

Examiners' Report  
June 2015

GCE Government and Politics 6GP04 4C

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## Introduction

This paper was a mixture of topics which had appeared in previous series and those which were appearing for the first time. Overall, examiners had the sense that candidates found the 45 mark questions more inviting than the short answer questions. A pleasing feature of many of these long answers in particular was a recognition by candidates that they needed to demonstrate they were answering the question in front of them; for example, in most answers to question 6, the key term 'anti-democratic' featured in the opening sentence of many paragraphs and indeed many final sentences as well.

There are a number of enduring myths which constantly recur in 4C answers and there should be a study into the reasons for their tenacity. Two which were ubiquitous in this year's answers are that President Nixon was impeached by the House of Representatives and that President George W. Bush launched action against Iraq in 2003 without congressional approval. A third is that the House of Representatives has the exclusive 'power of the purse', although a new variant appeared when a number of candidates transferred it in their question three answers to the Senate.

## **Question 1**

Questions on federalism are usually popular, but its development under President Obama does not seem well known, and many of the answers to this question were descriptive and not clearly focused on the relationship between the federal government and the states. There was a tendency to describe a new federal programme and assume that because it represented an expansion of federal activity, it was necessarily an increase in influence over the states.

Some federal initiatives – ‘Cash for Clunkers’ was one cited by a good number of candidates – were difficult to credit in the absence of an overt effect on state power. Health and immigration were more promising territory, and the Affordable Care Act was frequently referred to as an example of eroded state power, although very few candidates had an accurate knowledge of what the act provided for and how exactly the states were affected. Similarly, there were a lot of vague generalisations about the 2009 stimulus package and the states’ role in immigration, and even some stronger candidates claimed that immigration was traditionally a states’ responsibility. A few were able to show the impact of measures such as ‘DACA’ on the states; for example, an Arizona ban on ‘dreamers’ applying for driver’s licences was lifted by the courts last year, potentially giving 22,000 people the right to apply.

Chosen Question Number:

Question 1

Question 2

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Question 4

Question 5

In the Bill of Rights, the tenth amendment reserves all laws not controlled by the federal government to be passed down to the states. However since 2008 we have seen this right erode for numerous reasons.

Firstly, an increasing size of the federal bureaucracy has seen more activities be up taken by the government at the expense of individual states. Patient protection and affordable care act was a massive expansion of government bureaucracy amongst other Bills like Bank bailout, Economic Stimulus and car manufacturers bailout have seen government influence across the entire nation inflicting on the freedom of states to pass their own laws in such areas.

Secondly, we see an increase in government influence in a big way due to the economic meltdown in 2008 and subsequent recession. The economic collapse saw state tax revenues fall heavily whilst demand for services increase, to make matters worse, most states have their own constitutional law which states they must run a balanced budget. This lead to an increased need for states to rely on

government funding. Usually govt funding comes with lots of attachments to say how the money is to be spent (pork barrel) and to receive this money (grants), states must comply with the terms which come with the grants. This has led to an increase in federal governments influence through increasing use of pork barrel politics. Also Supreme court rulings have in recent years gone in favour of <sup>federal</sup> government. One high profile case, 'Arizona vs US' struck down three pieces of Arizona state law on immigration, the court ruled that it was the prerogative of the federal government to determine immigration law. ~~therefore~~ Therefore the court struck down the activities of the state under Article 6 of the constitution (all federal laws take precedence over state laws). Supreme court therefore ~~cast~~ cast the leading light on constitutional law in the US has given the federal government more power and influence over the states.

Although this can be said to show undoubted shift in influence over laws some recent examples have seen more power given to the states in areas such as social policy. Recent legislations of Marijuana in such states as Colorado has gone head on with federal policy banning the substance. Despite the USA being the leading light in the UN over strict drug control, the Supreme court and even Obama have been slow to intervene. Obama even stated it was the states right to pursue such policy and he would not attempt to block it. Thus we can say to some extent federal government has grown in influence over the states, but the states still hold a lot of influence over areas of social policy.



### ResultsPlus Examiner Comments

This is a typical lower L3 answer, making a good range of points describing both the expansion and contraction of the influence of the federal government over the states. The second paragraph on the Affordable Care Act and the stimulus programme is also typical in that it is rewardable but would ideally be much more precise on the impact on the power of the states. There is a little more detail in the following paragraphs which raises the quality of the answer.



### ResultsPlus Examiner Tip

Introductions - don't bother with an introduction for a short answer, they are either unrewardable, as here, or make points which are then repeated later in the answer.

## Question 2

Most candidates who attempted this question had some sense that that the living constitution meant Supreme Court justices adapting the constitution to contemporary society, but beyond that there was often uncertainty. Many candidates were evidently hoping for a question on judicial activism and announced in their first paragraph that it was the same thing as the living constitution, and never mentioned the living constitution again. A wide variety of cases were held up as examples of the living constitution in action; *Roe v Wade* was frequently and validly referred to, but more recent cases such as *National Federation v Sebelius* were less easy to reward.

Stronger candidates were able to give a developed and accurate definition of the living constitution, and two or three separate and clearly explained criticisms; the most frequently discussed were that the living constitution increases or magnifies the judicial review power of the Supreme Court, and that it leads to unelected judges imposing their own values on society. Weaker answers confused the living constitution with judicial review or even claimed that it required justices to adhere to the literal meaning of the constitution.

Chosen Question Number:

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'Living constitution' or ~~just~~ is an approach otherwise known as 'judicial activism' or 'loose constructionism', and is ~~an~~ a methodology to constitutional interpretation taken by, ~~suppose~~ conventionally, the liberal SCOTUS judges. This approach means that the constitution is adapted to enforce social change and to, in other words be progressive in line with the ~~the~~ time. As the constitution was written in 1787, advocates of this method see it as essential for *in. de facto* terms, updating the constitution, and keeping it adaptable with the present.

One reason why judicial activism / loose constructionism has been criticised is that ~~means~~ conservatives such as ~~the~~ Justice Clarence

Thomas view the practice as not in keeping with the principals of the original constitution as it is adapting the words too widely. For instance, in the notorious case *Roe v. Wade* (1973) ~~in~~ <sup>the</sup> case, the court justified abortion rights under the 'right to privacy' (4th amendment), which may have been conserved of the time ~~was~~ and today view as skewed interpretation of the constitution, masked in an effort to keep it living and in line with the ~~then~~ third wave of feminism taken place at the same time. Moreover, in 1954 the de segregation of schools ruling in *Brown v. Board of Education + Topeka* ~~was~~ <sup>is</sup> is conventionally viewed as an example of the 'Living Constitution' approach, however has been criticised by segregationists as well as originalists, who may find constitutionality in ~~the~~ segregation perhaps under equal protection, if separate is indeed equal as ruled in *Plessy v. Ferguson*,

Another reason why the 'Living Constitution'



approach has been criticised in that arguably it has granted the court over reaching powers that are, in themselves unconstitutional. Since the power of judicial review was <sup>self</sup> granted in 'Marbury v. Madison' (1803) and 'Fletcher v. Peck' (1810), the court has been criticised for its adoption of the ~~constitution~~ ~~to~~ which has large social impact. Thus, the 'living constitution' approach is somewhat 'salt in the wounds' as that is extending SCOTUS power beyond simply the "role of the umpire" (Roberts, 2013), to the 'player' as well. Moreover, ~~as the~~ as corroborated by CJ Hughes ~~he~~ who said "the law is what the judges says it is", the 'living constitution' approach ~~is~~ is arguably infringing too far upon SCOTUS's role as the legislative body, and since this power ~~was~~ was ~~self~~ given and in literalist terms, unconstitutional, judicial activism ~~is~~ has often been criticised, on arguably justifiable grounds.

In conclusion, the living constitution approach has led to impactful social change, and is arguably ~~overall~~ <sup>overall</sup> of SCOTUS's constitutional powers.

(Total for Question = 15 marks)



### ResultsPlus Examiner Comments

This answer gives a clear definition and then two distinct if related criticisms, which are well explained and refer to a number of different cases heard by the Supreme Court. There are minor inaccuracies and not every line is totally clear but it is certainly one of the better answers to this question and securely in L3.



### ResultsPlus Examiner Tip

Supreme Court terms - make sure you are secure about the difference between basic terms such as judicial activism, judicial restraint and judicial review, as under the pressure of an exam it is easy to muddle them.

### Question 3

This was generally a well answered and popular question, and most candidates could accurately explain three or more exclusive powers of the Senate. Typically, candidates discussed the ratification of appointments, the ratification of treaties, the impeachment trial and the filibuster. The key to this question was assessing the significance of the powers, rather than simply describing how they operate. Good Level 3 answers explained how an exclusive power is significant with at least one example and then developed the counter argument, demonstrating its limits; for example, that the Senate's power of treaty ratification is rendered less significant by the president's ability to make executive agreements. Some candidates successfully did this for three or even four powers. Weaker answers ignored the command word 'assess' and swapped over the votes needed for treaties and presidential nominations, sometimes even mixing up the powers of the two houses, claiming that the power of the purse or the power to declare war were exclusively the Senate's.

may use executive agreements, which are essentially informal treaties and so do not need to be ratified by the Senate. This was shown by Ronald Reagan who used 2800 executive agreements and undermined the Senate's power.

Another power that is exclusively given to the Senate is the power to trial <sup>or</sup> anybody that the House of Representatives impeach, including the president (POTUS). This has occurred on two occasions, firstly with Anderson Ford and the second, more recent time with Bill Clinton in 1995/6. This power is considered particularly significant as if accused & guilty, the Senate has the power to effectively convict and remove the POTUS. This suggests that the power to trial impeached members of the federal government is a significant exclusive power.

However, this may be challenged as impeachment need not necessarily mean the POTUS will be removed. Despite convincing evidence against Bill Clinton, he remained in office - it could be argued that this was due to the difficult 2/3 'super-majority'

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required.

Finally, the Senate has the exclusive power of confirming appointments to the Cabinet and the Supreme - Court. By doing so, particularly when Congress is in control by the opposing party of the POTUS, such powers may be deemed as significant. This was shown when Ronald Reagan's nominee, Robert Bork, was rejected by the Democrat controlled Senate. Despite Bork being one of the judges with the best track record and ~~and~~ <sup>being</sup> an honored scholar, he was rejected. Critics argue that this was due to his solid conservative stance which opposed the then liberals in the Democrat Party. This can be seen as significant, as it suggests that the Senate's exclusive power aids them in moulding - to an extent - the outlook of the Supreme Court.



### ResultsPlus Examiner Comments

This is an intelligent answer: knowledge of the Senate's exclusive powers is secure, if lacking detail and the assessment is well argued. It is also a very typical short answer 12, three points clearly and competently explained. To move further into L3, it would need more detail on the procedures, e.g. the difference between the majorities required for a treaty and a nomination, and more variety of supporting evidence.



### ResultsPlus Examiner Tip

Short answer structure - you need a balance between range and detail, so aim for three or four separate points. Three points as this answer makes can certainly be sufficient for full marks if done well.

## Question 4

The role of the Speaker had not been the subject of a question before, and perhaps consequently this was the least popular 15 mark question. Many who answered it though displayed an impressive range of knowledge; they knew a lot about the recent development of the role under Speaker Boehner and made relevant comparisons between his tenure and those of his predecessors, arguing why one was more or less powerful than the other.

Many were aware that the Speaker's role has been strengthened by recent partisan polarisation, through which the Speaker can rely on a more or less unified majority behind his or her leadership. The problems of Speaker Boehner with the Tea Party wing (sometimes styled by the press as the 'kamikaze caucus') were well known, and stronger answers could trace the growing power of the Speaker's role back to Newt Gingrich and contrast the differing styles of Nancy Pelosi and Dennis Hastert. Weaker answers lapsed into more generalised discussions of the power of Congress or the House, without explicit focus on the Speaker, and some demonstrated no knowledge of the names or actions of any recent Speaker.

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The Speaker of the House of Representatives has for many years guided policy making in the House through the use of the 'carrot and stick' approach. The 'carrot' here is persuading congressmen to vote a certain way and they'll return for pork in their constituencies. In this tie earmarking process has led to famous figures such as Mitch McConnell finding a \$2.2 billion river and for Congressmen such as John Murtha to be dubbed "King of Pork". However, recently, earmarking has been banned and thus the Speaker has lost the power to persuade his fellow congressmen effectively. In this way it could be argued that the Speaker has lost power and ~~is no longer~~

~~The stick~~ The 'stick' aspect of this approach is also a method used by the Speaker to get Congressmen to vote this way.

~~to be the Tea Party~~ The Speaker gets into contact with lobbyists on K Street and ~~strongly~~ strongly advises them not to fund congressmen who do not vote in a particular way. This shows the speaker can control his peers' finance for congressional elections. However, after the SCOTUS supreme court decision of Citizens United v. FEC, congressmen no longer rely on K Street for campaign finance but instead they look to Super PACs who willingly will donate extensive amounts such as Restore Our Future the Republican super PAC. This shows power has been taken away from the speaker as he can no longer use the 'stick' approach to scare-monger his colleagues into voting his way.

~~Rahner is a powerful speaker and is known by the media for~~  
Rahner's extensive ~~public~~ media appearances ~~and~~ make him out to be the spokesperson, the head of Congress albeit this is not the case. This makes him powerful as anything he says in his interviews

is taken to be the view of Congress as a whole  
~~however, there is~~ On the other hand  
hyperpartisanship in American Politics  
has meant that the speaker has had to  
shift his political stance to ~~move~~ further  
extreme right ~~side~~ and it could be  
argued that the speaker is then in fact  
controlled by the composition of Congress  
at the time, proving that he is no longer  
as powerful as he used to be.

The speaker can also decide which bills  
will be debated and debated on the floor  
and in this way he can effectively  
pigeonhole bills never to be seen again.  
~~the~~ This shows the speaker has power  
over the legislative process. However, the  
government shutdown in 2018 due to  
the advance of the Tea Party, a faction  
within Boehner's party which essentially  
led to the downfall of the public option part of  
Obamacare, it could be argued that power  
is in the hands of factions and they hold  
political importance rather than the speaker.



### ResultsPlus Examiner Comments

Like many of the better answers to this question, this answer shows a really quite impressive knowledge of the situation of the current Speaker and the different factors affecting his influence. To move to full marks, it would ideally have some knowledge of the role of previous Speakers and some more detail on the Speaker's formal powers.



### ResultsPlus Examiner Tip

Keep up to date - the strength of this answer is its awareness of contemporary developments, much of which cannot be found in the textbooks.

## **Question 5**

This was generally well answered, with most candidates able to discuss three or more factors. The key to this question, as for question three, was to assess their importance, and it was this focus which separated good answers from basic ones. Frequently cited factors were ideology, the 'EGG' factors (ethnicity, gender, geography), experience and ability, trust, bipartisanship and party unity. Assessment proved difficult for many, and even those who attempted it typically stated that one or other factor was 'important', without providing any convincing explanation why it was. To move up within Level 3, some sort of argument was needed; a sophisticated argument advanced by one candidate was that it was more likely that a Democratic president would use a bipartisan nomination such as Chuck Hagel to the Defense Department than for Health and Human Services, and if this approach was not used for the majority of cabinet appointments, then it suggested that ideological compatibility with the president is more important. Some of the strongest responses gave detailed explanation of a range of appointments, showing impressive knowledge of President Obama's cabinet, and good use was made of the nomination of Loretta Lynch to Attorney General this year. Some candidates wrote separate paragraphs on each of the EGG formula criteria, which was rewardable, but less easy to score highly compared to an answer which covered all three EGG factors in one paragraph, followed by a number of others. Weaker answers demonstrated minimal understanding of why the EGG formula was important, and simply stated that it was what presidents have to do.



rating. This was demonstrated by Reagan, as many criticized his cabinet not being diverse enough, and therefore lowered his public support especially amongst ~~dem~~ Democrats. Therefore ethnic diversity is a crucial factor when choosing cabinet members, as the cabinet has no significant role but is mainly an image of the administration.

Moreover, the president will seek to choose policy specialists, as the cabinet is another advisory body for the president. Therefore the president will ~~be~~ recruit members from universities, again Steven Chu, a physics professor, now secretary of energy. As Obama seeks to broaden his range of advisors, Policy Specialists can contribute effectively to ~~matters~~ issues. However, this is not ~~an impact~~ a significant factor as many policy specialist will lack political knowledge and may have very little to contribute in cabinet meetings.

Another factor which can contribute to a ~~part~~ president's decision when choosing his cabinet member ~~could be~~ is political experience. This is especially true for

outsider presidents such as Bush and Obama as they will require effective leadership of government departments and policy advice. Presidents are likely to have greater contact with first tier cabinet departments such as Secretary of State, and will therefore ~~be~~ require their political knowledge and expertise. However, this is not an important factor as again, the president has his EXOP, which are more loyal to him and often his vice president will have great political experience as can be seen with Cheney and Biden.



### ResultsPlus Examiner Comments

The strength of this answer is its engagement with the 'assess' element of the question; the extent of assessment for even some bottom L3 answers was the simple assertion that a particular factor is 'important' but to move up within L3 a more sophisticated approach is required, and this answer does attempt to offer it.



### ResultsPlus Examiner Tip

Command words - it's really important to pay attention to the key words of the question and in particular the instruction to 'assess' means that you must do more than simply explain a factor but additionally give a reasoned judgment on its significance, either relative to other factors or its changing significance over time.

## **Question 6**

This was a popular question and most candidates were able to present a series of arguments on each side of the debate; the features of the US constitution most frequently discussed were federalism, the separation of powers, checks and balances, the Electoral College, the bill of rights and the amendment process. The anti-democratic idea was grasped by some who explained that the constitution was based more on a suspicion of the uneducated masses than a desire to see strong popular control of political institutions, and that the indirect mechanism of the Electoral College and the original unelected nature of The Senate are a direct expression of this suspicion.

Some candidates lapsed into general criticisms of the constitution, for example around the separation of powers and the resulting gridlock, without convincingly linking it to democracy. Others seem to assume that anything that they considered undesirable was therefore anti-democratic, and the continued existence of the second amendment was often cited in this regard. Quite frequently, candidates discussed features of the political system such as gerrymandering or the congressional legislative process without apparently being aware that they are not actually part of the constitution itself. Slightly oddly, a few candidates took the question to be about the constitution and the Democratic *Party*, and unsurprisingly struggled to find much to say.

resulting in Nixon's resignation. As there are arguments for both the constitution being undemocratic and democratic reforms have been suggested as there is no question in my opinion that the constitution's negatives are significant.

One widespread belief as to why the constitution is undemocratic is because of the Supreme Court's power of judicial review, this was a self-granted power through *Marbury vs. Madison* and gives the court the power to declare any acts of Congress or executive undemocratic which is seen as being undemocratic as the constitution states that all branches are to be equal but the power of judicial review grants the judiciary as being a quasi-legislative branch having supreme power over the other branches. Rulings include *Boumediene vs. Bush*, *US vs. Arizona* and *DC vs. Heller*. On the other hand people strongly believe the judiciary needs to have this power for sufficient checks on the legislature and executive branch to succeed. The legislative branch of Congress has extremely low approval ratings of 20% and currently

Obama has low approval ratings of 40% and so decisions made by this divided government aren't always for the good of the people and so the judiciary acts as a safety valve.

Another reason why people may revere the constitution is undemocratic is because of its hard amendment process. This process requires super majorities of  $\frac{2}{3}$  of both houses of Congress and  $\frac{3}{4}$  of States which in a time of growing partisanship and in such a large country can be almost impossible. This is why only 27 amendments have happened, the first 10 almost straight away being the Bill of Rights. People revere this is unproductive and the hard process can result in an ineffective government constantly fighting the status quo. Big issues arise on this with gun control, through the second amendment 'the right to bear arms' it grants each individual the right to possess a firearms. Nowadays after significant shootings such as the Newtown Massacre there is a more antigun feeling and yet Obama and Biden proved unsuccessful in any gun control laws, which pleased the NRA. The counterargument for the amendment process being too difficult

is that it enables only scrutinized, efficient, well regarded, necessary and largely supported laws to come into place. This is why the constitution can be seen as democratic. as 10,000 bills may be proposed and only 5% will succeed such as the amendment to repeal alcohol prohibition and the amendment to allow the Senate to become elected rather than appointed. It is also clear that the constitution may be seen as undemocratic due to the nature of the House and Senate being unrepresentative. The House elections are every two years which means they are constantly campaigning in preparation for the next election which makes less time for effective laws to be focused on and implemented. This is where pork barrel or earmarking comes in where ~~the~~ a member of Congress might be representative to their state or district but at the expense of the rest of the country in order to prevent being defeated. This was apparent when Ted Stevens built the 'Bridge to Nowhere' ~~to~~ linking 50 residents to an island costing the government

8200 million. The House especially is also seen as being undemocratic due to gerrymandering. This means in places such as North Carolina or Maryland district boundaries have been changed to odd shapes to benefit their own parties. Representatives are also not representative in terms of race or gender. Although this is increasing only 20% of current Congress is women, there are only two black senators, Tim Scott and Corey Booker and three hispanics, Ted Cruz, Marco Rubio and Bob Menendez. This is clearly not the racial make up of America as a whole where 14% of the population is black and 17% is hispanic. The reasons for many of racial inequalities in Congress is because of incumbency which is seen as undemocratic and with no laws on term limits in the constitution is extremely hard to amend as it is out of self interest. On the other hand people may argue it is democratic as it has stood the test of time, although archaic or possibly anachronistic it has been able to evolve, resulting in racial equality through Civil Rights Act and more recently through Lilly Ledbetter Act for equal pay for women.

form which is a type of amendment. On the other hand it is also clear the archaic format when created where there were only 13 states has meant the amendment process is nearly a failure. Although it results in scrutinized bills it also results in bills being overly scrutinized making ~~the~~ bills such as the flag desecration impossible to implement although it had large support, just not enough. Therefore to conclude the constitution in order to be democratic will need reforms to ensure the greater society and its adaptations is followed by the law.



### ResultsPlus Examiner Comments

This is one of the better answers to this question because it does attempt to bring in some detailed supporting evidence. There are one or two inaccuracies, for example it seems to confuse the processes for passing legislation and constitutional amendments at one point, and it drifts away from the question at times as well, but overall a good answer.



### ResultsPlus Examiner Tip

Keep focused on the key terms of the question - if you keep mentioning the key terms, in this case 'anti-democratic', it reassures the examiner that you are answering the question in front of you and not the question you were hoping would come up.



Question 6 Question 7 Question 8 

It is clear that <sup>as</sup> ~~although~~ the president is Commander-in-Chief of the US armed forces, and is responsible for signing international treaties on behalf of the USA, that the president ~~can~~ can actually always have the foreign policy they want as they hold a large amount of power in relation to foreign policy. However, it can also be argued that this is not the case as Congress' "power of the purse" means that the president's foreign policy is ultimately reliant on the backing and permission of Congress.

Firstly, it is clear that the president can always have the foreign policy that they want due to the fact that they are Commander-in-Chief of the US armed forces and can take unilateral military action without consulting Congress. Although a formal declaration of war must be passed by Congress, this has not been done since ~~1941~~ the 1941, the declaration on Japan, despite the fact that the USA has entered numerous conflicts since then. For example, ~~the~~ ~~US~~ ~~was~~ ~~able~~ ~~to~~ George W. Bush invaded Afghanistan in 2001 and Iraq in 2003, and ~~the~~

Barack Obama bombed Libya in 2011, all of which were done without a formal declaration of war from Congress. As the president has been able to carry out military action unilaterally without the involvement of Congress or a ~~the~~ formal declaration of war by Congress, it is clear that the president can always have the foreign policy they want as ~~they can~~ the conflicts such as the bombing of Libya in 2011 ~~a~~ by president Obama show that the president can act unilaterally in foreign policy.

However, it can also be argued that Congress' "power of the purse" prevents the president from acting unilaterally in foreign policy, and means that the president cannot always have the foreign policy they want. As the federal budget must be approved by Congress each year, it is possible that Congress could, for example, withdraw funding from the military, therefore making unilateral presidential military action impossible.

However, it can also be argued that Congress' "power of the purse" ~~is~~ is ~~not~~ useless due to the fact that the president can manipulate Congress in order to get the foreign policy they want. For example, in 2003 ~~Congress~~ the Democrat-controlled Congress was planning to withdraw funding from the military in order to stop the ~~the~~ planned invasion of Iraq by the Republican president George W. Bush. However, Bush stated that "any deaths of American

Congress to go to war in Iraq in 2003, Barack Obama was not able to do the same in relation to Syria in 2013, ~~showing~~ showing that the president is not always able to have the foreign policy they want.

All in all, it is clear that the president is able to always have the foreign policy that they want due to their ability to undertake unilateral military action ~~and~~ without a formal declaration of war from Congress, such as Barack Obama's bombing of Libya in 2011 and George W. Bush's invasion of Iraq in 2003. Also, that the president is able to use their extensive political clout in order to achieve the foreign policy they want, such as Bill Clinton's success in initiating the peace process in Northern Ireland in 1997. It is also clear that the president can manipulate Congress in order to achieve the foreign policy they want, ~~as~~ as George W. Bush did successfully in 2003 in relation to the invasion of Iraq. ~~Therefore~~ All these factors show that the president can use a range of methods in order to achieve the foreign policy they want.

Congressional Republicans and EU officials in ~~relation~~ relation to the "Trans-Atlantic Trade and Partnership" agreement and, before signing the agreement, that to try and achieve a more favourable outcome for the U.S. This shows that ~~although~~ the president cannot always have the foreign policy they want as although they ~~are~~ are responsible for signing international treaties on behalf of the USA, as these treaties must also be ratified by Congress, they must act as a mediator between Congress and foreign officials, meaning that there must be compromise, and that the president cannot always have the foreign policy they want. This was also evident after world war 1 when, although president woodrow wilson ~~was~~ wanted the USA to join the league of nations, Congress opposed the USA's entry into the league, and there wilson was unable to have the treaty ratified, and the foreign policy he wanted.

It can also be argued that the president cannot always have the foreign policy they want due to Barack Obama's failure to go to war in Syria in 2014. ~~to~~ convince Congress to go to war in Syria in 2014. Although Barack Obama was initially planning to carry out unilateral military action in Syria as commander-in-chief, a ~~was~~ debate in Congress was called after the UK parliament voted not to go to war, in which Congress voted no to war as well. This shows that although George W. Bush was able to manipulate

Congress to go to war in Iraq in 2003, Barack Obama was not able to do the same in relation to Syria in 2013, ~~the~~ showing that the president is not always able to have the foreign policy they want.

All in all, it is clear that the president is able to always have the foreign policy that they want due to their ability to undertake unilateral military action ~~the~~ without a formal declaration of war from Congress, such as Barack Obama's bombing of Syria in 2011 and George W. Bush's invasion of Iraq in 2003. Also, that the president is able to use their extensive political clout in order to achieve the foreign policy they want, such as Bill Clinton's success in initiating the peace process in Northern Ireland in 1997. It is also clear that the president can manipulate Congress in order to achieve the foreign policy they want, ~~as~~ as George W. Bush did successfully in 2003 in relation to the invasion of Iraq. ~~the~~ All these factors show that the president can use a range of methods in order to achieve the foreign policy they want.



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Examiner Comments

This is a typical low-mid L3 answer to this question: there is a consistent engagement with its key terms and there is a good range of evidence presented on both sides. There are some minor inaccuracies and the candidate believes, as many do, that President Bush invaded Iraq without any congressional authorisation.



### ResultsPlus

Examiner Tip

Essay structure - you can either structure your essay as two halves or as a series of arguments and counter-arguments as this answer does. If you choose the second option, try to give the reader a sense of where your overall argument is headed, as otherwise they can be left feeling a little disorientated.

Question 6 Question 7 Question 8 Has

- \* <sup>2013</sup> Shelby v Holder - states.
- \* <sup>2008</sup> DC v Heller - guns.
- \* <sup>2007</sup> Gonzales v Corhart - Abortion
- \* <sup>2011</sup> Snyder v Phelps - Speech.

Hasn't

- \* <sup>2015</sup> US v Windsor - gays.
- \* <sup>2012</sup> NFIB v Sebelius - healthcare.
- \* <sup>DC v Heller 2008</sup> ~~US v Arizona~~ <sup>states</sup> ~~States (CA)~~
- \* <sup>2009</sup> Sotomayor + <sup>2010</sup> Kagan = L.
- \* <sup>2007</sup> Women's rights - US v Virginia (2007)

Since 2008, when Chief Justice John Roberts replaced former chief justice William Rehnquist, there has been much debate over whether the Supreme Court has become more conservative in its rulings. Much evidence suggests this to be true.

Firstly, the return of power to the states and the upholding of state laws is traditionally a conservative ~~value~~ value, therefore the ruling in Shelby v Holder (2013) showed how the Supreme Court are trying to restore a type of federalism more like that of dual federalism, which lasted until the the 1930s with FDR's new deal. This exemplifies how rulings since 2008 could be seen as ~~more~~ <sup>more</sup> conservative in the Roberts court.

Secondly, the upholding of 2<sup>nd</sup> Amendment right "to keep and bear arms" ~~is~~ is a more right wing ~~value~~ idea. This was supported in the

## **Question 8**

This was the least popular essay question and, while it attracted a lot of weaker responses, it allowed some candidates to shine. The key to a successful answer was knowing what conservative values are (or arguably might be) and applying cases and outcomes to these values in detail. Trying to give a sense of the extent to which a ruling advanced conservative values could be well rewarded; for example, one candidate argued that the Hollingsworth case was only a minor triumph for liberals because it was protecting state rights, typically a conservative cause, and only incidentally protecting gay rights. Some candidates spent a long time at the beginning of their answers on changes to the court's composition, which was more neatly done in connection with individual cases. Many understood that the Sotomayor and Kagan nominations made little impact on the ideological makeup of the court, while Alito's replacement of O'Connor was significant in moving the court in a conservative direction. Some answers were devoted to outlining certain key cases, with little or no reference to conservative values, while others became lost in discussing individual justices and their views. Predictably, there was some uncertainty over which cases were post-2005, and even *Roe* and *Brown* got a mention in some answers.

DC v Heller (2008) where the court agree the right to own a gun should not be infringed. This was criticised by progressives as the first part of the amendment refers to a "well-regulated militia" therefore being argued that there should be laws and restrictions in place to ensure gun ownership is regulated. However, despite opinions on the ruling, it was clearly conservative.

Since 2005, rulings on abortion have clearly become increasingly conservative. Prior to Robert's appointment, cases such as Roe v Wade (1973), legalizing abortion and Stenberg v Carhart (2000) lifting the partial birth abortion act, were considered very liberal. However, in more recent years rulings have shifted towards the right. In 2007, Gonzales v Carhart resulted in the reauthorization of the partial birth abortion act, despite the case 7 years before. The replacement of a more liberal justice with the strict constructionist Samuel Alito, shows how the ideological changes to the court's justices have advanced conservative values since 2005.\*

On the other hand, more liberal justices have been appointed as well, for example Sonia Sotomayor's appointment in 2009 and Elena Kagan's in 2010 shows how perhaps the court is still balanced with 4 liberal justices (Breyer, Kagan, Sotomayor & Bader Ginsburg), 4 conservative (Alito, Roberts, Scalia & Thomas) with one



"swing justice", Anthony Kennedy (though is considered conservative-leaning).

Furthermore, the liberal advancement of gay rights has been significant since 2005 with the striking down of prop 8 and US v Windsor in 2013. The use of the ~~5~~ implicit "right to privacy" clause in the 14<sup>th</sup> amendment has been used numerous times to support loose constructionist viewpoints and the judicial activism on these subjects. This suggests, that conservative advancements may not really have been made and the Roberts court is relatively liberal.

In addition, even conservative justice Roberts has voted for a liberal result though "swing" justice Kennedy voted conservatively. In NFIB v Sebelius<sup>2012</sup>, Roberts voted in favour of Obamacare despite clearly demonstrating how conservative advancements since 2005 could be limited. However, he voted this way whilst criticising Obamacare, describing it as "unworkable", as he exercised judicial restraint, and he did not see Obamacare as clearly unconstitutional thus, put aside his own views and purely judged it against the constitution. This approach is often favoured by conservatives so, although the specifics of the case ~~was~~ caused a liberal outcome, the method of judging is often ~~considered~~ associated with a more right wing approach.

Though there~~s~~ have been ~~the~~ several liberal decisions made since 2005, several of them are merely maintaining the rulings which already had taken place (such as *US v Windsor* supporting *Lawrence v Texas* 2000) and the use of ~~conservative~~ judicial restraint doesn't advance liberal values: it is used as a judicial tool in order to remain unbiased and thus have no political connotations attached to you.

In~~s~~ conclusion, the back-tracking on previous more liberal judgements, replacing them with ~~more~~ increasingly conservative values and the strict upholding of constitutional rights (guns in *DC v Heller*, or speech in *Snyder v Phelps* 2011) illustrates how clear ~~conservative~~ advancements of conservative values have been made since 2005.

\* Another conservative ruling was based around the 1<sup>st</sup> amendment, securing an absolute freedom of speech ~~despite~~ as seen in *Snyder v Phelps* (2011) where, despite public opinion being overwhelmingly against it (especially among the left wing progressives) the conservative decision to protect ~~the~~ citizens' 1<sup>st</sup> amendment right (in this case specifically freedom of speech) showing how conservative ~~values~~ have advanced since 2005, and John Roberts' appointment.



### ResultsPlus Examiner Comments

This is a confident and well argued answer. Its knowledge of recent cases is very secure and integrates recent changes in the court's personnel neatly into the discussion. There are some really quite sophisticated touches, for example the point that although the *Sebelius* case affirming the constitutionality of the Affordable Care Act could be seen as a liberal victory, it is also an example of judicial restraint, traditionally promoted by conservatives.

## Paper Summary

Key points for the future to improve candidates' answers:

- Short answer structure - you need a balance between range and detail, so aim for three or four separate points. Three points can certainly be sufficient for full marks, if done well.
- Introductions - don't bother with an introduction for a short answer, they are either unrewardable or make points which are then repeated later in the answer.
- Command words - it's really important to pay attention to the key words of the question, and in particular the instruction to 'assess' means that you must do more than simply explain a factor but additionally give a reasoned judgment on its significance, either relative to other factors or its changing significance over time.
- Focus on the key terms of the question - if you keep mentioning the key terms, it reassures the examiner that you are answering the question in front of you and not the question you were hoping would come up.
- Essay structure - you can either structure your essay as two halves or as a series of arguments and counter-arguments. If you choose the second option, try to give the reader a sense of where your overall argument is headed, as otherwise they can be left feeling a little disorientated.

## **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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