-32
	Limited	7-8	21-26
1	Weak	5-6	15-20
	Poor	3-4	9-14
	Very poor	0-2	0-8

Unit 6

Levels	Performance Criteria	Essay 50 marks
3	Excellent	43-50
	Very good	38-42
	Good	33-37
2	Sound	28-32
	Basic	23-27
	Limited	18-22
1	Weak	13-17
	Poor	8-12
	Very poor	0-7

