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**General Certificate of Education  
June 2010**

**Government and Politics      GOV4A**

**The Government of the USA**

**Unit 4A**

***Mark Scheme***

Mark schemes are prepared by the Principal Examiner and considered, together with the relevant questions, by a panel of subject teachers. This mark scheme includes any amendments made at the standardisation meeting attended by all examiners and is the scheme which was used by them in this examination. The standardisation meeting ensures that the mark scheme covers the candidates' responses to questions and that every examiner understands and applies it in the same correct way. As preparation for the standardisation meeting each examiner analyses a number of candidates' scripts: alternative answers not already covered by the mark scheme are discussed at the meeting and legislated for. If, after this meeting, examiners encounter unusual answers which have not been discussed at the meeting they are required to refer these to the Principal Examiner.

It must be stressed that a mark scheme is a working document, in many cases further developed and expanded on the basis of candidates' reactions to a particular paper. Assumptions about future mark schemes on the basis of one year's document should be avoided; whilst the guiding principles of assessment remain constant, details will change, depending on the content of a particular examination paper.

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## CRITERIA FOR MARKING AS/A2 GOVERNMENT AND POLITICS

### Introduction

AQA's revised Government and Politics specification has been designed to be objectives-led in that questions are set which address the assessment objectives published in the specification. The assessment objectives for A Level and AS are the same, but the weightings are different at AS and A2. Details of the weightings are given in Section 4.2 of the specification.

The schemes of marking reflect these objectives. The mark scheme which follows is of the *levels-of-response* type showing that candidates are expected to demonstrate their mastery of the skills required in the context of their knowledge and understanding of Government and Politics. Mark schemes provide the necessary framework for examiners but they cannot cover all eventualities. Candidates should be given credit for partially complete answers. Where appropriate, candidates should be given credit for referring to recent and contemporary developments in Government and Politics.

Consistency of marking is of the essence in all public examinations. It is therefore of vital importance that assistant examiners apply the mark scheme as directed by the Principal Examiner in order to facilitate comparability with the marking of other options.

Before scrutinising and applying the detail of the specific mark scheme which follows, assistant examiners are required to familiarise themselves with the general principles of the mark scheme as contained in the Assessment Matrix.

At A2, generally speaking, there is no unambiguously 'right' or 'wrong' answer to the 30-mark questions. Answers will be judged on factors such as quality of the argument, depth of knowledge and understanding, a synoptic grasp of the subject, appropriateness of the examples and internal logic of the discussion. Where candidates are presented with a proposition to be discussed they may support it, reject it or adopt a balanced position.

There are no limits to the areas of knowledge that candidates may feel able bring to the discussion. Therefore the specification of requirements outlined in the mark schemes can only be indicative. Candidates are not expected to include all the material presented in order to access the full range of available marks. At the same time they may successfully include material from their particular studies which is not indicated in the scheme.

### Using a levels-of-response mark scheme

Good examining is about the consistent application of judgement. Mark schemes provide a framework within which examiners exercise their judgement. This is especially so in subjects like Government and Politics, which in part rely upon analysis, evaluation, argument and explanation. With this in mind, examiners should use the Assessment Matrix alongside the detailed mark scheme for each question. The Assessment Matrix provides a framework ensuring a consistent, generic source from which the detailed mark schemes are derived. This supporting framework ensures a consistent approach within which candidates' responses are marked according to the level of demand and context of each question.

Examiners should initially make a decision about which Level any given response should be placed in. Having determined the appropriate Level the examiners must then choose the precise mark to be given within that Level. In making a decision about a specific mark to award, it is vitally important to think first of the mid-range within the Level, where that Level covers more than two marks. Comparison with other candidates' responses to the same question might then suggest whether the middle mark is unduly generous or severe.

In making decisions away from the middle of the Level, examiners should ask themselves questions relating to candidate attainment, including the quality of language. The more positive the answers, the higher should be the mark awarded. We want to avoid 'bunching' of marks.

Levels mark schemes can produce regression to the mean, which should be avoided. A candidate's script should be considered by asking 'Is it:

- precise in its use of factual information?
- appropriately detailed?
- factually accurate?
- appropriately balanced or markedly better in some areas than others?
- generally coherent in expression and cogent in development (as appropriate to the level awarded)?
- well presented as to general quality of language?'

The overall aim is to mark positively, giving credit for what candidates know, understand and can do.

**A2 GOVERNMENT AND POLITICS****GENERIC MARK SCHEME for questions with a total of 10 marks**

<b>Knowledge and Understanding: Recall, Select &amp; Deploy</b>	<b>Skills: Analysis &amp; Evaluation</b>	<b>Communication</b>
<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
<p><b>Level 4 (4 marks)</b> The candidate demonstrates a comprehensive knowledge and understanding of political concepts, institutions and processes. The candidate fully addresses the requirements of the question and provides developed and effective to comprehensive interpretation. The answer also provides clear to accurate evidence and, where appropriate, good to excellent examples to illustrate points made.</p>	<p><b>Level 4 (4 marks)</b> The candidate applies an excellent range of developed concepts and uses appropriate political theory to construct a clear and cogent explanation or argument.</p>	<p><b>Levels 3–4 (2 marks)</b> The candidate communicates clearly and effectively in a sustained and structured manner, using appropriate political vocabulary. There are few, if any, errors of spelling, punctuation and grammar and the response should be legible.</p>
<p><b>Level 3 (3 marks)</b> The candidate demonstrates good knowledge and understanding of political concepts, institutions and processes. The candidate clearly addresses the requirements of the question and provides sound interpretation and contextual awareness. The answer includes good examples to illustrate points made.</p>	<p><b>Level 3 (3 marks)</b> The candidate applies a good range of developed concepts and uses appropriate political theory to construct a clear and cogent explanation or argument.</p>	<p>The answer has a clear sense of direction, is focused on the question and, where appropriate, has a conclusion which flows from the discussion.</p>
<p><b>Level 2 (2 marks)</b> The candidate demonstrates limited knowledge and understanding of political concepts, institutions and processes. The candidate makes a limited attempt to address the requirements of the question and provides little to partial but reasonably effective interpretation. Answers offer limited evidence and few or inaccurate examples to illustrate points made.</p>	<p><b>Level 2 (2 marks)</b> The candidate applies a limited range of concepts and makes limited use of political theory or ideas in developing an explanation or argument.</p>	<p><b>Levels 1–2 (1 mark)</b> The candidate communicates explanations or arguments with limited clarity and effectiveness using limited political vocabulary. The answer may lack either a clear focus on the question or a sense of direction.</p>
<p><b>Level 1 (1 mark)</b> The candidate demonstrates little knowledge and understanding of political concepts, institutions and processes. The candidate makes little attempt to address the requirements of the question and provides little interpretation. Answers offer little evidence and few or inaccurate examples to illustrate points.</p>	<p><b>Level 1 (1 mark)</b> The candidate applies few concepts and makes little use of political theory or ideas in developing an explanation or argument.</p>	<p>There are frequent errors of spelling, punctuation and grammar and legibility may be a problem. A conclusion, where appropriate, may be offered but its relationship to the preceding discussion is modest or implicit.</p>
<p><b>0 marks</b> No relevant response.</p>	<p><b>0 marks</b> No relevant response.</p>	<p><b>0 marks</b> No relevant response.</p>

**A2 GOVERNMENT AND POLITICS****GENERIC MARK SCHEME for questions with a total of 30 marks**

<b>Knowledge and Understanding: Recall, Select &amp; Deploy</b>	<b>Skills: Analysis &amp; Evaluation</b>	<b>Communication</b>
<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
<p><b>Level 4 (10–12 marks)</b> The candidate demonstrates a comprehensive knowledge and understanding of political concepts/theories/institutions and processes and the relationships between them. A synoptic approach is fully developed, drawing appropriately on knowledge, perspectives and examples from a wide range of studies in government and politics. The answer fully addresses the requirements of the question and demonstrates excellent contextual awareness. The answer includes excellent examples to illustrate points made. The answer includes detailed and comprehensive interpretations or explanations as well as accurate evidence and relevant examples to illustrate points made.</p>	<p><b>Level 4 (10–12 marks)</b> The candidate displays excellent awareness of the implications and demands of the question. There is an excellent and sustained focus on the specific question asked. There is clear and full evaluation of political institutions, processes and behaviour which displays a sophisticated awareness of differing viewpoints and recognition of issues. Appropriate parallels and connections are clearly identified, together with well-developed comparisons. A wide range of concepts is used and developed.</p>	<p><b>Level 4 (6 marks)</b> The candidate communicates structured and sustained arguments, explanations and conclusions with clarity. Excellent use is made of political vocabulary to construct cogent and coherent arguments and explanations. The response should be legible, with few, if any, errors of spelling, punctuation and grammar. The answer has a clear sense of direction, culminating in a conclusion that flows from the preceding discussion.</p>
<p><b>Level 3 (7–9 marks)</b> The candidate demonstrates sound knowledge and understanding of political concepts/theories/institutions and processes and the relationships between them. A synoptic approach is well developed, using a range of knowledge, perspectives and examples gained elsewhere in the study of government and politics. The answer clearly addresses the requirements of the question and demonstrates sound contextual awareness. The answer includes developed and effective interpretations or explanations and also clear evidence and good examples to illustrate points made.</p>	<p><b>Level 3 (7–9 marks)</b> The candidate displays sound awareness of the implications and demands of the question. There is a clear focus on the question. There is a sound evaluation of political institutions, processes and behaviour which displays good awareness of differing viewpoints and recognition of issues. There is good recognition of parallels and comparisons. Appropriate concepts are used and developed.</p>	<p><b>Level 3 (4–5 marks)</b> The candidate communicates arguments, explanations and conclusions well. Good use is made of political vocabulary to construct clear arguments and explanations. The response should be legible but there may be occasional errors of spelling, punctuation and grammar. The candidate produces an answer with a conclusion linked to the preceding discussion.</p>

**GENERIC MARK SCHEME for questions with a total of 30 marks (continued)**

<b>Knowledge and Understanding: Recall, Select &amp; Deploy</b>	<b>Skills: Analysis &amp; Evaluation</b>	<b>Communication</b>
<b>AO1</b>	<b>AO2</b>	<b>AO3</b>
<p><b>Level 2 (4–6 marks)</b> The candidate demonstrates outline knowledge and understanding of political concepts/theories/institutions and processes and some awareness of the relationships between them. The answer makes a limited attempt to address the question and demonstrates contextual awareness covering part of the question. An attempt to develop a synoptic approach is made, using a limited range of knowledge, perspectives and examples gained more broadly in the study of government and politics. The answer includes a partial and reasonably effective attempt at interpretation or explanation, with some examples to illustrate points made.</p>	<p><b>Level 2 (4–6 marks)</b> The candidate displays little awareness of the implications and demands of the question, resulting in a restricted focus. There is a limited evaluation of political institutions, processes and behaviour, which displays a partial awareness of differing viewpoints and issues.  There is some recognition of basic parallels and comparisons. Arguments and explanations are undeveloped, with a limited use of concepts.</p>	<p><b>Level 2 (2–3 marks)</b> The candidate communicates arguments and conclusions adequately, with a limited use of political vocabulary. There are frequent errors of spelling, punctuation and grammar and legibility may be a problem. A conclusion is offered but its relationship to the preceding discussion may be modest or implicit.</p>
<p><b>Level 1 (1–3 marks)</b> The candidate demonstrates a slight and incomplete knowledge and understanding of political institutions and processes and a limited awareness of the relationships between them. A very limited attempt at synopticity is made, sometimes using superficial or inaccurate knowledge, perspectives and examples cited from elsewhere in their study of government and politics. There is little attempt to address the requirements of the question. There is only superficial awareness, if any, of the context of the question, with little interpretation and few, if any, examples, often inaccurately reported or inappropriately used.</p>	<p><b>Level 1 (1–3 marks)</b> The candidate displays little awareness of the implications and demands of the question and focus is lacking. Evaluation of political institutions, processes and behaviour is superficial.  Analysis shows little awareness of differing viewpoints and issues. There is little, if any, recognition of parallels and comparisons. Arguments, explanations and use of concepts are superficial and naïve.</p>	<p><b>Level 1 (1 mark)</b> The answer relies upon narrative that is not fully coherent. There is little or no use of political vocabulary. Errors in spelling, punctuation and grammar may be intrusive and the response may not be legible. A conclusion, if present, is not adequately related to the preceding discussion.</p>
<p><b>0 marks</b> No relevant response.</p>	<p><b>0 marks</b> No relevant response.</p>	<p><b>0 marks</b> No relevant response.</p>

**Topic 1 The Constitutional Framework of US Government Total for this topic: 40 marks**

(01) Explain the principle and practice of checks and balances in US government. (10 marks)

The constitutional principle of checks and balances underpins working of the separation of powers in the US constitution. It enables the various branches of the constitution to function alongside each other and seeks to prevent any one individual or political body from holding excessive power. This principle attempts to maintain a balance of power at the federal level between the executive, the legislative and the judicial branches of the constitution. It also maintains a balance between the federal and the state levels of US politics.

In practice the checks and balances may be exemplified in the following ways. Congress checks on executive: Senate approves senior appointments; Senate ratifies treaties; Congress can conduct impeachment proceedings; Congress can override the presidential veto. Congress checks the judiciary: Congress sets number of Supreme Court judges; Senate approves presidential nominations to the Supreme Court; Congress determines the structure of the federal courts. Executive checks Congress: in vetoing Bills; casting vote of vice president. Executive checks the judiciary: by selecting federal judges. Judiciary checks executive: via judicial review of executive actions. Judiciary checks judiciary: interpretation of law; judicial review.

(02) 'Far from being rigid, the US constitution is remarkably flexible.' Discuss. (30 marks)

Candidates might be expected to comment on the common characterisation of the US constitution as being rigid in nature: the fact that the constitution is laid down in a single, codified document, with each of the branches of the constitution having its powers (including the limitations of these powers) described in the various articles. Examples of these may be offered in illustration of the above point. Mention may be made of the relative difficulty of amending the US constitution, with more detailed responses showing an understanding of this process (**synoptic**: compared to the manner in which the UK constitution can be changed). The few constitutional amendments (27) in 205 years may be offered as evidence for this point.

The implication of the above analysis is that this rigidity renders the US constitution less flexible than the UK constitution (**synoptic**), and that US politics, in consequence, is less adaptable to changing economic, social and political circumstances. Better responses should be able to offer evidence or examples to illustrate this point (eg the century-long battle to establish civil rights after the end of the American Civil War in 1865).

In evaluating the above position, better candidates will be able to identify a number of factors which demonstrate that, in spite of the apparent constitutional strictures in US politics, there is scope for greater flexibility.

It is true that, in parts, the constitution is quite specific about the powers of certain of its branches. Often, however, there is lack of specificity which has enabled the growth and development of a number of political institutions. Article III of the constitution is written in vague terms; the ability of the Supreme Court to strike down congressional legislation is not explicitly stated therein, but within six years of its ratification, the court had established its right to do so



(*Marbury vs Madison*, 1803). The constitution enumerates few powers of the executive branch and yet successive presidents have extended the ambit of executive authority during the nineteenth and twentieth centuries. Today the US president exercises powers that few of the founding fathers would have envisaged at the time of the Philadelphia convention.

It could be argued that due to the relative difficulty in amending the constitution, other means have been found to change the social and political fabric of the United States. Landmark judgements of the Supreme Court have refashioned the lives of millions of people on issues relating to racial segregation, abortion and capital punishment. All these have been achieved without the United States formally adopting them as constitutional amendments. Indeed, these and other issues are always subject to the possibility of being revisited in the future to be interpreted in the light of the times.

Constitutional amendment is not impossible or necessarily protracted. The 26th Amendment, reducing the voting age from 21 to 18, was passed relatively quickly. Furthermore, where public opinion is heavily skewed in a particular direction, it is not impossible for the constitution to be reformed, with arguably disastrous consequences. The 18th Amendment, following the upsurge in temperance sympathies during World War One, suggests that sometimes the constitution may be too flexible.

Candidates will be expected to deploy well-illustrated points on both sides of the argument to be able to access the highest range of marks for this question.

**Topic 2 the Legislative Branch of Government: US Congress****Total for this topic: 40 marks**

(03) Explain the practice and significance of impeachment in the USA. <span style="float: right;">(10 marks)</span>
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In order to answer the first part of the question candidates need to be able to identify the manner in which Congress may remove a sitting president from office. It is a two-part system requiring in the first instance a vote to impeach the president for high crimes and misdemeanours by a simple majority of the House of Representatives. If this vote is successfully passed, it moves to the Senate where there is a trial of impeachment which ends in a vote to remove the president from office. This must be supported by two-thirds or more of the 100-member Senate in order for the president to be forced from office.

In theory this is a very significant power of Congress. It enables the legislative branch of the US constitution to change significantly the nature and status of the executive branch. In practice, the power of impeachment has not been a significant element of US political history. Only two of the forty-four presidents, Andrew Johnson in the late 1860s and Bill Clinton in the late 1990s, have been successfully impeached and in neither case could the Senate muster the required majority to remove the president (although in Johnson's case, the removal failed by a single vote). In the case of Bill Clinton, it was clear that the Senate divided along party lines, suggesting that the process has a built-in impediment that may ensure that all but the most glaring examples of malpractice will be successfully pursued. It was the threat of a successful impeachment (due to a measure of cross-party agreement) that led Richard Nixon to resign in 1974.

(04) To what extent does the social and political composition of Congress undermine representative government in the United States? <span style="float: right;">(30 marks)</span>
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It has been argued that the two houses of Congress fail to reflect the great diversity present in the wider United States. Certain ethnic groups go under-represented. Minority causes do not go properly espoused. Two political parties hold all but a few seats in the entire Congress. Candidates should be able to demonstrate these trends in order support the idea that Congress does not properly represent social groups and political opinion in the USA.

Both Houses of Congress are dominated by white, middle-class and middle-aged men. Traditionally, ethnic minorities are under-represented in the United States Congress. Despite high-profile congressional figures such as Nancy Pelosi (House Speaker) and former Senator Hillary Clinton, Congress remains a male-dominated institution.

The two-party system in the US Congress is far more pronounced than in the UK (*synoptic*). It is not unusual for all the seats in both the House of Representatives and the Senate to be held by Democrats and Republicans. It may be argued that this ignores the diversity of political opinion in the United States as well as the diverse number of political parties there.

Another point that may be deployed relates to the manner in which the great federal compromise often results in 'pork barrel' deals being done in Congress, with the interests of the large majority of the US population being marginalised in favour of much narrower sectional or

parochial interests. The very good responses might use this point later on in the evaluation to examine different interpretations of the concept of representation (*synoptic*).

In evaluating the above points it is necessary to examine the representation of groups more carefully. Better responses will be able to identify that, over time; ethnic minorities have become better represented in Congress. By 2000, the percentage of African American congressmen in the House of Representatives had grown to just under the percentage of the population. Similar increases can be seen by members of the Hispanic community. (Although in counter-evaluation, it may be stated that the figures for the US Senate are less impressive, with ethnic minority groups remaining under-represented. This may represent the difficulty that members of the ethnic minorities face in state-wide as opposed to electoral district-based constituencies.)

The dominance of the Democrats and Republicans in Congress ignores to an extent the nature of the big political parties in the United States. There is a great diversity of opinion and these differences do break into the national political debate. Once elected, representatives will bring to Congress many of the diverse issues and standpoints that emerged during the Primary phase of US elections. In this way a great many political opinions within both parties come to prominence in the US Congress in a way that they perhaps do not in the debates within political parties in the UK Parliament (*synoptic*).

The frequency with which members of the House of Representatives are elected ensures that one aspect of the Birch model of representation, that of responsiveness, is very well adhered to (this may be related to the earlier point made about 'pork barrel' politics).

The federal nature of the US political system may also be raised as a valid point. Representation is not confined to Capitol Hill and the wording of the question does enable candidates to offer some evaluation that, beyond Washington DC, there is much more happening.

Candidates may interpret political representation in terms of the manner in which the House and the Senate represent their constituents.

**Topic 3 the Executive Branch of Government****Total for this topic: 40 marks**

(05) Consider the operation and importance of the presidential veto.	<i>(10 marks)</i>
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The presidential veto is an important example of one of the checks and balances in the US political system. In exercising a veto, the president refuses to sign a Bill that has been passed by Congress and is therefore preventing it from becoming an Act and therefore federal law. There are two types of veto that the president may deploy. The 'regular veto' can be over-ridden by both Houses of Congress (provided both vote to do so with a two-thirds majority). The 'pocket veto' is used by presidents to block congressional legislation after Congress has been adjourned. Strong responses may make reference to the 'line item' veto as used for a time by Bill Clinton.

Presidents do not normally use the veto as a first resort and recent history records that presidents such as Reagan have used informal tactics to win over individual members of Congress to deter them from passing legislation to which he objected. Clinton on occasions used the media in facing down Congress, which he succeeded in doing during the budget crisis in the winter of 1995. Clinton used the regular veto thirty-six times during his two terms in office and only one of these was over-ridden. Other presidents have used the veto more liberally. Truman used the regular veto a hundred and eighty times and the pocket veto on seventy occasions. In contrast, the vetoes of George Bush Jr run into single figures.

Better responses should be able to evaluate how the changing circumstances surrounding different presidencies are likely to affect the significance of the presidential veto.

(06) Assess the view that, in practice, presidential power is restricted to issues relating to foreign policy.	<i>(30 marks)</i>
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Candidates may start with the US constitution and examine the nature of the roles of the president as described therein. These include the president's position as Commander in Chief of the armed forces and the power of the president to negotiate treaties with foreign countries. These constitutional considerations may be supplemented by empirical observations. These may include the dominance of international issues in the conduct of a number of administrations. Clearly the dominance of the 'war on terror' and the US military involvement in Afghanistan and Iraq will be given as examples by many candidates. Better responses will be able to examine the offices of previous presidents to illustrate the same point (eg Clinton and Iraq and the Balkans, Reagan and Central America and the Soviet Union).

This response needs to be evaluated with points and evidence that US presidents have not been solely concerned with foreign policy issues. Domestic political issues have loomed large on the horizons of a number of US presidents. It was economic issues that swept Roosevelt into the White House in 1933 and, despite the situation in South East Asia, the issue of civil rights was vitally important to Lyndon Johnson. Jimmy Carter's administration balanced diplomacy in the Middle East with the domestic economy and deteriorating energy situation in the late 1970s.

There is every sign that Barack Obama is placing the bleak economic situation at the top of his agenda, despite a number of problematic foreign policy challenges being in his in-tray when he arrived at the White House. Indeed, it would appear that on some key issues such as human rights abuses in China, the new US President is subordinating previously stated policy priorities in favour of forging stronger relations with foreign powers.

Stronger candidates may be able to discern that, far from being isolated from each other, the foreign and domestic policy arenas may be more closely interrelated. The decision by President Obama, for example, to court the Chinese government during pressing economic times may be a sign that such relations may significantly improve the prospects for the US economy.

Clearly, major domestic crises have enabled the powers of the US president to grow beyond what the founding fathers might have envisaged for the role back in 1787. Certainly, after the great depression, the role of the president as a policy initiator both in domestic as well as in foreign policy has not been seriously questioned.

Some candidates may interpret the question as: 'restricted in issues relating to foreign policy'. Credit will be given for this but responses are unlikely to rise above Level 2.

**Topic 4 the Judicial Branch of Government: The Supreme Court****Total for this topic: 40 marks**

(07) Examine the process for selecting Supreme Court judges in the USA. (10 marks)

Justices of the Supreme Court are nominated for office by the president. Potential candidates are sounded out in advance of a nomination being made. The presidential nomination is subject to confirmation by the Senate. The confirmation is subject to a majority vote. Once confirmed, they may sit on the bench of the Supreme Court for life (they are not restricted to any fixed-term restrictions).

Most nominations are confirmed, but perhaps the nature of the process deters presidents from making controversial nominations. There have been some occasions where the strength of opposition to a particular candidate has led to them being rejected by the Senate. In 1987 Robert Bork, one of Ronald Reagan's nominees to the Supreme Court, was rejected. Another nominee, Clarence Thomas, only narrowly secured nomination. It may become clear to a president that a nomination is likely to run into difficulty, leading him to reconsider a particular appointment. George Bush Jr eventually withdrew the nomination of Harriet Miers to replace Sandra Day O' Connor after serious doubts were raised by right-wing Republicans about her suitability for office (there was some suspicion over her credentials on the issue of abortion).

It may be argued that presidents have used the process of judicial appointment to the Supreme Court as a means of prolonging their legacy too long after they have left office. As such, presidents will tend to favour individuals that are in accord with their own political standpoint. It does not necessarily follow, however, that a judicial appointment will suit the president in the longer term. Both Earl Warren and Warren Burger were to make rulings of which the presidents who appointed them (Eisenhower and Nixon respectively) did not approve.

(08) To what extent has the Supreme Court abandoned judicial activism in favour of judicial restraint? (30 marks)

Candidates should be able to identify the meaning of both of the concepts mentioned in the question as well as being able to evaluate the question in order to achieve top marks. Judicial activism has been widely associated with Supreme Courts of Chief Justices Earl Warren (1953–1969) and Warren E Burger (1969–1986). Both of these courts felt that it was their duty to interpret the constitution in order to right certain wrongs within society. In other words, they saw the role of the Supreme Court as an active co-equal branch of the United States political system. Judicial activism is founded on the principle of loose constructionism, which enables the court to interpret the meaning of the constitution beyond the words that were written down by the founding fathers.

Judicial restraint is where Supreme Court justices limit themselves to acting according to a more literal reading of the constitution. These judges are said to base their opinions on a strict constructionist model in that they do not actively seek to interpret the meaning of the constitution. Up until the appointment of Earl Warren in 1953, the Supreme Court may be said to have adopted the model of judicial restraint.

Candidates should be able to identify attempts by US presidents to rein in the power of the Supreme Court, by appointments made. Nixon was said to have failed in these ambitions by appointing Burger to replace Warren in 1969. Arguably Reagan was more successful in appointing Burger's successor, William Rehnquist, in 1986. It is generally recognised that the Rehnquist court was less active than the two predecessor courts. Certainly Rehnquist's own interpretation of the role of the Supreme Court was based much more upon the notion of strict constructionism. Arguably, the appointment of John Roberts to succeed Rehnquist in 2005 was an attempt by George W Bush to maintain the court on its restrained trajectory.

Strong responses may challenge the latter views. The debate between activism and restraint may obscure the issue of judicial bias. The Warren court was generally seen to have displayed liberal tendencies on the issues of race and religious observance. The early decisions of the Burger court are said to have dealt similarly on issues such as abortion and capital punishment (later decisions adopting a more conservative standpoint). In the light of this analysis, have more recent decisions by Rehnquist and Roberts been any less controversial? There may have been fewer of them, but there is evidence for continued controversy. In 2000, it was the Rehnquist court that effectively ended Al Gore's hopes of entering the White House. In 2008, the Roberts court made a controversial interpretation of the 2nd Amendment to the constitution, separating the two elements of the amendment and upholding the right to bear arms.

In order to obtain the top level of marks, candidates should at least be able to evaluate the thesis that the Supreme Court had become more restrained in recent years.

### ASSESSMENT OBJECTIVE GRID

<b>A2 Assessment Objective</b>	<b>Marks allocated by Assessment Objective 10-mark question</b>	<b>Marks allocated by Assessment Objective 30-mark question</b>	<b>Total Marks by Assessment Objective</b>
<b>AO1</b>	4	12	16
<b>AO2</b>	4	12	16
<b>AO3</b>	2	6	8
<b>Total</b>	<b>10</b>	<b>30</b>	<b>40</b>