



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
Cambridge International Level 3 Pre-U Certificate
Principal Subject

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COMPARATIVE GOVERNMENT AND POLITICS

9770/01

Paper 1 Concepts and Institutions (UK and/or USA)

For Examination from 2010

SPECIMEN MARK SCHEME

1 hour 30 minutes

MAXIMUM MARK: 100

This document consists of **17** printed pages and **1** blank page.



Generic marking descriptors for Paper 1 (short essays)

- The full range of marks will be used as a matter of course.
- Examiners will look for the 'best fit', not a 'perfect fit' in applying the Levels.
- Examiners will provisionally award the middle mark in the Level and then moderate up/down according to individual qualities within the answer.
- The ratio of marks per AO will be 3:2.
- The weighting of marks for each AO should be considered, but this is reflected in the descriptor: marking should therefore be done holistically.
- Question-specific mark schemes will be neither exhaustive nor prescriptive. Appropriate, substantiated responses will always be rewarded.

Level/marks	Descriptors
<p style="text-align: center;">5</p> <p>25–21 marks</p>	<p>ANSWERS MAY NOT BE PERFECT, BUT WILL REPRESENT THE VERY BEST THAT MAY BE EXPECTED OF AN 18-YEAR-OLD.</p> <ul style="list-style-type: none"> • Excellent focused explanation that answers the question convincingly. Towards the bottom, may be a little unbalanced in coverage yet the answer is still comprehensively explained and argued. • Excellent knowledge and understanding of relevant political terms and/or institutions. Answer is comprehensively supported by an excellent range of concepts and examples that are used to sustain the argument. • Excellent substantiated synthesis bringing the explanation together. • The answer is fluent and the grammar, punctuation and spelling are all precise.
<p style="text-align: center;">4</p> <p>20–16 marks</p>	<p>ANSWERS WILL SHOW MANY FEATRURES OF LEVEL 5, BUT THE QUALITY WILL BE UNEVEN ACROSS THE ANSWER.</p> <ul style="list-style-type: none"> • A determined response to the question with strong explanation across most but not all of the answer. • High level of knowledge and understanding of relevant political terms and/or institutions. Answer is well illustrated with a variety of concepts and examples to support the argument. Description is avoided. • Good substantiated synthesis. • For the most part, the answer is fluent and shows an accuracy in grammar, punctuation and spelling.
<p style="text-align: center;">3</p> <p>15–11 marks</p>	<p>THE ARGUMENT WILL BE COMPETENT, BUT LEVEL 3 ANSWERS WILL BE LIMITED &/OR UNBALANCED.</p> <ul style="list-style-type: none"> • Engages well with the question, although explanation is patchy and, at the lower end, of limited quality. • Fair display of relevant political knowledge and understanding, but this tends to be used to illustrate rather than support the argument. Explanation starts to break down in significant sections of description. • Synthesis is patchy in quality. • The writing lacks some fluency, but on the whole shows an accuracy in grammar, punctuation and spelling.

<p style="text-align: center;">2</p> <p>10–6 marks</p>	<p>ANSWERS WILL SHOW A LIMITED LINK BETWEEN THE QUESTION & ANSWER.</p> <ul style="list-style-type: none"> • Some engagement with the question, but explanation is limited. • Limited explanation within an essentially descriptive response. • Patchy display of relevant political knowledge and understanding that illustrates rather than supports any argument. • Synthesis is limited/thin in quality and extent. • The answer shows some accuracy in grammar, punctuation and spelling, but contains frequent errors.
<p style="text-align: center;">1</p> <p>5–0 marks</p>	<p>ANSWERS WILL SHOW A CLEAR SENSE OF THE CANDIDATE HAVING LITTLE IF ANY ENGAGEMENT WITH THE QUESTION.</p> <ul style="list-style-type: none"> • Little or no engagement with the question. • Little or no explanation. • Little or no relevant political knowledge. • Little or no synthesis. • The answer shows significant weaknesses in the accuracy of grammar, punctuation and spelling.

Generic marking descriptors for Paper 1 (full essays)

- The full range of marks will be used as a matter of course.
- Examiners will look for the 'best fit', not a 'perfect fit' in applying the Levels.
- Examiners will provisionally award the middle mark in the Level and then moderate up/down according to individual qualities within the answer.
- The ratio of marks per AO will be 1:2.
- The weighting of marks for each AO should be considered, but this is reflected in the descriptor: marking should therefore be done holistically.
- Question-specific mark schemes will be neither exhaustive nor prescriptive. Appropriate, substantiated responses will always be rewarded. Answers may develop a novel response to a question. This is to be credited if arguments are fully substantiated.

Level/marks	Descriptors
5 50–41 marks	<p>ANSWERS MAY NOT BE PERFECT, BUT WILL REPRESENT THE VERY BEST THAT MAY BE EXPECTED OF AN 18-YEAR-OLD.</p> <ul style="list-style-type: none"> • Excellent focused analysis that answers the question convincingly. • Excellent sustained argument throughout with a strong sense of direction that is always well substantiated. Excellent substantiated conclusions. • Excellent understanding of relevant political knowledge (processes, institutions, concepts, debates and/or theories) illustrated with a wide range of examples. • Towards the bottom, may be a little unbalanced in coverage yet the answer is still comprehensively argued. • Candidate is always in firm control of the material. • The answer is fluent and the grammar, punctuation and spelling are all precise.
4 40–31 marks	<p>ANSWERS WILL SHOW MANY FEATURES OF LEVEL 5, BUT THE QUALITY WILL BE UNEVEN ACROSS THE ANSWER.</p> <ul style="list-style-type: none"> • A good response to the question with clear analysis across most but not all of the answer. • Argument developed to a logical conclusion, but parts lack rigour. Strong conclusions adequately substantiated. • Good but limited and/or uneven range of relevant knowledge used to support analysis and argument. Description is avoided. • For the most part, the answer is fluent and shows an accuracy in grammar, punctuation and spelling.
3 30–21 marks	<p>THE ARGUMENT WILL BE COMPETENT, BUT LEVEL 3 ANSWERS WILL BE LIMITED AND/OR UNBALANCED.</p> <ul style="list-style-type: none"> • Engages soundly with the question although analysis is patchy and, at the lower end, of limited quality. • Tries to argue and draw conclusions, but this breaks down in significant sections of description. • Good but limited and/or uneven range of relevant political knowledge used to describe rather than support analysis and argument. • The writing lacks some fluency, but on the whole shows an accuracy in grammar, punctuation and spelling.

<p style="text-align: center;">2</p> <p>20–10 marks</p>	<p>ANSWERS WILL SHOW A LIMITED LINK BETWEEN QUESTION AND ANSWER.</p> <ul style="list-style-type: none"> • Limited engagement with the question, with some understanding of the issues. Analysis and conclusions are limited/thin. • Limited argument within an essentially descriptive response. Conclusions are limited/thin. • Factually limited and/or uneven. Some irrelevance. • Patchy display of relevant political knowledge. • The answer shows some accuracy in grammar, punctuation and spelling, but contains frequent errors.
<p style="text-align: center;">1</p> <p>9–0 marks</p>	<p>ANSWERS WILL SHOW A CLEAR SENSE OF THE CANDIDATE HAVING LITTLE IF ANY ENGAGEMENT WITH THE QUESTION.</p> <ul style="list-style-type: none"> • Little or no engagement with the question. Little or no analysis offered. • Little or no argument. Assertions are unsupported and/or of limited relevance. Any conclusions are very weak. • Little or no relevant political knowledge. • The answer shows significant weaknesses in the accuracy of grammar, punctuation and spelling.

Section A (UK)**1 Explain the relationship between popular and parliamentary sovereignty. [25]**General

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No set answer is expected. Candidates may answer the question from a wide variety of different angles, using different emphases, and arguing different points of view. The marking notes here are indicative and not exhaustive. What matters is the quality of the evaluation and the argument. That said, candidates must answer the question set and not their own question.

Specific

Popular sovereignty can be defined as the sovereignty of the people. Unlike most liberal democracies, however, the people of the UK are not the sovereign (supreme) source of political authority. The crown in parliament is. The UK has a part-written but uncodified constitution. At the heart of the constitution are twin constitutional pillars: the principles of the Rule of Law and Parliamentary Sovereignty. The latter term means that it is not the constitution (and hence the people) which is sovereign; it is the legislature. The sovereignty of Parliament manifests itself in three ways: any piece of statute law can be considered constitutional – it forms part of the constitution. A clear implication is that judicial review is inherently limited in scope. In short, there is no higher authority than Parliament. Neither can one Parliament entrench a law such that it cannot be overturned by another Parliament.

Candidates may wish to explore how the powers of Parliament stem ultimately from the legitimacy given to it by the people. As the national legislature for the UK, Parliament garners its legitimacy from its electoral connection to the public. Some may wish to reconnect the concepts of parliamentary and popular sovereignty via the idea of electoral legitimacy. The question also allows some considerations of the limits on parliamentary sovereignty: through the dominance of the executive ('elective dictatorship'); through EU membership and to an extent through the Human Rights Act (1998).

2 Explain why judicial neutrality and independence are important.**[25]**General

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Specific

The two concepts can be shown to be related in terms of the function that they perform: namely, ensuring that the role of the judiciary within a properly functioning liberal democracy is protected. Candidates may wish to explore why these two are important and the extent to which either or both have been compromised. Candidates may link their answers to wider questions about the role of the judiciary within the UK since it has no codified constitution. Independence should be explained in terms of some notion of separation from the elected branches of government. Candidates may wish to discuss how independence is maintained (security of tenure; protected salaries etc; independence in the appointment process – rather than patronage). Neutrality might be explained in terms of bias or the absence of it.

How the two concepts link together to protect and maintain the strength and legitimacy of the judiciary may be considered. A judiciary which lacks legitimacy may undermine the wider legitimacy of a democratic system. Answers may consider the significance of all of this in the context of the increased political role that EU membership has given to the UK judiciary.

3 Explain the contribution made to the running of a government department by a cabinet minister and its senior civil servants. [25]

General

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Specific

It is not expected that candidates must produce a 50:50 balance between the two nominated areas, but each needs serious consideration and an answer that was more than 60:40 one way or the other would be unable to score in Level 5.

Cabinet ministers are individually responsible for the behaviour of, and the actions of, their government department. What is their contribution to the running of their department? Ministers, as members of the Cabinet, must ensure that the actions of their department are consistent with the policy direction chosen by the government; as political masters (who are almost always elected – though some ministers are Lords of course) ministers must ensure that the direction of the department represents the policy direction chosen at the election, and/or promised by the Prime Minister. Ministers are responsible for initiating new policy directions within their department – ideas emanate (in theory at least) from the political executive and the minister is at the heart of this policy initiation. Ministers may act as motivators for their officials. They are, in a real sense, managers of their department. They should protect their civil servants from overt politicisation. Ministers, rather than civil servants, will be held to account for departmental actions. Major resignations may serve as examples that candidates might refer to. That ministers tend to blame the official structure and hence resist calls for resignation may equally be noted.

If ministers are the managers of the department then senior civil servants are, in theory, the servants of the minister. Senior civil servants represent the permanence, the policy expertise, and the institutional memory of the government department. The minister may initiate a new policy direction, but it is the SCS that must translate the idea into a policy that can be implemented. Candidates may note that the core principles of the Civil Service were rewritten in 2006, but that neutral and impartial advice remains the key element of the manner in which the SCS ought to serve the minister. That the SCS can exploit its informational advantage and its longevity (informational asymmetry) to resist a minister is a point that may be discussed. The contribution of a minister can be limited by the SCS; the contribution of the SCS can be seen as limited by its failure to adhere to the core principles of the Civil Service.

4 To what extent has the sovereignty of Parliament been replaced by the ‘elective dictatorship’ of the executive? [50]

General

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Specific

Parliamentary sovereignty means that the UK’s legislature is sovereign. Any piece of statute law forms part of the constitution so judicial review is inherently limited in scope. The idea of elective dictatorship argues that the power of Parliament – and in particular its claim to be sovereign – had effectively shifted to the executive branch since the control of the Commons by the majority party led to the dominance of the legislature by the executive. In assessing Hailsham’s claim, candidates may offer arguments that support it, e.g. strong majorities, strong party discipline, the perceived ineffectiveness of Parliament in the performance of its scrutiny function. References to the Blair and/or Thatcher eras might be used to support this view.

On the other hand, is Parliament ineffective because the executive is often strong? Parliament has what Pakenham calls ‘latent legitimacy’ whereby it does not have to be seen to act to have power (cf. Mao’s idea of the sleeping tiger). Thatcher was removed from office in 1990 having lost the support of her party and of her cabinet. Even powerful premiers (Blair; Thatcher) do not want the embarrassment of losing even one parliamentary vote. Sizeable majorities may not be a guarantee of Parliamentary quiescence, as Thatcher and Blair both discovered.

Candidates may consider how far the executive is held in check by, for example, the media, by pressure groups, by the success of the Opposition in crafting a coherent message, by polling data. The central claim in the question suggests that in between elections there are no effective checks on the government and its power. Candidates may want to challenge this assumption. The question could also be broadened to consider models of the executive and to assess where power lies within the executive: e.g. Cabinet government; Prime-Ministerial government; Presidential Government and the Core Executive – the latter model would allow consideration of the relationship between Parliament and the Government in the wider context of political advisers and elements of the Civil Service.

5 Evaluate the degree to which the strengths and weaknesses of the UK constitutional system have been affected by recent constitutional reforms. [50]

General

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Specific

The question refers to 'recent' constitutional reforms so candidates are free to determine when they start. Many argue that Britain has revolutionised its constitution since the 1970s. Examination of constitutional weaknesses and of reforms might be located in a discussion of the fused and unitary nature of the UK constitution based upon the twin principles of the rule of law and parliamentary sovereignty. Constitutional reforms and perceived constitutional weaknesses considered might include:

Devolution: perhaps the UK constitution was the 'English Constitution'. How has devolution affected matters such as: the link between representatives and the represented, the West Lothian Question, the English Question, over-representation at Westminster?

Reform of the Lords: it may be easier to argue the existence of pre-democratic elements within the current settlement represents a weakness. Have the reforms created new problems? Answers may need to present a normative judgment with respect to how, or whether, the Lords should be elected – in what proportion, on what basis, and how such reforms will affect the wider functioning.

The CRA: what has been the impact on the constitution of reform of the judiciary by the 2005 Constitutional Reform Act (CRA).

The HRA: the passage of the Human Rights Act (1998) may be considered a constitutional reform. Discussion of the merits and demerits of the Act would allow for discussion of the nature of the constitution more generally.

Other reforms might be considered (e.g. changes to PMQs, changes to the electoral systems used in the UK) and 'unfinished business' may be considered briefly, e.g. the Lords, a written constitution, prerogative powers exercised by the Prime Minister, 'fair votes', the desirability of referendums, financing of devolved institutions.

6 Different electoral systems are currently used within the UK. Evaluate the case for and against adopting any one of these systems for elections to the House of Commons. [50]

General

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Specific

A 50:50 balance between arguments in favour and those against is not expected, but there must be a seriously balanced discussion. Candidates need to be clear about the system that they have chosen to consider and demonstrate a clear knowledge of how that system works. In considering the merits of any system that has an element of proportionality, candidates may argue that it would remove disadvantages of the present system, such as: the reduction in the over-representation of the winning party and major parties so power is not given to those without majority backing, a reduction in the number of wasted votes, the improved performance of small parties with broad support, votes not being of equal value, the limited choice available to electors, general elections being decided in only a small number of constituencies by a fraction of the electorate, and that coalition government might be produced.

In considering the disadvantages of adopting a new system, candidates may refer to some of the following: any other system may be harder for the electorate to understand and lead to voter apathy, the new system may not provide a clear outcome and produce compromise and weak government, the possible creation of two tiers of MPs, the possible loss of the one-to-one constituency link. The specific issues discussed will depend upon the system chosen for consideration.

Section B (USA)**7 Explain what presidential government is.****[25]**General

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Specific

This question examines the relationship between the three branches of the federal government, the separation of powers and the idea of constitutional checks and balances. The defining feature is not simply that there is a president but rather that there is an institutional separation of powers resulting from a constitutional separation of powers. Checks and balances are at its heart. The elected branches are elected separately and each has fixed terms of office. The executive (President) is not a member of the legislature. He or she cannot command the legislature, nor can the legislature remove the President through a simple vote (super-majorities and extra-constitutional measures are required to remove a president from office). The president is chosen by the people, not by the legislature.

Answers might discuss the extent to which the term 'presidential government' can be viewed as a misnomer (Charles O. Jones argues that the term suggests the President is powerful within this system whereas, for him, the US political system should be described as a 'separated system' with a limited and weak president). Alternatively, some candidates may argue that the system of checks and balances has been thrown out of balance by the development of a 'unitary executive' (e.g. John Yoo), and/or discuss the idea of 'separate institutions sharing powers' (Richard E Neustadt) – there cannot be a complete separation of powers since the Founding Fathers clearly intended for the powers of the federal government to be shared.

8 Explain the role of the Supreme Court as part of the US political system.**[25]**General

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Specific

The Supreme Court plays an integral role within a presidential system of government established in a codified constitution. At the heart of the constitution is the idea of separation of powers that will balance 'power against power' to create a system of checks and balances – to produce what Neustadt called 'separate institutions sharing powers'. For over two centuries, the Supreme Court has performed the primary role of acting as the ultimate or supreme constitutional court within the US. The Court is the arbiter of the constitution. It exercises the power of judicial review to ensure that the constitution is preserved. The Court can be more or less activist (Warren; Vinson) but all Supreme Courts will, at times, challenge the actions of the President, the Congress and State governments. Crucially, the Supreme Court, in preserving the constitution, will ensure that central elements within the political system are maintained – e.g. the 10th amendment preserves the essence of federalism against overly-powerful central government.

Answers may consider the limits on the Court (the lack of any power of the purse or the sword, as well as the notion of restraint) or the argument that the Court can act primarily as a political rather than a judicial body – with the debate over how to exercise the power of judicial review (strict v. loose constructionism) at the heart of all nominations hearings. How a justice exercises judicial review can shape, for a generation, the social and moral direction of the nation.

Candidates may take issue with any of the points noted above: for example, the Rehnquist Court was described as restrained rather than activist, yet whether or not a Court is activist has no bearing on whether or not a Court pursues one ideological direction or another (does restraint allow strict constructionism to dominate?). Candidates may wish to argue that, in practice, there are few limits on the Court, or that the Court follows election returns – it is never that far out of step with the elected branches.

9 Explain how the power of the states and the federal government are defined and upheld. [25]

General

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No set answer is expected. Candidates may answer the question from a wide variety of different angles, using different emphases, and arguing different points of view. The marking notes here are indicative and not exhaustive. What matters is the quality of the evaluation and the argument. That said, candidates must answer the question set and not their own question.

Specific

One approach to this question would be to start with the constitution of the states and the federal government. By examining the original intent of the Founding Fathers, we see a tension between the need to create a central system of government that was stronger than that created in the Articles of Confederation and the revulsion of many of the framers to the idea of vesting too much power in the hands of the new federal government. The embodiment of this tension lives in the 10th Amendment which gives some power to the federal government on the basis of an agreement (the root word at the heart of federalism) that power resided with the state governments and some, but only some, to the federal government. Any power not explicitly handed to the federal government resides with the states.

The question might be approached using the constitution as the starting point, beginning with an overview of Dual Federalism. Candidates may examine the current federal-state balance and might consider how it has changed. Some may examine how the Supreme Court has played an active role in policing the boundary between federal and state government – landmark cases tending to define the changing balance (from Dual Federalism to Cooperative, to new Federalism), e.g. *Garcia* (1983). Candidates are not expected to know a battery of such cases, but they must use some to help support and develop their arguments. Candidates may want to emphasise that, despite the changing federal balance, the states are ultimately protected from an overly powerful federal government by the 10th Amendment.

10 To what extent does the USA have an entirely two-party system?**[50]**General

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Specific

Candidates may define what a 'two-party system' is, noting the US system typically militates against the success of third parties, although discussion of third parties who have made an impact on elections (state and national) may be worthy of merit. The central argument that candidates may consider is whether in a federal system that is, in addition, characterised by the separation of powers, there are in fact 50 party systems – rather than just one. The claim is that each state has its own party system: parties are 'quasi-public institutions' regulated by state legislatures. US parties do not aggregate those with broadly similar ideological views, not least because federalism and the separation of powers do not easily allow parties to function in such a way, but also because US parties are not mass membership organisations.

The Republican Revolution in the 104th Congress (1995–97) may be cited as evidence of the resurgence of national party. Candidates may argue that since the zenith of the decline thesis, a number of factors have actually enhanced the ability of the national party leadership to lead both state and national parties (e.g. the demise of the Committee Chair; the resurgence of party leadership in House and Senate).

Candidates may focus on the nature of party and the extent to which each of the major two parties has become more ideological coherent in recent years – citing this coherence as evidence of the continued dominance of national party organisations.

11 To what extent has George W. Bush reasserted the power of the President over Congress?
[50]General

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No set answer is expected. Candidates may answer the question from a wide variety of different angles, using different emphases, and arguing different points of view. The marking notes here are indicative and not exhaustive. What matters is the quality of the evaluation and the argument. That said, candidates must answer the question set and not their own question.

Specific

Most answers may answer this question in relation to the policy achievements and failures of Bush (both foreign and domestic policy), but it would also be possible to consider presidential power more widely (to include perhaps: the two presidencies thesis, comparisons to other recent presidents, the idea of Bush as a 'unitary executive'). The success of a President can be measured in terms of the presidential 'support score' – how often a President wins in recorded votes in each chamber of Congress. Bush was well above the average score for his first five years in office. The limits on this measure may be discussed. There may be scope for discussing the composition of Congress and the fact that Bush had a bump in his mid-term elections in 2002, but that the Democrats regained the Congress in 2006. Answers may consider the presidential style of dealing with Congress. Answers may also analyse Bush's two terms in relation to domestic policy and to foreign policy. In his first term, Bush did achieve a number of legislative successes.

Some might consider the abuse of presidential power by Bush (e.g. his defence of the use of torture or his actions based on the claim that, in wire-tapping the foreign calls of US citizens, he has, as commander-in-chief, the power to suspend law in wartime) and thus whether Bush has brought the presidency in disrepute. Nixon claimed that 'when the president does it, it is not illegal'. In usurping legislative power, has Bush launched a similar assault on the US Constitution? Most commentators argue that Bush's White House has made an unprecedented reach for power. It has systematically attempted to defy, control, or threaten the institutions that could challenge it: Congress, the courts, and the press. It has attempted to upset the balance of power among the three branches of government provided for in the Constitution; but its most aggressive and consistent assaults have been against the legislative branch: Bush has time and again said that he feels free to carry out a law as he sees fit, not as Congress wrote it. Through secrecy and contemptuous treatment of Congress, the Bush White House has made the executive branch less accountable than at any time in modern American history. And because of the complaisance of Congress, it has largely succeeded in its efforts.

12 Assess the effect of recent judicial activism on the US political system. To what extent does this uphold the wishes of the Founding Fathers? [50]

General

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No set answer is expected. Candidates may answer the question from a wide variety of different angles, using different emphases, and arguing different points of view. The marking notes here are indicative and not exhaustive. What matters is the quality of the evaluation and the argument. That said, candidates must answer the question set and not their own question.

Specific

This question allows candidates to consider many elements. Candidates might present an overview of the role of the Supreme Court as a powerful constitutional court which can and does exercise the power of judicial review. Many may use landmark Supreme Court rulings to provide supporting evidence for its impact on the US political system. Some may explore the key distinction between judicial activism and judicial restraint, and may link these to the question of whether Supreme Court justices are loose or strict constructionists. Candidates may also explore how far justices can be accused of acting politically (what O'Brien calls 'politicians in robes') when taking a case, or indeed when failing to take a case – whichever way any court acts with respect to an issue, it faces the charge of acting as a political body. Some may take issue with the question, asking whether there has been any recent judicial activism, given that the Rehnquist and Roberts Courts appeared to favour judicial restraint.

Candidates may legitimately consider what the Founding Fathers expected the role of the Supreme Court to be, and may arrive at quite opposite views with respect to those intentions since discussion of original intent has raged for the past two centuries. Strict constructionists would suggest that liberal Supreme Courts have gone far beyond the role that the Founding Fathers intended for the Court. Loose constructionists might argue for evidence in the Constitution (Article III, Section II for example), the Federalist Papers and elsewhere that supports the compatibility of judicial activism with the intent of the Founding Fathers.

Some might discuss in more theoretical terms the competing notions of jurisprudence: sociological jurisprudence and legal realism may be cited in support of the view that the Supreme Court can and should move beyond the constraints of precedent (*stare decisis*) to consider the economic and social underpinnings of the law. The growth in judicial activism is often attributed to the increasing dominance of these two positions in the mid twentieth century.

