

Examiners' Report
June 2014

GCE Government & Politics 6GP04 4C

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Introduction

This paper was a mixture of the familiar and less familiar. Where candidates struggled, it was usually not because they didn't know enough but because they were unable to adapt their knowledge to the demands of the question in front of them. Centres might perhaps devote more time to this vital skill of focusing on the key terms of the question and working out what might be relevant to them.

As in previous years a characteristic of stronger answers was their use of relevant contemporary examples and the confidence with which they were discussed, and this can only come from constant reading of the different sources available online these days. It is important though that this knowledge is then rigorously linked to the academic content of the course, and some parts of the answers to Question 5, for example, read as little more than a rough summary of the most recent 'Guardian' article on the PRISM programme or Guantanamo Bay.

One of the many pleasures of marking examination answers is encountering the genuine enthusiasm for the subject which many of the answers convey. The world of US politics, for all its venality and absurdities (or perhaps because of them) is endlessly fascinating, and it is pleasing to see so many members of a supposedly politically apathetic generation engaging with it.

Question 1

Introduction

Although this question was one of the least popular 15 mark questions, it was also one of the most successfully answered. Most candidates who chose it were well prepared and could use a range of points, covering both the significance and lack of significance of the Educational Opportunity Programme (EOP), frequently devoting a paragraph to a specific part of the EOP such as the Chief of Staff, the White House Office, the Office of Management and Budget (OMB) or the National Security Council (NSC). Contrasting the EOP with Cabinet was often effective, and stronger answers brought in a lot of detail on the role and significance of individuals; candidates discussed the significance of the role of Nancy-Ann DeParle in the formulation of the Affordable Care Act relative to the Secretary of Health Kathleen Sebelius, for example, and the influence of Condoleezza Rice as NSA in George W. Bush's first term against Donald Rumsfeld at Defense and the vice-president Dick Cheney. Figures from earlier eras such as

John Sununu and even Henry Kissinger were also cited fairly frequently. Some weaker answers confused the relationship between the EOP and Cabinet and assumed one was part of the other; a small minority of candidates misread the question and took it to refer to the office of the presidency as an entire entity, and unfortunately often ended up saying very little that could be rewarded.

To some extent it is significant, because the President has started to in modern times is relying on it much more. Often, the President will assign a Czar or policy specialist (loyal to him only, to lead policy formulation instead of the relevant cabinet department). For example, Nancy Ann De Parle ^(Obama's health Czar) ~~was~~ ^{is} was critical in formulating Obamacare relative to the federal bureaucracy. This ^{is evidence} ~~means that~~ the ~~EOP~~ ~~ExOP~~; of ExOP expanding its role ~~and~~ at the expense of the bureaucracy; which shows significance.

In addition, ~~it lacks~~ there is not the same level of Congressional scrutiny compared to the Cabinet; as ~~the~~ appointments to ExOP don't have to be confirmed by the Senate. This means they ^{are usually} ~~are~~ ^{completely} loyal to the President relative to the Cabinet officers who ^{have to be} ~~are~~ generally more centrist in order to be appointed. For example, Chuck Hagel is a Republican ~~as~~ as Obama's

Defence secretary, and this kind of bipartisanship is not required in the ExOP. The increased loyalty thus means Presidents rely on them more. Moreover, the fact that they aren't scrutinised as much by Congress means they have more free reign, and the figures like the National Security Advisor, and ~~foreign~~ the Chief of Staff can be quite autonomous, especially with a "hands-off President".

However, the ~~the~~ members of ExOP have no power themselves, similarly to the cabinet. In that they ~~can~~ have to be very loyal and responsive to the President; because sole executive power lies with him. They can be dismissed easily if the President if they aren't ~~prohibiting~~ ~~his~~ ~~ideas~~ because there is little hassle in appointing new members. Like to the federal bureaucracy which needs a tough drawn out confirmation process. Therefore, the members ~~are~~ ^{lose} ~~are~~ ^{are} significant ~~in themselves~~ because they are reliant on the President.

Finally, ~~the~~ under some Presidents the federal bureaucracy is relied on much more; especially when the President wants to demonstrate openness. For example, ~~as~~ under Bush, Rumsfeld at the Department of Defence ~~was~~ ~~was~~ ~~or~~ ~~elsewhere~~ ~~bureaucracy~~.

In conclusion, ~~the~~ ExOP is very significant, and it is likely to grow more in significance too. This is because their loyalty is much prepared by the President than the parochialism of each executive department. Furthermore, the proximity of ExOP, in the White House, is also very important, because it means it has direct access to the President ~~bureaucracy~~.

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Examiner Comments

This is an impressive answer, not so much in the quantity of information it conveys but in the quality of the analysis and command of detail. The points about President Obama's appointment of Chuck Hagel as defense secretary and the side-lining of the NSC under George W. Bush are particularly well made. The question could have been better answered with more time however it was awarded full marks.

Conclusions - while introductions definitely aren't necessary in a short answer, a short conclusion such as this candidate uses does round the answer off neatly, though it is expendable if you're pushed for time. This conclusion does what it shouldn't by bringing in a new point, but that is forgivable in the rush of a 15 minute answer.

Question 2

Introduction

The challenge this question set was to focus on all three key terms of the question. Most candidates struggled to develop three or more distinct points which related their knowledge to these key terms. Weaker answers were based on a two point plan, with one paragraph devoted to the policies and actions of President Obama and one to those of President Bush, which made it difficult for examiners to place them in Level 3. Probably the most common problem was the tendency of candidates to play down or ignore the term 'relationship', typically describing a policy of the federal government, such as the Patriot Act, without giving any clue how it might relate to the states or, less frequently, why it might even be considered controversial. Least frequently of all, candidates overlooked the term 'since 2000', and there was still the occasional answer which ran through a history of federalism since 1787. Stronger answers made the relationship between federal and state governments the focus of each paragraph, and it was usually the indicator of a stronger answer that it looked at state-level initiatives, as well as what the federal government had been up to. Recent state developments on marijuana, same sex marriage and immigration – to name just three – gave plenty of scope for this approach. Usually, candidates made the movement of power and influence between the state and federal governments the subject of controversy, although it was also perfectly valid to look at controversies within parties over federal-state relations.

Supreme Court cases were a further source of controversy, although only a very few candidates knew that the *Sebelius* case had – controversially – lifted the requirement from states that they expand Medicaid provision as the Affordable Care Act had originally provided for.

One reason the federal-state relationship has been controversial was the introduction of no child left behind which took away a great deal of sovereignty from the states as Bush essentially forced his education policy on all states and those who didn't follow lost funding. This policy was largely controversial because states have their own customs and identities and no child left behind somewhat eroded a huge part of federalism which is enshrined in the constitution, this has caused controversy.

Another reason it has been controversial is due to economic legislation. Economic

Freedom has largely moved away from the States simply because they cannot effectively deal with huge economic problems. For example Obama's ARRA stimulus was a way of getting America out of debt through Federal spending. This similarly happened under Bush when he nationalised Fanny Mae and Freddie Mac. This has all been controversial because groups such as the Tea party see this as power moving away from the people and states to an overly powerful national Government.

Perhaps the main reason for controversy came over the expansion of national security under Bush through creating the Department for Homeland Security and the PATRIOT Act. This further took gave more power to the Federal Government because they could spy on anyone and were relatively unaccountable. The states rights had been undermined again because the Government had expanded power greatly. This was controversial because to some it created a tyrannous unaccountable Government which had taken itself far away from the people.



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Examiner Comments

This is a very typical Level 3 12 mark answer: three well explained points, clearly divided into separate paragraphs, well focused on the question and supported by relevant contemporary evidence. It could not be said to be a sophisticated answer, but it achieves what it sets out to do very competently. It would have been stronger if it considered what the states themselves had been up to, instead of focusing exclusively on the federal government, and the final paragraph struggles a little to explain very convincingly how the Patriot Act has had an impact on the federal-state relationship. Nevertheless, a very good answer.



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Examiner Tip

Keep the question in focus - one feature of this answer worth emulating is the repetition of the key term of the question 'controversial'. Too often examiners have to work out whether a point or argument is relevant to the question, and using its key terms reassures them you know what you're doing.

Question 3

Although this was a popular question – many candidates had clearly come into the exam determined to answer a question on Congress come what may – the unfamiliar angle from which it approached the topic meant that many of them struggled, and it was rare to find a completely convincing answer. Those answers that only made it into Level 2 could usually identify divided party control as a relevant factor in the relationship between the House and Senate, but then made little further progress. Typically, they would describe differences between the two chambers in terms of exclusive powers, terms in office and areas represented, but were then unable to link these to the relationship between them. There were some stronger answers, and the history of legislation since 2009, when some bills have passed the House but died in the Senate, such as the American Clean Energy and Security Act (or 'cap and trade') and others have passed the Senate but died in the House, such as immigration reform, provided some very apt examples. Some candidates pointed to the rapid passage of the Patriot Act in the immediate aftermath of the 2001 attacks as evidence that crises encouraged a more harmonious relationship between the two chambers.

The Congressional relationship between the Senate and the House of Representatives can be affected by the governing party. Each Congress does not usually have both parties having advantage in both houses, such as a Republican under Obama's first Congress having both ~~the~~ houses under Democrat rule. Thus this is a key factor in the relationship between the Senate and House because of partisanship being so significant in modern day politics.

In addition, the relationship between House and Senate is affected because of the want for re-elections. The fact that Senators only have re-election every six years stresses their tendency in supporting certain bills compared to the House wanting re-election every two years. So arguably, post-barrell politics and following the

ideology of a Representatives district is considered for greater than ~~sticking~~ between ~~with~~ the having the same focus as the Senate.

The Senate is also arguably less extreme in their policies due to the inability of gerrymandering. ~~Manipulation~~ Manipulation of district boundaries creates for more grass root supporters and ~~candidate~~ election of more extreme candidates. So factors affecting the Houses would be an inability to agree on final bills because of their different views and increased partisanship.

~~The~~ If gridlock occurs with Electoral College votes, the President must be voted through the House with the Senate voting for the Vice-President. This would affect the relationship between the ~~Houses~~ ^{Members} with a need for cooperation and avoidance of partisanship to eliminate the chance of a two-party Executive which thus could occur.



ResultsPlus Examiner Comments

This answer is very typical of many answers to this question. There is quite a lot of knowledge of Congress and two relevant factors are successfully identified, but the candidate is clearly finding it difficult to think of any others and is scraping the barrel by the time they reach the fourth paragraph. Their cause is not aided by some imprecise expression, such as the reference to the 'leniency' of senators in the second paragraph. It was placed at the top of Level 2 and given 10 marks.



ResultsPlus Examiner Tip

Question choice - although there is very little time in which to do it, you need to think hard about your choice of question, and think through exactly what each question is asking. If you struggle to come up with more than two valid points, as this candidate does, then you may be better off with another question.

Question 4

This was a relatively straightforward question, with many candidates finding three or more valid reasons. The criticisms of the process for the appointment of Supreme Court justices which tended to be the most successfully used were its politicisation, both by the president and by the Senate, its futile nature, given the reluctance of nominees to answer questions candidly, the influence of pressure groups, and considerations of race and gender. Where this was followed up with an explanation and some evidence, candidates could be placed in Level 3. Weaker answers were unable to find three relevant criticisms, while others spent unnecessary time detailing the process of appointment. Some failed to focus on the 'process' and instead discussed criticisms which are more accurately characterised as features of the court itself, such as judicial review, life tenure and the fact that justices are appointed and not elected. Some candidates were critical of the role of 'the media', which is too broad a term to mean very much, and without recognising that very often newspapers and broadcasters are simply reporting what others have said and done; the allegations of Anita Hill did not emerge through media campaigns but the questioning of the Senate judiciary committee and, given their nature, were surely relevant to Clarence Thomas' suitability to be a Supreme Court justice.

The appointment process for Supreme Court Justices has been criticised because it is politicised by the President. This is because the President ~~chooses~~ ^{and judicial} nominates Justices whose political & philosophies are in line with his own. This ~~means that~~ president ~~chose~~ therefore ~~as a~~ "litmus tests" candidate justices by scrutinising their previous judgements to make sure that the Justice he appoints has the same views. This was the case in 1990 with ~~the~~ President Bush's nomination of David Souter to the Supreme Court, which was dubbed a "home run" for the conservatives due to Souter's views on abortion. Bush was forced to deny ~~that~~ that Souter was chosen for this reason stating that he had "too much respect for the Supreme Court to focus on specific issues." Because Justices are appointed by Presidents who have a political agenda, the process

is controversial.

Another reason why the appointment process has been criticised is due to politicisation by the Senate. This is because all Court nominees have to be confirmed by the Senate. The Senate also has a political agenda and looks to openly embarrass and criticise nominees who don't fit their bill as appropriate candidates. This was seen in 1987 with the nomination of Robert Bork to the Supreme Court, which was rejected after numerous women's rights groups such as NOW were encouraged by the Senate to step in. A \$15m Television Advertisement campaign was launched to ~~present~~ ~~for~~ against Bork's nomination. More recently in 2009, Sonia Sotomayor's nomination process saw her criticised for comments made in a 2001 lecture she had given. ~~It~~ She had previously stated that ^{female} ~~she~~ Latina ~~women~~ ^{judges} reached "better conclusions" than white male justices due to their "experiences". Due to the fact that all nominations have to be confirmed by a politicised Senate, all ~~appointment~~ confirmations

to the court are done with political and not independent judicial minds.

The nomination process has also been criticised due to the fact that it has now become meaningless. This is the view espoused by current justice Elena Kagan who has described the process as a "rapid and hollow charade". This is because since Bork's rejection ~~of~~ where he stated that *Roe vs Wade* had no "constitutional grounding", nominees have been afraid to ~~associate~~ associate themselves with controversial opinions, often leaving a hazy impression of how they will perform ~~in~~ in the court. In addition the process has been dubbed as mean-made ingless because ~~of~~ nominees aren't accountable for what they say once they enter office. This was seen in 2005 with the nomination of Chief Justice John Roberts, who stated ~~that~~ "it is a ~~jo~~ in his nomination process that it is a "jolt" ^{to the legal system} when the court overrules a President". However in 2010 his court passed *Citizens United vs FEC* which prevented the President from limiting spending during election time by independent corporations.



Question 5

This was a particularly open question which saw some excellent answers and some very poor ones. The biggest problem for many candidates was uncertainty about which rights are actually contained in the Bill of Rights, and there was a lot of discussion of cases based on rights found outside the first ten amendments. This was a particular issue with the two most famous Supreme Court cases of the 20th century, *Brown* and *Roe*, in both of which the justices drew on the 14th amendment. A further problem was the term 'effectively' and weaker answers failed to engage with it at all; typically, they would describe the outcome of a court case such as *Citizen's United* and then end their paragraph with a one sentence 'conclusion', that the Bill of Rights had 'therefore' been effectively upheld. Such answers could not go higher than Level 2, and Level 3 answers needed some kind of recognition, if only implied, that assertion of one person's right almost always involves the denial of someone else's, and that there are competing viewpoints over the extent to which the case under discussion actually does uphold the Bill of Rights. Because of the array of cases candidates used, this was the least straightforward question on the paper for examiners to mark, and the answers which were easiest to reward were based around clearly identified parts of the Bill of Rights, one paragraph on each, with one or more corresponding Supreme Court cases. Many candidates claimed that the continued existence of the camp at Guantanamo Bay and the revelations of Edward Snowden were evidence of the Bill of Rights not being upheld but were often either hazy about which rights were being denied, or again invoked rights such as habeas corpus which are not in fact part of the Bill of Rights at all.

One could argue that the Bill of Rights has not been effectively upheld in the USA ~~with~~ from a liberal perspective by ~~a~~ highlighting decisions such as *Citizens United* and *McCotchean* ~~as~~ as they appear to have weakened the 1st Amendment of Free speech by linking it too money. However, from a more conservative/conservative perspective you could argue that money is speech and that in their ruling the Supreme Court has upheld this right. On balance, considering that the majority of Americans oppose such decisions such conservative activism by the Roberts Court appears to have damaged the Bill of Rights.

Conversely, conservative activism in the Heller/McDonald decisions have successfully upheld the Bill of Rights in particular the second Amendment - the ~~Right to~~ right to bear arms. The Heller decision ~~of~~ which stated that this right was individual rather than collective evidently ~~is~~ upheld the bill with the later McDonald decision in 2010 supporting this by prohibiting local laws from violating this right.

Yet, in other aspects highlighted by the whistleblower Edward Snowden the Bill of Rights has not been upheld and ~~is~~ in fact it seems that the 4th Amendment has been violated. The government's ~~was~~ seizing of mass data has enraged the general populace in particular progressives as it seems that the government had been acting Orwellian in its surveillance of its own citizens which appears to have damaged the Bill of Rights.

On balance, it would seem that the Bill of Rights has not been upheld with decisions like Citizens United weakening the 1st Amendment and the actions of

the government ignoring the 4th so far without
reprisand.



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Examiner Comments

This is one of the more successful answers to this question on the Bill of Rights, and the most successful paragraph within it is the first, where the candidate very effectively contrasts liberal and conservative perspectives on recent first amendment cases. S/he could very well have applied the same approach to the second paragraph on the second amendment but unfortunately didn't. The situation surrounding the Edward Snowden revelations of the PRISM programme cited in the third paragraph is not straightforward; many people, including Snowden himself, claim that the programme violates the fourth amendment but no right is absolute and, in the absence of a definitive court ruling, it is hard to say with any certainty whether the Bill of Rights has been upheld or not. The point is certainly worth some reward though and the answer as a whole was placed at the bottom of Level 3.

Question 6

Given the current stage of the Obama presidency, this question at least had the merit of topicality and, understandably, the problems of President Obama's second term formed the basis for most answers. Weaker answers often had a lot of knowledge about the Bush and Obama administrations but made little attempt to use it to address the issue of inevitability, or even to link it to the president's second term. Stronger answers were structured around possible reasons for inevitable decline or lack thereof, and used the evidence to support these positions; typically, these included loss of control of Congress, falling approval ratings and the fallout from policy failures in the first term. This was often countered by the idea of 'power without persuasion', Howell not infrequently being cited, either through constitutional loopholes or the president's relatively greater autonomy in foreign policy. The 'two presidencies' thesis, contrasting the difference between the restraints on the president in domestic policy and foreign policy, was frequently invoked.

Most answers ended up concluding that some loss of power was probably likely, if not inevitable; in contrast, some argued, based on the Obama experience, that given the restraints of his first term, the second term wasn't so much a loss of power as just more of the same. Sophisticated candidates were able to assess how far it was possible to generalise from the particular experience of one president, for example, whether the gridlock of the Obama second term with an opposition-controlled Congress meant that this led to an inevitable loss of power or whether there are specific circumstances, such as 'hyper-partisanship' which have brought gridlock about. Historical accuracy was not a feature of every answer, even where relatively recent history was concerned, and many candidates continue to believe that President Bush invaded Iraq without congressional approval, and that the Affordable Care Act was passed by a Republican-controlled House (or alternatively that it has yet to be passed).

The President's power almost always does decline in a second term in office. Certainly in terms of legislative output it does ~~depend~~ ^{usually} decline. However it does depend upon the national opinion of the President, and of the make up of Congress, both ideologically and which party is in power. The president's power to persuade declines after he is a confirmed lame duck, however he still has the power of veto, executive agreement and orders, as well as the federal bureaucracy that make him a powerful figure both domestically and abroad. In terms of legislation the president's power does decline in a second term in office. After Obama's legislative achievement in passing the

affordable car act through congress, his power was still fairly concrete, however after he was re-elected in 2012, and indeed after the 2010 midterms when the GOP captured the House, Obama had less political clout. The failure of a farm bill to pass through Congress unchallenged in early 2014 emphasises how

much Obama's power has waned. The ^{new tea party} Republican policy of filibustering at every turn has never been more clear. Bush did experience a similar problem with Democrats in his second term, particularly after the 2006 midterms. However it would be unfair to say that Obama's power as a president has inevitably declined until after the results of the 2014 midterms have been released and whether or not the Republicans have taken the Senate.

Obama is perhaps a special case in regard to the waning of presidential power in the 2nd term. The 113th Congress is the most dysfunctional in history, the government shutdown in late 2013 ~~over~~ ^{instigated} by House republicans in protest over Obama care is proof of this. George Bush was highly unpopular in his second term, but this extreme of reaction to the president has not been seen before and is unprecedented. However, the Tea party does appear to still be gaining

momentum as Eric Cantor was ousted from the House in his Virginia primary. The fiscal conservative approach to the interventionalist aspect of the presidency is perhaps not necessarily a reaction to Obama himself, but of what they believe he represents. Therefore, perhaps the decline in presidential power is not inevitable in the second term for all presidents, but particularly in the case of Obama.

Despite the fairly unique ideological circumstances of Obama's own decline in power, it is clear that he still retains the prerogative powers of the president. The veto threat was used by Obama in his state of union address this year as a significant presidential power that a divided and partisan congress would not be able to overpower. However, the veto threat has not abated, but inflamed for a party rage, as the GOP remains to the right of centrist presidential policies. Indeed, the frequent use of veto is a sign of a weak president as it shows that he cannot get anything done. Moreover, Bush had his own veto only 4 times whilst in office. However Bush was ^{able} ~~over~~ with the help of his ^{party} ~~own~~ power in a bi-partisan action that totally differs from Obama's own 2nd term weakness.

The prerogative powers of the president still used by the president are executive orders and agreements. Multiple executive agreements have been used by the president in an attempt to pass quasi-legislation to control the excessive proliferation of bureauc. However, this would be regarded by conservatives as both expansion of government power and an impinging upon 2nd amendment right. Liberals would favour Obama's use of the executive order to attempt to change immigration policies as it is more progressive. However, the key fact that Obama must use these measures emphasises that he is weaker in government than Bush ever was because of the polarisation of the country and Congress.

Perhaps where the president's power is greatest, even in the 2nd term is in foreign policy. In terms of this aspect of presidential power both liberals and conservatives unite in their opinion that the president is the representative of the USA. Ukraine in particular shows that the president appears to have authority. Indeed Putin appears to have stepped back from Ukraine after the annexation of Crimea. Equally the air strike on Libya emphasises that the president may be limited by the war powers act, however the role does give him the power to enact foreign policy however his domestic issues are in the 2nd term.

It may be true that the president maintains more political clout abroad than at home, however this is perhaps not as large as ^{perhaps} thought. The refusal of Congress to allow the president to mobilise troops in ~~the~~ Syria

emphasise not only that he is ^{checked} limited by the legislature, but that foreign policy is also limited by 2nd term, lame duck syndrome. When Bush declared war on Iraq in 2003, he was at the height of his popularity, vindicated by midterm GOP success. Obama is politically toxic domestically and his power is thus diminished.

Therefore, despite the fact that the power of the president is almost always in decline by his second term in office, it is clear that in the case of Obama, partisanship and polarisation in his second term are not necessarily his fault. His use of prerogative powers and indeed in foreign policy do counter this but not to the ~~same~~ extent whereby his power has not inevitably declined as Bush and his predecessors did.



ResultsPlus Examiner Comments

This is a secure Level 3 answer and shows a candidate engaging intelligently with the question. S/he knows their facts and so is aware for example that the Republicans gained control of the House in 2010 and that President Obama intended asking Congress for approval of military intervention in Syria but then abandoned it, knowledge not as widespread as might be imagined. There is also some perceptive analysis, for example in the discussion of whether President Obama is facing unique problems and hence no conclusion can be drawn about the inevitable decline of presidential power. Altogether, a very creditable product of 45 minutes' work.



ResultsPlus Examiner Tip

Keep up to date with the news: this candidate relevantly cites the defeat of the House majority leader in a primary, which happened the week the exam was sat, so s/he certainly didn't read about it in a textbook. An example like this impresses the examiner and the more recent the evidence, the more persuasive it is.

Question 7

This was the least popular 45 mark question, with many candidates perhaps deterred by the phrase 'effective leadership'. It produced a broad range of answers, including some of the very best responses to any of the 45 mark questions. There were at least three different angles to be considered: a) lack of effective leadership of Congress is a problem, b) it is not a problem, or c) it is a problem but not the main one, and most candidates discussed two or three of them, even if not always explicitly. A typical approach of the strongest answers was to support the statement by showing how leadership was not effective and then connecting this with other problems they identified.

Some candidates were able to make strong arguments that lack of leadership caused Congress to fail to effectively fulfil several of its functions such as legislation, representation and checking the executive. There were some answers, such as the one reproduced below, which were a real pleasure to read and showed tremendous skill and knowledge in just 45 minutes of writing. Identifying and using a range of different leaders from within Congress was helpful, and weaker answers discussed leadership in Congress without making it clear who exactly was included in that term. The Speaker of the House is a major political figure, whose role was often poorly understood; it was almost always the sign of a better answer when the candidate had heard of John Boehner and the very strongest could discuss how far it would be possible for any leader to control the current Congress's so-called 'kamikaze caucus'. In this connection, some candidates cited party polarisation as a factor creating problems for the leadership, and a few quite impressively cited the defeat of Eric Cantor, which had taken place only three days previously, as supporting evidence.

Congress has been described as a 'bohemian bazaar', partly due to the fact that leadership in Congress and by the President ~~is~~ are his party is ineffective. However, this essay shall argue that the problems Congress face are more due to an increase in partisanship and consequent gridlock, the ~~lack of representation~~ fact that Congress does not represent the US public effectively, the size of some of the districts in Congress and the lack of ability for Congress to check the other branches in some cases.

Leadership in Congress is central to its effective functioning, and there is scope to criticise the party leadership. ~~They~~ Both John Boehner as House speaker and Harry Reid (to a lesser degree) in the Senate, have been unable to control their party's caucus, and appeared unable to come to the compromise that the system of

shared power demands. For example, John Boehner, despite having relatively moderate instincts himself, was held to ransom by the Tea Party faction of the Republican party over the 2011 budget negotiations and the 2013 negotiations that resulted in a government shutdown. ~~The extent of the lack of control was evident from the~~ ^{Indeed} although an agreement was eventually reached and the 2013 Budget Act passed, they were ~~not~~ ^{made} ~~the~~ ^{but} ~~accommodations~~ ^{made} ~~in the past~~ ^{in the} ~~the~~ ^{past} the passing of the budget was routine. Moreover, Nancy Pelosi, while admittedly putting in a ~~huge~~ ^{huge} effort in getting the Affordable Care Act 2010 passed, 34 Democrats still voted against it. However, it might be said that this is more of a comment on the weakness of the party structure and the lack of moderate party leaders have to keep them in check. This is in contrast to the UK's patronage system where members of the legislature owe their position to the leader of the party (also, of course leader of the House, unlike in the US).

Indeed, it could be argued that a greater problem with congress was that members are torn between competing interests; that of the party, the national interest and the view of the "folks back home". Indeed, Kohler suggests that this latter point are usually congress' ~~by the top~~ ^{priority}, especially for members of the House who

are elected every two years from 143 districts. Indeed, this view was reinforced by a report from the University of Indiana suggesting that a majority of the 112th congress were willing to put local concerns ahead of any other consideration. This can have severe implications on the effectiveness of congress. For example, after the Sandy Hook shooting of 2012, the bi-partisan Gun Sense Budget and the check Act 2013 failed to pass after several democrats from states with high gun ownership voted against. Therefore, while a majority of americans approved some new measures to combat increasing gun violence, localism supported the proposal. This is indicative of the wider problem of congressional ineptitude and inefficiency: just 2-3% of proposed bills make it into law, and the 113th congress has been labelled by the Economist the "do a lot of nothing congress".

However, this is the criticism of localism has a deeper basis in a wider problem, that of increasing polarisation in congress. Where 30 years ago there was significant ideological overlap between the parties, with at least 20 democrats in the senate being more conservative than at least one republican, there is now no ideological overlap at all. This has been demonstrated by the defeat.

of centrist candidates such as Ben Collings of Maine; and the resignation of Olympia Snowe, the only Republican to vote for Obama's Affordable Care Act 2010, citing "hyper-partisanship" in Congress. This might be in part down to geography of districts such as North Carolina 12th, a so-called majority-minority district. Such pockets of support mean that extreme candidates have a sure bet in as they are a still a more attractive candidate than the other party's. Indeed, this is evident in Texas today where the 2014 Republican primaries suggest that the Tea Party faction of the Republican party has replaced the mainstream, demonstrated by the ongoing rise of Ted Cruz' popularity. Under such circumstances, it is perhaps understandable that party leaders in Congress struggle to get their members in line, as was evident in Ted Cruz' ill-advised ^{and unsuccessful} filibuster of the 2013 Budget Bill that could have seen the US default on its debt. Ideological polarization, whether a result ^{of} as people like Glenn Beck's Fusion team, unrepresentative party candidates, or Abramowitz also suggesting that the public itself has become a 50-50 nation, is clearly a very significant problem of Congress outside the control of the leadership.

A final problem with Congress, which diminishes

the ~~role~~ negative role of the leadership, is the large influence of pressure groups and special interests that have, as claim some, made US politics corrupt. For example, many of the ~~democrats~~ members who voted against the Gun Show Budget and Act 2013 were Republicans who had taken money from the NRA, who ~~donated~~ donated \$15 million to the Republican Party in 2013. This is especially significant when Committee chairmen are under the influence of lobbyists. For example, Max Baucus, despite being a democrat, watered-down the ACA 2010 while Henry Huhns campaigned heavily for the insurance industry. As chair of the House Finance Committee, he had significant sway over the passage of legislation and its nature. While not wholly responsible for the problems congress faces, it contributes to wider public apathy with politics: in 2013, just 16% in a Gallup poll said they approved of congress, and as one ~~commentator~~ ^{co-senator} put it, "only the most ~~exp~~ rabid partisans vote" as the ordinary voter loses interest.

In conclusion, it is clear that congress faces many problems, of which the lack of effective leadership is one. It means they find it more difficult to unite the different ideological factions,

or increasingly to reveal causes the role when necessary. However, this problem should be seen in the wider context of increasing polarisation that has led to administrative gridlock, and the prevalence of localism. Some might argue that it is how the Sunday letter encouraged congresses to function ('limited government'). However, they could not have encouraged the scale and entrenchment of partisanship of the modern congress, thus suggesting that Congress faces greater problems than merely ineffective leadership.



ResultsPlus

Examiner Comments

It is impossible not to be impressed by this essay. The accuracy of the detail, the perceptiveness and confidence of the analysis and the lucid way the whole piece fits together combine to make a piece of writing that is a pleasure to read. It was awarded full marks and deserves higher.

This essay is well worth reading in its entirety as an exemplar of what an excellent essay reads like.

Question 8

This question had the most familiar look of the three 45 mark questions and, unsurprisingly, it proved the most popular by some margin. The vast majority of responses were able to outline a range of arguments on both sides of the debate, although weaker answers tended just to consider the extent of the power of the court and the checks upon it, without making the explicit link to its role in a democracy. Only a limited number of candidates used the question to discuss different conceptions of democracy, and how these might have different implications for the role of an unelected court. There is certainly an interesting argument over whether its role is more justified if the court is adhering to the views of the majority or to its own conception of what is constitutional. The strongest answers were able to point out that the court seems to have taken different approaches at different times, going with the majority, for example, in *Furman* and defying them in *Johnson*.

Just as some answers to question 6 referred relevantly to the Executive Office of the President, so resourceful candidates were able to make use of material from their answers to questions 4 and 5, arguing that the politicised nature of the appointment process made the court's role less easy to justify, whereas their role in protecting rights was a point in its favour.

The Supreme Court possesses few powers, however the powers it does possess are argued to be extremely influential and many consequently argue that it cannot be justified in a democracy.

Firstly, many argue it to be undemocratic as justices are not directly elected by the ~~electorate~~ electorate, rather appointed by the President. The Supreme Court itself is also an institution which is not explicitly laid out in the constitution, and therefore perhaps should not possess such influential power.

Moreover the Supreme Court's power to rule acts unconstitutional can also be seen as being undemocratic in itself as it is regarded as a "self ^{derived} derived power". This is because of

Marbury v. Madison, where it was the supreme court justices themselves who gave the court the power to rule acts constitutional, not the legislature or the executive.

Moreover, supreme court justices hold their position for life, or until death or resignation which is regarded as extremely undemocratic as it means that the power of the supreme court cannot be regularly checked by the electorate through regular elections. - a key principle which the US constitution was founded upon.

There also exist very few checks by other governmental bodies on the judiciary. For example, congress only has the power to conduct investigations through committees on the supreme court, the power to impeach a justice and the power to confirm appointments. However, the latter of these powers are both regarded as ineffective as no supreme court justice has ever been impeached (they have ~~provisionally~~ resigned beforehand) and it is extremely rare for ~~there~~ congress to reject a Supreme court appointment -

only Clarence Thomas under George H. W. Bush. This would suggest that the power of the supreme court is ineffectively checked and therefore cannot be justified in a democracy.

Furthermore, to place such extensive and influential power in the hands of 9 justices is regarded ^{in itself} as being unconstitutional. The Founding Fathers founded the constitution on the basis of fear of tyranny in the hands of the few and therefore perhaps would not support the implementation of such an institution.

The power of the supreme court could also result in the rejection of laws which would in fact be welcomed by the majority. For example, 63% of the US population supported the Equal Civil Rights Act however it was ruled unconstitutional by the supreme court, and therefore not passed. Controversial issues such as gun control and the abolition of capital punishment should also perhaps not ultimately ~~lie~~ lie as decisions in the hands of nine

unelected, unrepresentative justices.

On the other hand however, many would argue that the Supreme Courts power can be justified in a democracy and remains perhaps for many the foundation for democracy.

For example, it is through the Supreme Court that we are able to recognise the importance and validity of the Bill of Rights as it has successfully upheld the civil liberties of US citizens for centuries in landmark cases such as *Brown v. Topeka*. It is therefore suggested that only through the Supreme Court can we ~~implement~~ implement true democracy.

It is also argued that the Supreme Court facilitates federalism and increases the importance of state rights. This is because it enables laws to be made not only on a national but also a state level, which can be regarded as a foundation of democracy.

Moreover, the Supreme Court needs to possess such influential power in order to be able to act as a

check to the President and Congress. For example, Under Nixon as a result of the Watergate affair, the Supreme Court ruled the acts of the President unconstitutional which consequently led to his impeachment. It is therefore important that the Supreme Court exists as a check to ~~the~~ potentially imperial presidency.

Furthermore, as an unrepresentative and unaccountable body, the Supreme Court is able to act as an unbiased, neutral body in dealing with ~~the~~ legislative potentially unconstitutional cases, which acts as a further check to the potentially tyrannical executive and legislature. However, it can also be argued that this point is invalid as justices are essentially categorical as being either ~~the~~ strict or loose constructionist in their approaches to political decisions.

In conclusion, it is evident that a body such as the Supreme Court needs to exist in the US governmental

system, to serve as a check to the other two bodies, however however, I believe that this power ~~is~~ should be more thoroughly checked by the branches of government, ~~as an~~ ~~untested body~~ in order to be justified in a ^{true} democracy.



ResultsPlus

Examiner Comments

This is another example of a very solid Level 3 answer. The candidate addresses all the main issues very competently and comes to a reasoned conclusion. It has a couple of weaknesses; at one or two points it isn't as clear as it might be, and it could use examples of recent Supreme Court cases to illustrate its points more extensively than it does. As important as *Brown* was in the history of the court, there are more recent cases available to make the same point and which would give the candidate the opportunity to comment on the way the court has developed in protecting civil liberties. Nevertheless, a creditable essay.

Paper Summary

Based on their performance on this paper, candidates are offered the following advice:

- keep focused on the question and repeat its key words in your answer think carefully about your choice of question before you start writing
- keep up to date with the news and use contemporary examples in your answer
- your conclusion to a 45-mark question should restate your answer to the question and the main arguments which support it.

Grade Boundaries

Grade boundaries for this, and all other papers, can be found on the website on this link:

<http://www.edexcel.com/iwantto/Pages/grade-boundaries.aspx>

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