

Examiners' Report
June 2012

GCE Government & Politics 6GP04 4C

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Introduction

US politics continues to generate an enthusiastic response in students and this was evident in many of the scripts produced for this exam. The best answers showed an impressively up to date knowledge and conveyed a real sense of personal engagement with the subject. That said, a weakness noted by examiners was that there are still some candidates who seem to have little or no knowledge of contemporary events in US politics from the last four years. It is self-evident that the most recent evidence is the most convincing and, for some questions, knowledge of recent developments significantly raised the quality of an answer. An answer to question 8 on Congress as the 'broken branch', for example, was much stronger if it drew (as many did) on President Obama's recent confrontations with the Republican House of Representatives. Two other points arising out of answers seen this session:

Many short answer questions could be answered at much greater length than is possible in 15 minutes, and writing answers to them is an exercise in identifying the crucial points and balancing breadth and depth. The threshold guidance specifies a minimum of two points for Level 3 but experience suggests that for most candidates three or four points work best.

Secondly, when there is more than one question on the same topic, there may be a degree of overlap, and the same material potentially usable in both, but candidates should ensure that they make it relevant to the question. Some candidates who based their answers to question 8 around their answer to question 2 failed to do this.

Question 1

This question was the best answered of all the short answers and there were few placed in Level 1. Most candidates were able to identify three factors at least which influence the president's choice, and among the most popular were ideology, experience, the prospects of Senate ratification and demographics. A few candidates believed that the president is required to maintain the present ideological balance of the court, no matter what his own inclinations are.

There is also a fairly widespread misconception that Samuel Alito (and on some accounts Antonin Scalia as well) is of Hispanic descent.

Political views, ideology and the extent of a justice's constructionist tendencies were often dealt with separately, when they would have been more logically considered together.

As a Supreme Court justice is appointed for life, and they are their significance for all sorts of the president who appoints them, the president must choose his nominator with a number of factors in mind.

Firstly he must consider their actual ability as a justice. Candidates must be up to the task of being a Supreme Court justice and must have the sufficient knowledge of the law for them to be a realistic chance of their ratification by the Senate. For example G.W. Bush's nominator of the inexperienced Harriet Miers led to her poor performance on the Senate Judiciary Committee questions and ultimately led to her having to withdraw from the process.

The president must also consider the ideology of their choice, all justices ~~are~~ will come with a 'conservative' or liberal agenda, from their writings or decisions in law.

You should start the answer to your second question choice on page 6

Courts the president will therefore try to find a candidate who matches their ideological ~~of~~ philosophy, e.g. Obama selected the liberal Kagan as his nominee.

However the president will also have to consider the make up of the Senate when choosing a candidate. If the Senate is not in presidential control then a ~~candidate~~ controversial will likely not be ratified e.g. the attempted nomination of Bork. This is increasingly relevant with the increasing partisanship of the Senate, where votes are no longer solely on the candidate's ability.

Finally the President must consider the make up of the Court in terms of race/gender/location in order to ensure that the Supreme Court is diverse, a lack of diversity may lead to claims of illegitimacy. Moreover the president may want to reward or show support for a certain group of the population. E.g. Obama selected Sonia Sotomayor in part as a reflection of Hispanic/Latino support in the 2008 election.



ResultsPlus Examiner Comments

This answer illustrates the point about breadth and depth made in the introduction. The candidate makes four clearly explained and valid points, and each is relevantly supported with an example. The analysis clearly could be developed further, and the examples evaluated, but there is sufficient range to put the answer into the bottom of Level 3.



ResultsPlus Examiner Tip

Up to date examples - try to ensure you support every point you make with relevant evidence and the more recent the better.

Structure - a strength of this answer is the clarity of its structure, four points, one per paragraph. This is an excellent model to follow for short answers.

Question 2

This was unsurprisingly the most popular short answer question and most candidates were able to get into the bottom of Level 2 at least. Any question on the powers of Congress elicits a number of recurring misconceptions; among them this time were that the passage of legislation requires a two thirds majority, that the House has the 'power of the purse' and that the Senate has the exclusive power to declare war. Many candidates devoted a considerable proportion of their answer to discussing such factors as different term lengths, numbers of members and areas of representation and, although a few attempted to make them relevant to 'power', most did not. The discriminator between a Level 2 and a sound Level 3 answer was the extent to which candidates could evaluate the significance of the two chambers' concurrent and significant powers rather than simply state them.

The Senate and the House of Representatives are thought to be equal in power. Each has contrasting jobs in order for an effective legislative branch. Due to the House of Representatives being elected directly by the people, it is seen as an imperative that they initiate money bills. The reasoning behind this is those elected directly by the people should be spending & controlling public money - not those who are indirectly elected. Another key role the House of Representatives have is to impeach - that is formally accuse - a member of the executive branch. Once the impeachment has taken place, it is then ⁱⁿ the Senate's power to try that case of impeachment - these two houses work in unison. The Senate's other key role is to confirm appointments made by the President - these range from cabinet appointments to all federal judge appointments. (Trial, district & supreme courts). The last main duty of the Senate is they have to ratify treaties negotiated by the President. These require votes at a 2/3 majority in the favour of the treaties. Throughout this process the President must be transparent with Senate about the treaty & he needs support at the end of negotiations. Collectively, the House of Representatives and the Senate carry out important roles.

You should start the answer to your second question choice on page 6

as well. Firstly, it is up to both chambers to jointly pass any legislation that the President wants passed - or they may reject or amend pieces of legislation. In the constitution, another power they have is to declare war. However, this hasn't happened since ~~1941~~ Pearl Harbor as a President as declared war in recent times; invasions into Iraq and Afghanistan the most noticeable. One could argue that impeachment is a joint power of the House of Representatives and Senate as together they can impeach someone that, alone, they can't. Together, they can also over-ride a President's veto.



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Examiner Comments

This is a fairly typical answer to this question. There is a comprehensive knowledge of the joint and exclusive powers of the chambers of Congress, and only one or two are missing. Some points are supported by examples but not all, and there is relatively little explicit attempt at evaluation; the initial judgement that the two chambers are equal in power is not altogether convincing. It does enough to get into the bottom of Level 3.



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Examiner Tip

Try to get the figures for different congressional procedures right - the requirements for the passage of legislation, ratification of treaties etc. are easily confused, and it's not a disaster if you mix them up, but it looks better if you don't.

Question 3

This question was by some margin the least popular short answer question and was generally less well done, with a lot of candidates finding it difficult to define constitutional rights, and give arguments and evidence on both sides. Only a few candidates were aware that there are constitutional rights outside the first ten amendments, which was a pity as the 15th amendment's guarantee of the constitutional right to vote is a paradigm example of the difficulties of enforcement. Last year's essay question on judicial interpretation was popular and, if they had thought about it, candidates might have realised that this question gave them the opportunity to discuss much of the same material; enforcement of the second amendment, for example, depends fairly critically on determining what exactly it means.

A few candidates misinterpreted the question and took constitutional rights to refer to the 'rights' of the three branches of government.

Constitutional rights are the rights and liberties of the citizenry of the USA that are enshrined and entrenched into the higher law that is the US constitution. These rights include such freedoms as the right to a fair trial, the right to freedom of speech and the right to bear arms - to name but a few - and are mostly contained within the US Bill of Rights and the 14th amendment. These rights are put in place to protect both the people and the states from the federal government with the Supreme Court acting as their protector through its power of judicial review. The term 'effective' should here represent how well the Supreme Court upholds the rights and liberties laid out in the constitution when they are challenged.

The Supreme Court generally does a good job of enforcing constitutional rights - most prominent in recent landmark cases such as *Roe vs Wade* and *Brown vs Board of Education*. In the case of *Roe vs Wade*, the Supreme Court protected women's right to an abortion - finding abortion to be allowed in the constitution under the right to privacy and thereby upholding woman's right to privacy. Similarly in *Brown vs Board*,

You should start the answer to your second question choice on page 6

The Supreme Court overruled their previous decision in the case of *Plessy vs Ferguson* that had deemed 'separate but equal' to be a constitutional concept - thus protecting and advancing the rights of Black Americans as part of the civil rights movement. Similarly, in the case of *DC vs Heller*, the Supreme Court struck down a ban on handguns in the Washington DC as it breached the citizens' right to bear arms. All these examples illustrate that the Supreme Court has been very effective at enforcing state's rights.

However, on occasions such as *Plessy vs Ferguson* the Supreme Court has occasionally failed to protect the civil rights and liberties contained within the constitution. Whilst the Supreme Court's recent toleration of certain types of torture and unlawful imprisonment without trial under the Bush regime can also be levelled as a criticism of the Supreme Court's ability to enforce constitutional rights.

The Supreme Court therefore does a good job of enforcing constitutional rights, even if it does fail on occasions.



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Examiner Comments

The strength of this answer is its clarity; there is a logical three part structure, the first part defining constitutional rights, the second discussing cases when they have been successfully enforced and the third cases when they have not. It is not a sophisticated answer and reaches the top of Level 2.

Question 4

This was the second most popular short answer question, and most candidates were able to identify three or four limits on the court's powers. As for question two, a number of answers spent time making points which were unrewardable; a surprisingly high number began with a paragraph which outlined the powers and roles of the court, and others devoted a paragraph to the appointment and confirmation process which, unless it was related to FDR's attempt at court packing, was difficult to make relevant. The claim that the Supreme Court is limited by its inability to initiate was rewardable, but few candidates went on to make the point that, given the number of cases presented each year, it is difficult to be convinced that this is a significant limit. Some candidates cited the War Powers Act as a law that the court has been unable to deal with, but in fact there have been several attempts to involve it, which the justices have largely resisted.

The Supreme Court's power and influence has increased in recent years, mostly due to the rise in judicial activism which many believe due to the independent and unelected nature of the court, makes it the most powerful group in the US.

However, there are both informal and formally documented checks on their power: firstly the court's make-up, the President makes nominations to the court which have to be approved by the senate, in addition the House of Representatives has the power to impeach and remove justices, the threat of impeachment caused Justice Abe Fortas to resign rather than face proceedings in criminal court. So together the President and Congress decide who is placed on the Supreme Court, though this isn't that great a limit as once elected they hold the position for life and cannot be removed, it does mean that the political outlook of the court may be altered through with more conservative/liberal added into

You should start the answer to your second question choice on page 6

the mix. Franklin Roosevelt's threat to increase the number of justices from 9 to 15 and most likely give him control (in a philosophical sense) caused the court to approve the New Deal legislation they had been refusing to.

Judges are said to "Follow election returns", meaning that they are meant to reflect public opinion as shown by the poll results. They are not forced to do this though and can in fact do the opposite, disregarding public opinion (flag-burning) or even shaping it (*Born v Bush*).

The Supreme Court is limited mostly by the cases, it has no powers to initiate cases and so can only rule on matters and issues which come before it, for example for a long time the War Powers Act has been something they wished to attack as they believe it has allowed the president to abuse his power as commander in chief but a case has never come up.

Also the pure logistics affect the number of cases, less than a hundred cases heard per annum which limits the extent of their power.

Lastly, the Supreme Court does depend on the political will of the US bureaucracy, congress and the president. It can decide what it wants and make things with independence but it cannot enforce its rulings.

After the *Born v Bush* education ruling not mentioned

You should start the answer to your second question choice on page 6

States refused to accept the law and ignored it and avoided it by closing schools. Unless the courts that be are willing to intervene then there is nothing the Supreme Court can do, they rely on politicians from Governors to Mayors to the president. Only in one circumstance did President Johnson intervene, sending the Army to Little Rock high school in Arkansas to prevent it closing, it took a decade for the law to desegregate to have the desired effect.



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Examiner Comments

This answer again illustrates the trade-off between depth and breadth. There are five separate points here, none of them analysed in any detail and there is a certain amount of inaccuracy mixed in. It does enough to get to the top of Level 2 but the overall quality of analysis prevents it getting any higher.



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Examiner Tip

Don't attempt to cover too much ground in short answers - it is important to get the balance right between range of points and depth of analysis, and three or four well developed points is usually about right.

Question 5

Next to question three, this question was the least well done and many candidates found it difficult to structure an answer, often making points as a narrative rather than analytically. Relatively few candidates seemed to be aware of the decline in the number of vetoes over the 20th century, and the line item veto was sometimes discussed as though it could still be used.

Many candidates could have made much more than they did of the history of the veto under President George W. Bush, and the effect of a change in party control of Congress, as occurred in 2007.

Surprisingly, very few answers mentioned signing statements, when they would have been quite extensively covered as part of the alleged imperial tendencies of the same president.

One of the most significant sources of presidential power is the veto allowing the president to return legislation to congress for re consideration and to effectively block it from being passed for example when George Bush vetoed the stem cell enhancement act of 2005. It could be argued that the power of veto is extremely significant because it allows a president to ~~off~~ influence what legislation is passed and in many cases the threat of a presidential veto is sufficient to ensure congress doesn't pass legislation

that a president will not agree with.

One limitation to the significance of the presidents veto is the fact

power of veto is the fact that congress, by a two thirds majority, has the power to override a president's veto meaning that legislation is passed against the wishes of a president, suggesting that the power of veto is not that significant. ~~the~~

~~the~~ Evidence of this can be seen when George Bush vetoed the Farm Bill in 2007 that was then overridden by congress and ~~was~~ became law. However, it could be argued that the power of veto is still significant due to the fact that ~~the~~ congress hardly ever overrides a president's veto with 93% of them not being overridden.

Presidents also have the power

to pocket veto legislation. They can do this ~~when~~ by simply putting a bill to one side whilst congress is not in session meaning that it is effectively vetoed. This is seen as a very significant power as congress do not have the power

to override a pocket veto meaning that the president has the ~~power~~ final say on legislation. However it must also be noted that ~~the~~ presidents try not to overuse ~~there~~ their power of veto as it can create conflict and tension ~~with~~ ~~congress~~ with congress. ~~With~~ With this in mind ~~all~~ many believe that a president's veto is less significant as they must be ~~careful~~ careful not to use it ~~too~~ ^{too} much, with Obama only using his veto power ^{twice} since 2008.

(Total for Question = 15 marks)



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Examiner Comments

This is another answer whose clarity is its strength. It goes through the basics of the significance of the veto power very methodically, sufficient to place it in the top of Level 2. Similar to the example answer for question four though, it is the quality of analysis which prevents it going higher, and it exemplifies the point made above about the need to discuss George W Bush's use of the veto in more detail; there is a lot more to be said beyond the claim that the president must be careful not to use the veto too much.

Question 6

Most candidates could present at least basic arguments on either side of the debate, showing an awareness of the vision of the Founding Fathers and the extent to which it is realised today.

A few misinterpreted the question and took it to be on judicial interpretation, consequently straying into a discussion of loose and strict constructionism, and whether the constitution *should* be transformed from the vision of the Founding Fathers. Most answers ranged broadly over the three branches of the federal government and the relationship between the federal and state governments, although some weaker answers concentrated exclusively on the bill of rights. The second amendment sometimes received disproportionate coverage.

The existence of an amendment procedure presented a conundrum for candidates, and the 27 amendments were cited as evidence both of the retention and rejection of the founders' vision.

The US constitution was written and ratified by 1789 when the founding fathers wrote the constitution, it was because of a fearful tyrannical majority overruling the people, so they established the constitution using a federal system.

The modern US constitution can be seen to ~~have~~ not reflect what the founding fathers intended because of varying factors that have seen the growth of federal government and a need to adapt the constitution to keep it relative to society; therefore the constitution has gone from beyond recognition in the way it has been interpreted, but it still remains the key focus of the US society, and something Americans are proud of.

There are varying viewpoints of the constitution, The conservative view is that they want a shift back to the founding fathers intentions, so less federal government role, and an increase in state power. They don't believe the constitution has been interpreted to the way the founding

Fathers would have wanted, and that the interpretation of rights by the supreme court has gone too far in protecting the rights of ~~a~~ criminals.

On the other hand, the liberalists don't believe there is enough federal involvement in the day to day running of peoples lives, and that the constitution should be interpreted more so to protect the rights and freedoms of minorities. So they therefore agree with how the US modern constitution has adapted to fit in with societys needs.

Traditionally, the Founding Fathers did not like or trust political parties, and hence why the President and the senate were elected by the electoral college, and only the House was to be representative to the people. The Founding Fathers generally did not like the idea of democracy, as it would allow the uneducated to have a say but they don't have the capacity to do so. However, that has evolved and the 22nd Amendment lowered the vote to 18, and the 16th Amendment saw the vote to racial minorities too. There has also been the emergence of political parties and a long process of campaigning to ensure participation from the people and to promote democracy. Therefore, it can be said that the constitution has shifted from the original intentions.

The powers of the president are laid out in ~~the~~ Article II of the constitution, the founding fathers did not want an over powerful president, so the powers in the constitution are vague, ~~but~~

~~But as these are~~ There have been factors however, which have meant an increase in the role of the president and federal government has been needed - for example the growth in population and foreign affairs. The Founding Fathers wanted a federal system, in which there would be limited government involvement and the states would take on the role of legislation and controlling their people. However, events such as 9/11 and the Great Depression the people looked to ↑ the federal government for support and guidance in such instances. Therefore the president has seen his powers grow and evolve to deal with modern situations that have demanded a powerful president. ~~This~~ This is not what the Founding Fathers intended, and conservatives in modern day do not agree with the rise in presidential power.

As stated before, the powers of the president were left vague, and because of this the president uses powers of conventions and executive orders to make decisions in which no-one can make a say - these tools that he can use are nowhere

outlined in the constitution, and the Founding Fathers did not have the intention to allow a President to ~~be~~ do this.

It has also seen an increase in the President initiating bills in modern day society, and once again this was not what was intended of the constitution. Within Article I, it was laid out that congress would primarily be

responsible for legislation, and the President - as Chief Legislator - would oversee it and make sure it could be enforced. However, since the Cold War and both world wars, there has been an increase need for the President to make bills as he is the one dealing with foreign affairs.

The original intent that only Congress could declare war is envisaged in the constitution, and the President could only deploy troops as necessary; however due to the increase of Presidential power - it has seen that presidents declare war and congress just generally agree to it - which was the situation in Vietnam. This has been a modern development ~~to~~ to the US constitution, since the country has a prestigious role in world affairs and is seen as the leader of democracy.

The Supreme Court, so the judiciary has its powers laid out in Article III of the constitution, once again the powers being vague. However, the court has implied its power to mean more, and they have established the power of judicial review - which was inferred from the case of *Marbury vs. Madison*, in which they can deem acts of legislation unconstitutional. This power was never intended, and the judiciary has a lot more power than ever intended. Its caseload is ever increasing and makes judgements frequently.

Their role is to ensure that the protection of people's rights and freedoms are kept. However, the Founding Fathers never wanted the

constitution to be interpreted in the way it is now - which is one of the ~~casenative~~ arguments against the supreme court, they believe that the court is protecting the rights of criminals far too much, and at the expense of the liberties of law abiding citizens.

The Founding Fathers ~~was~~ never wanted a powerful judiciary, they were just wanting to make sure that they could act as a check on the other two branches.

which can lead to the next argument that could disprove the ~~arg~~ statement - and that is the power of checks and balances, and

the separation of powers. This is something which has been upheld from the constitution in modern society, even more so now there are political parties and if there is divided government, then scrutiny is key and done much more closely. The Founding Fathers ~~or~~ wanted separation of powers and checks and balances to ensure not one branch became too powerful, and this system is still upheld thoroughly and in the way the Founding Fathers intended.

Overall, the modern US constitution has very much gone from the original intent the Founding Fathers had for it, and that is because it has been necessary to ensure it's relative and kept up to date with

society. There have also been factors which have influenced each branch to exercise ~~to~~ more power as it's been necessary. The constitution still remains loyal to the separation of powers, and the people are still in awe of it, and how it regulates
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Examiner Comments

This is a fairly typical answer to this question; it focuses mainly on the relationship between the president and Congress, with briefer looks at the changing nature of democracy and the expanded role of the Supreme Court. Its only uncertain moments are when it invokes conservatives and liberals, and it is worth repeating that the views of neither are required to gain synoptic marks. It deserves to be placed at the top of Level 2.



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Examiner Tip

Synopticity - synopticity assesses the extent to which you can recognise and engage in a debate. It is not essential and sometimes unhelpful to structure the debate around what liberals and conservatives are thought to believe.

Question 7

This was the most popular of the long answer questions and the best answered. Most candidates had at least a broad understanding that the term 'imperial presidency' was linked to the expansion of presidential power, even if they did not relate it specifically to the president breaking free from his constitutional restraints. Level 2 answers were typically all-purpose president versus Congress essays, citing constitutional powers such as the veto, and measures such as 'Obamacare' and the Patriot Act, to support the case for the president's imperial tendencies. Some misconceptions are hard to dispel, and it is still widely believed by candidates that the invasions of Afghanistan and Iraq were carried out without Congressional approval. The assassination of Osama Bin Laden was given some credit as evidence of the president acting imperially but it was rarely acknowledged that 'secrecy and dispatch' have long been recognised as essential in at least some areas of foreign policy; more convincingly cited as evidence was the current administration's policy of drone strikes.

When the founding fathers drew up the constitution they placed the executive branch second in the order of power mentioned in the second article. However, there is no doubt that the role of President has grown significantly with the importance of the office growing greatly. But imperial implies that the President faces no checks on his power, an unrealistic observation of the system.

Arthur Schlesinger who created the theory of the imperial Presidency focused his attention on the area of foreign policy. When the constitution was drawn up foreign policy was a very unimportant ~~part~~^{issue} with America's geographical location and the difficulty travelling at that time. Therefore there are few checks in this area. The role of commander in chief means the President controls the armed forces, however, it was congress who were supposed to have the proactive role, with the President merely the figurehead needed at a time of war. However the modern roles seem to have switched. ~~The~~ ~~President's~~ Congress's role in Vietnam, Iraq and Afghanistan has been minimal. Under Nixon the US extended the war into Cambodia and Laos without congress being told. His importance during war is elevated by the fact the public look to him for leadership. Nixon made most of his Vietnam policy with Kissinger and his inner circle known as the 'Berlin

wall'. The President does face checks in this area though. The power of the purse means congress can cut funding for war. When the Democrats took congress in the 2006 midterms an Iraq withdrawal plan was drawn up, limiting Bush's possible actions. However, this check is often fruitless as cutting funding to the army whilst they are at war is often ~~is~~ unpopular with the public who, even if they don't support the war, support the troops that are there. A further check on foreign policy is the war powers act 1972, introduced after Nixon abused the gulf of Tonkin resolution in Cambodia and Laos. The act means that after 60 days of troops being on the ground war must be declared or they must be withdrawn in 60 days. However, modern presidents can often circumvent this power. Obama had sent air support into Libya to aid rebel forces by enforcing a no fly zone and ~~is~~ destroying strategic targets. After 2 months congress demanded to discuss it. Obama claimed that the war powers act was invalid in this case as the US was only giving advice not waging war. ~~The~~ Desiring what constitutes war makes the act difficult to enforce.

Furthermore, Schlesinger argues that this power in foreign policy can run over into domestic policy. The war in Iraq and the 'war on terror' gave Bush great power domestically when dealing with terror suspects, ~~using~~ using military commissions to try terror suspects. However he does not avoid checks all together. The Supreme Court in the cases of Hamden v ~~Rumsfeld~~ Rumsfeld and Rasul v Bush ruled these commissions unconstitutional. O'Connor commented that the 'state of war does not give the President a blank cheque'. ~~Therefore the effect~~ The court often provides a check on Presidential

power. Most notably the 1974 case of ~~the~~ the US v Nixon where ~~they~~ they ordered Nixon to hand over tapes relating to wiretapping. This case effectively sealed his fate.

In addition, congress also provides a check on the President. They scrutinise Supreme Court appointments to make sure the President has made the choice for the correct reasons. Robert Bork was rejected with the biggest majority in history under Bush. ~~Moreover~~ Furthermore, congress holds the ultimate check of impeachment over the President. President Nixon's impeachment over the 'watergate' scandal represented congress reclaiming power from a President who had reached the zenith of the 'imperial Presidency' theory. Furthermore, this resulted in a shift in power which meant Presidents Ford and Carter were imperilled from the start.

However, the President has used some of his powers in such a way that his has extended his role to such an extent that he could be considered imperial. The power of the veto has been used very well by modern Presidents. With a supermajority needed in congress to overturn a veto this is difficult to do, only 4% are overridden. Clinton only had 2 overruled. This gives the President a greater role in legislation formulation. However, Presidents who use a lot of vetoes often lose approval ratings as it can show they are favouring ~~themselves~~ their party's interests over national ones and that they can't negotiate with congress. In 1994 Clinton had an approval rating of 80% but after vetoing 11 bills introduced by the Gingrich led Republicans his approval rating dropped to 36.2%. So the veto offers the President

great power but must be used fleetingly and wisely.

Finally, modern Presidents can use public opinion to extend their power and avoid checks. The American people want their President to achieve great things and his growing importance in their eyes gives the President greater power. President Clinton was able to force through his budget proposals after he had public backing for them when congress caused government shutdown. However, public ~~power~~ opinion puts pressure on all branches

of government and does not necessarily mean the President can avoid checks. Bush's power was increased when post 9/11 fear of terrorism was high but when people had turned against the war in 2006 the House could draw up withdrawal plans.

In conclusion, presidential power has increased but the question states there are imperial which seems to over estimate his power. At times the President can avoid checks but his power fluctuates based on circumstance. For example, Dick Cheney believes the President should be given all the power he needs to carry out effective leadership. Post 9/11 Bush was seemingly given this carrying out Cheney's plans for the invasion of Iraq. However circumstance dictated that as Bush's approval ratings plummeted congress reclaimed power with a withdrawal plan demonstrating that power fluctuates. The President may more powerful as leader of the free world than the founding fathers intended, but imperial he is not.



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Examiner Comments

This is a literate and intelligent answer which is securely in Level 3. There is a confident command of detail and a sense that the candidate is engaging with the debate; as this answer shows, a count up of the use of 'however' is often a reliable guide to the quality of the analysis. Possibly the weakest point made relates to the use of the veto since, given it is a purely obstructive power, it is hard to argue it adds much by way of imperial power.



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Examiner Tip

Conclusions - conclusions are important and perhaps, as the last impression the reader receives, the last sentence is the most important of all. If you can finish with a neat and well balanced summary, as this candidate does, the examiner will be impressed.

Question 8

It is hard to follow the US media for any length of time at all without becoming aware of the debate around the current state of Congress, and the book 'The Broken Branch' will be well known to most politics teachers. It was surprising then that a proportion of answers to this question consisted of a general discussion of Congress's functions, without any recognition of the effects of increased partisanship in recent years. Discussion of the rise of the president's war power, the use of the presidential veto and the length and complexity of the legislative process was not entirely irrelevant, but was certainly on the margins of the main debate. There were though at least as many candidates who were familiar with the key issues, and able to discuss the effect of partisanship in reducing Congress to a lapdog during the much of the Bush administration, and its role in the subsequent series of confrontations between the Republican House and the Obama administration.

Congress is furnished with great power in the constitution; it is a key part of the US system of checks and balances. However recently Dana Milbank called the 112th congress 'the big talk no-action congress' suggesting it is indeed the 'broken branch' of government. Of course there is always an inbuilt negative bias in the US system which under^{posit} action but currently it is at a new level with a growth in hyper-partisanship affecting legislation especially.

Congress' key role is legislative. There is already a 'bastion of negation' for legislation to navigate in the congressional process of passing laws. Bills must pass through 7 hurdle hurdles in the process; they must pass votes in both houses, avoid being pigeon holed and changed beyond recognition in the committees, they must not be squeezed out of the legislative time table. Consequently it is much easier for those who seek negative actions to succeed. However previous Congresses have functioned despite this, there is something different which is constricting congress currently.

Since ^{the} 1994 Texas contract with America and Republican take over there has been a massive growth in partisanship and with the mid terms of 2010 leaving

Congress with divided control, and the tea party extreme conservatives challenging 40 seats and the imminent disappearance of moderates such as Olympia Snowe. There is now a strong strain of hyper-partisanship in Congress. Weak party control from the president compounds this. Therefore votes are being increasingly split down party lines; the stimulus bill of 2009 got no republican votes in the House and only 3 in the Senate, showing that it was only ^{Democrat's} Majority that enabled them to pass it. Yet since the 2010 republican take over of the house the legislative process has ground to a halt. Indicative of the current weakness of Congress was the 2011 debt ceiling debate where the republicans refused to assent to the imperative raising of the debt ceiling for the economy and therefore America lost its triple AAA credit rating. Here the influence of the tea party caucus and hyper-partisanship were felt keenly.

Dan on Milbank points out that compared to the actual do-nothing Congress of 1947-48 this Congress is even worse. They managed to pass 908 laws yet the 112th up to May 2012 had only passed 106 proving the view that Congress is indeed the broken branch, at least in the legislative sense. On the other hand some have indicated that Congress has passed some meaningful laws especially between 2008-9. Obama has passed a \$787 billion bailout, Obama care and finance regulation. Bush passed acts such as the 2003 Medicare act and the no child left behind programme. Furthermore some point to Congress's occasional ability to set the legislative agenda as seen in the

1996 Contract with America. ~~For~~ Conversely the Tea Party would still maintain that Congress has too much power. In reality however at this current time Congress is paralysed.

Yet it is argued that in another of its key functions of ~~over~~ scrutiny of the executive it is not the broken branch. The current strain of hyper partisanship can bring benefits. In its powers of investigation Congress is currently very active. Between 2003 and 2006 Congress could well have been called the broken branch as with united government there was as Orstein puts it 'a gross dereliction of duty' by Congress. ~~But~~ Between 2003-4 there were only 37 hearings/investigations of presidential executive activity leaving Bush's administration free to operate such dubious plans as the war in Iraq. However since then investigation has grown; in 2006 the Democrats took Congress and were able to hold Bush to account for ~~the~~ no child left behind and the war on Iraq. Currently investigation and scrutiny abounds as when the Republicans took the House in 2010 they began to hold Obama to account for things such as the BP oil spill and the Solingda affair. ~~Former~~ Chairmen such as Dersell Issen have promised to check every penny of the Obama administration. While some would argue after investigation becomes partisan point scoring it is still being remarkably effective.

In its role in confirming appointments and treaties the Senate is also reasonably powerful. An agreement has been reached to cut the number of appointments needing confirmation by the Senate by 25%. Meaning Congress can be less obstructive. Yet it still scrutinises appointments thoroughly as seen with the

Supreme Court Nominations of Clarence Thomas in 1991 or Harriet Miers in 2003. They may not reject appointments often but they have a large impact, for example they rejected Bork in 1987 having exposed his ultra-conservative social values. Others suggest Congress is broken as appointment hearings can just be political point scoring as seen in the vicious senate Judiciary Committee hearing for Clarence Thomas. Although the president can also get around these confirmations with recess appointments, Obama has made 37 of these. With ratification of treaties the senate is also powerful, in 1998 they rejected Clinton's comprehensive Test Test Ban treaty and in 2010 the threat of rejection constrained Obama in what he could agree to at the Copenhagen Summit on climate change. However others point to Congress's lack of power here as usually presidents can negotiate treaties freely such as the 2001 START treaty. Furthermore presidents can get round Congress with their prerogative power to make executive appointments such as NAFTA and membership of the World Trade Organisation. Finally the congressional power of impeachment is largely unused. They rarely impeach top officials and never convict the threat is large. In ~~1974~~ 1974 Nixon resigned over the credible threat of impeachment. Although again some have pointed to Clinton's impeachment a political point scoring.

There are other areas in which Congress is seen to have become a broken branch. Many congressmen tend to focus on local issues as opposed to national issues and at those times expense. This can be seen in the 16 billion dollars of

centralised in 2010 - Congresses power of to declare war has dormant thanks to the War Powers Act of 1973 and an act in 1941 giving it even less international power. Constitutional amendments happen rarely as p Congressmen have become risk averse, for example they have not dared amend the 2nd amendment despite events such as the Virginia Tech massacre, the NRA are holding Congress to ransom, At present there have only been 27 amendments out of 10,000 proposed. Also Congress rarely elects the vice president or president.

Congress's real power is entrenched in the constitution and so it can always reclaim its power. However the current strain of partisanship has paralysed Congress as in its legislative role and reduced often reduces scrutiny to point scoring. In other areas the president is able to circumvent Congress and the Supreme Court can declare their acts unconstitutional. They have also let some power lie dormant. Congresses foreign public approval ratings are at an all time low and while the power could be reclaimed at the moment it is indeed the weaker branch.



ResultsPlus Examiner Comments

This is another secure Level 3 answer which, as the work of a candidate who has been studying US politics for barely more than two terms, shows an impressive grasp of the subject. The use of a quote from a Washington Post columnist in the opening paragraph gives a favourable impression from the outset and the command of detail is confident throughout. If one had to be critical, the different sections of the essay could be linked more strongly, and the theme of partisanship sustained more consistently; nevertheless, a very good essay.



ResultsPlus Examiner Tip

Keep up with the news - a lot of the points this candidate makes, especially on the first two sides, are too recent to be included in the textbooks, which shows it is vital you keep up with current events and developments.

Paper Summary

Some key points for candidates to remember for future exams:

- Keep the structure of your short answers clear, one point per paragraph.
- Three or four well developed paragraphs is usually the best balance between breadth and depth.
- In essay answers you don't have to refer to what liberals and conservatives believe.
- You should end with a conclusion which restates your answer to the question and the main arguments which support it.

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