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# Examiner's Report Principal Examiner Feedback

## Summer 2018

Pearson Edexcel GCE  
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Paper 4C: Governing the USA



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## Principal Examiner Report 2018 Series 6GPO4 4C

This last paper for the 4C specification was probably as straightforward an offering as has been seen in the nine years of its life, and it gave every candidate the opportunity to show what they know. It was striking that almost exactly equal numbers of candidates attempted each of the three 45 mark questions, which suggests they were all seen as similarly inviting.

Students of politics are constantly encouraged to keep up to date with the news and they had a lot of opportunity to use their knowledge in both their 15 and 45 mark answers. President Trump in particular is proving to be an excellent case study as he tests the limits of presidential power, and candidates used his diplomacy with China and North Korea to discuss power abroad and his attacks on so-called sanctuary cities and the problems with funding the wall - to name just two examples - for domestic power.

The commentary on question 3 draws attention to some of the recurring misconceptions which have been a feature of 4C answers over the years. These showed no sign of dying in this series and to the parallel universe where George Bush never sought congressional approval to invade Iraq and legislation requires 2/3 majorities in both houses of Congress can be added the House's power of the purse bringing about the government shutdown in 2013. This alternative fact was faithfully repeated in a good number of the answers to question 3 and led one to wonder again where these misconceptions come from and what gives them such tenacity.

### **Q1**

Nearly all candidates understood the concept of a principle of the constitution, and only a small number – less than the last time a question on principles was asked – spent their time describing the structure of government laid out in articles 1-3. Likewise, fewer candidates mixed up the separation of powers and checks and balances. The difference between Level 2 and Level 3 answers was that the level 2 answers described the principles and Level 3 answers attempted to assess their significance. Even the best candidates found this tricky with some principles: they were able to draw out two (or even three) aspects of significance for federalism (for example it leads to policy diversity and policy laboratories but also to conflict between federal and state governments) but separation of powers was more challenging, and candidates usually had little to say beyond a brief explanation and an example of a politician giving up their seat in the legislature to join the executive. The significance of separation of powers could have been derived from separate elections for president and Congress creating separate mandates for each, and the consequent difficulty for the president in imposing his will on members of Congress.

### **Q2**

This was just about the most straightforward question on the paper and nearly all candidates could identify at least a couple of relevant factors that could influence a president's choice of Supreme Court nominees. The distinguishing feature of a Level 3 answer was some sort of assessment of the significance of the factors identified, although only the very best answers went beyond a simple assertion of what the most important factor was to argue convincingly why that might be the case. A strong argument deployed by some candidates was that the ability of the nominee to pass the Senate was the most important factor – since, if they were rejected by the Senate, then the whole exercise was completely pointless – and this then created a common thread in the discussion of other factors, such as ideology, judicial credentials and background. Many candidates were well informed on the Garland and Gorsuch nominations but only a few commented on the significance of filibusters no longer being allowed on confirmation votes. A surprisingly large number of candidates claimed, despite the lack of any evidence, that there is some sort of requirement on the president to maintain a balance of four liberals, four conservatives and one 'swing' justice.

### **Q3**

This question challenged candidates in the same way as question 1, in that many could describe some exclusive powers of the House and Senate but then offered little on the ways in which the differences could be considered to be significant. Many were able, for example, to accurately describe the exclusive power of the Senate to confirm Supreme Court nominees but either failed to comment at all on the significance of this power or simply said that it was a check on the president. Most would almost certainly have known that in the recent past nominees have been rejected or have withdrawn, or that justices have tenure for life, or that the court's decisions can have major implications for US society, or even that there are only nine justices and so a

new addition can have significant consequences, but did not realise it would have been relevant to say so. Interestingly for examiners, whereas answers to question 2 for example all had a very similar structure, almost every answer to this question was different: some candidates went for a comparative approach which worked well e.g. first looking at shared powers then exclusive powers, whereas others went for a chamber by chamber approach. It is always striking in answers to questions on the powers of Congress how the same misconceptions recur series after series: some of the more popular include legislation requiring a 2/3 vote in both houses, the Senate's exclusive power to declare war and, very common this year, the House's exclusive 'power of the purse'. A significant number of candidates claimed that it was this power that enabled the House to shut the government down in 2013.

#### **Q4**

This was the least popular of the 15 mark questions, surprisingly perhaps in view of the frequent reporting of President Trump's EXOP. Certainly those candidates who followed the comings and goings at the Trump White House had a lot of evidence to use, to argue both for its significance and irrelevance. The president's appointment of his daughter and son-in-law could be seen as indicative of its importance, but their lack of relevant experience and qualifications in government could be seen to diminish it. Some candidates confused the EXOP with the whole executive branch, the cabinet or, most commonly, the president himself. Others focused on proximity, lack of Senate ratification or familiarity with the president without actually explaining what they led to by way of influence over presidential policy: reference to specific offices such as NSC, OMB or Chief of Staff, and which functions they perform, definitely strengthened an answer in this respect.

#### **Q5**

This question asked explicitly about the debate between conservatives and liberals over rights which had been implicit in the rights questions of previous series. Unsurprisingly, most candidates were aware of the sorts of attitude associated with the labels of conservative and liberal, although a few seemed to think they were the names of political parties. The most frequently cited rights were those relating to free speech, guns and protection from cruel and unusual punishment (not the right to cruel and unusual punishment, as some candidates wrote). Abortion and same sex marriage were frequently discussed as well, and all of them offered plenty of scope for discussion. Candidates frequently struggled to disentangle attitudes to first amendment rights to free speech, and why both liberals and conservatives are sometimes supportive of Supreme Court decisions and sometimes not. Rights only exist insofar as they are defined and defended by the courts, and the heart of the answer was an explanation of why liberals and conservatives believe the text of the constitution should be interpreted differently. In the best answers, this involved discussion of both the text of the constitution and how, for example, liberals and conservatives interpret the 'due process' clause, and the motives which lead them to these views.

#### **Q6**

The Supreme Court is always a popular topic and this was an inviting question for many candidates. A lot of answers had a fairly similar feel to them and Level 2 answers tended to describe the role and powers of the court, while rarely engaging with the key phrase of the question, '*too much power*'. The core argument really revolves around the how far the court was upholding the principles and values of the constitution and how far it was pursuing its own political agenda or whether in fact the two can actually be distinguished. Some candidates had little or no knowledge of contemporary court cases or individual justices, while others spent a lot of time describing cases rather than applying them to the question. There was an assumption in many answers that all liberals were judicially active and all conservatives restrained. While some answers showed an impressive knowledge of cases decided very recently, such as *Sessions v Dimaya* and *Murphy v NCAA*, other relied on much older cases often going back decades, which did not provide compelling evidence that the court *has become* too powerful.

#### **Q7**

It was unusual to come across a weak answer to this question, with nearly all candidates having at least a basic awareness of the powers and limits of the president. Quite a few answers used examples from the Trump presidency effectively, citing for example the unwillingness of Congress to fund 'the beautiful wall' and Trump's style of freestyle diplomacy as evidence for and against the premise of the question. The quality of the answer lay in the analysis: whether, for example, Congress's unwillingness with the wall was evidence of *increasing* constraint or whether it was actually something that had always happened. As was true of question 6 as well, many candidates wrongly claimed that the travel ban issued by President Trump had been declared

unconstitutional by the Supreme Court. A few answers adopted a largely narrative approach, explaining major events or examples without little or no attempt to analyse what they meant for presidential power in general.

#### **Q8**

This was perhaps the easiest question not to stumble over, as candidates could straightforwardly use the three main roles of Congress (representation, legislation and scrutiny) as a structure to explore the premise of the question. Relatively few answers discussed the budget process, which has been very high profile in recent years, but seems to be not widely known by candidates; this should be counted as a missed opportunity, as many would argue that there are few areas where Congress has discharged its role less efficiently. Where there was discussion of foreign policy, for instance in relation to the War Powers Act, candidates often discussed the president more than Congress; although this was for understandable reasons, it created the sense of the answer losing focus. Weaker answers were often the product of timing problems or were short and only covered two roles. More than in most questions, many answers did read as though they had been prepared in their entirety, unsurprising perhaps since candidates may well have anticipated a question on this topic. Some had virtually no contemporary evidence and it was a little disappointing to read answers, even some otherwise good ones, which did not mention a single current member of Congress in a Congress question.