



POLITICS AND LAW

ATAR course examination 2017

Marking Key

Marking keys are an explicit statement about what the examining panel expect of candidates when they respond to particular examination items. They help ensure a consistent interpretation of the criteria that guide the awarding of marks.

Section One: Short answer

30% (30 Marks)

Question 1

(10 marks)

- (a) What does a Federal Parliament consist of, according to section 1 of the Commonwealth Constitution? (2 marks)

Description	Marks
With reference to section 1 states the three elements of a Federal Parliament.	2
States one or two elements or makes a general statement about the Commonwealth Parliament.	1
Total	2
S1: the Queen, a Senate and a House of Representatives.	

- (b) Outline the significance of sections 24 **and** 53 of the Commonwealth Constitution in terms of the relative power of the two Houses of the Commonwealth Parliament. (3 marks)

Description	Marks
Outlines the significance of sections 24 and 53 of the Commonwealth Constitution in terms of the relative power of the two Houses of the Commonwealth Parliament.	3
Outline the significance of either section 24 or section 53 of the Commonwealth Constitution in terms of the relative power of the two Houses of the Commonwealth Parliament.	2
Makes a general statement about the relative power of the Houses of the Commonwealth Parliament.	1
Total	3
Answers could include but are not limited to: <ul style="list-style-type: none"> • S53: House of Representatives has the exclusive power to initiate and amend money bills. The Senate only has the power to request amendments. The Senate can reject any bill. • S24: House of Representatives (H of R) membership is to be 'as nearly as practicable, twice the number of senators'. The 'nexus clause'. This provides power to the H of R in a joint sitting. The procedure for voting in a joint sitting all but ensures that the H of R/government eventually can prevail in a legislative dispute with the Senate. 	

- (c) Identify a legislature in a non-Westminster political system and discuss **two** powers of that institution. (5 marks)

Description	Marks
Identifies a legislature in a non-Westminster political system. Discusses two powers of the particular legislature.	5
Identifies a legislature in a non-Westminster political system. Outlines one or two powers of the particular legislature.	3–4
Identifies a legislature in a non-Westminster political system and/or outlines one or two powers of the particular legislature.	1–2
Total	5
Answers could include but are not limited to: <ul style="list-style-type: none"> • non-Westminster political systems include: American presidential system; China/communist political system. 	

Question 2

(10 marks)

- (a) Explain what is meant by 'division of powers' in the Australian political and legal system. (2 marks)

Description	Marks
Explains the meaning of 'division of powers' in the Australian political and legal system.	2
Outlines the meaning of 'division of powers' in the Australian political and legal system.	1
Total	2
Answers could include, but are not limited to: <ul style="list-style-type: none"> • law making powers are divided between Commonwealth and State • powers are exclusive, concurrent , residual. 	

- (b) Outline how **one** High Court decision informally changed the Commonwealth Constitution. (3 marks)

Description	Marks
Identifies a relevant High Court decision. Outlines how the decision informally changed the Commonwealth Constitution.	3
Identifies a relevant High Court decision. Makes a general statement concerning how it informally changed the Commonwealth Constitution.	2
Identifies a relevant High Court decision or makes a general statement concerning High Court decisions and informally changing the Commonwealth Constitution.	1
Total	3
High Court decisions include, but are not limited to: <ul style="list-style-type: none"> • <i>South Australia v. The Commonwealth of Australia</i> (1942) (First Uniform Tax case) in effect made income tax an exclusive power [S.51(2)] • <i>Commonwealth of Australia & Anor v. The State of Tasmania & Ors</i> (1983) (the Franklin Dam Case) in effect meant that any area covered by an international agreement could now be legislated by the Commonwealth Parliament [S.51(29)] • <i>Jones v. Commonwealth</i> (1965) (television = 'other like services') extended Commonwealth power in this area [S.51 (5)] • <i>New South Wales v. Commonwealth of Australia; Western Australia v. Commonwealth of Australia</i> (2006) (the Workplace Relations case or Work Choices case) Commonwealth argued [S.51(20)] compared to States argued [S.51(35)]- Decision meant Commonwealth could regulate employment conditions and labour relations – previously assumed to reside with the States. 	

- (c) Outline **one** proposed reform to the Commonwealth Constitution and discuss **one** argument in support of this change. (5 marks)

Description	Marks
Outlines one proposed reform to the Commonwealth Constitution. Discusses one argument in support of this change. Makes reference to what exists/does not exist in the Commonwealth Constitution.	5
Outlines one proposed reform to the Commonwealth Constitution. Discusses one argument in support of this change.	3–4
Identifies one proposed reform to the Commonwealth Constitution and/or makes a general statement concerning a particular constitutional reform.	1–2
Total	5
Proposed reforms to the Commonwealth Constitution include, but are not limited to: <ul style="list-style-type: none"> • Australia become a republic • recognition of Indigenous Australians in the Commonwealth Constitution • recognition of local government in the Commonwealth Constitution. 	

Question 3

(10 marks)

- (a) Explain the term 'constitutional monarchy' as it applies in Australia. (2 marks)

Description	Marks
Explains the term 'constitutional monarchy' as it applies in Australia.	2
Outlines the term 'constitutional monarchy' as it applies in Australia.	1
Total	2
Answers could include, but are not limited to: <ul style="list-style-type: none"> (hereditary) head of state is a monarch, or sovereign, who is governed and bound by the Commonwealth Constitution. 	

- (b) Distinguish between how, in practice, a Governor-General of Australia is appointed and the provisions for the appointment under the Commonwealth Constitution. (3 marks)

Description	Marks
Explains how a Governor-General of Australia is appointed in terms of: <ul style="list-style-type: none"> the current practice in Australia the Commonwealth Constitution. Recognises a distinction between the two methods of appointment.	3
Outlines how a Governor-General is appointed in terms of: <ul style="list-style-type: none"> the current practice in Australia the Commonwealth Constitution or Explains how a Governor-General is appointed in terms of either : <ul style="list-style-type: none"> the current practice in Australia or the Commonwealth Constitution. 	2
Outlines how a Governor-General is appointed in terms of either : <ul style="list-style-type: none"> the current practice in Australia or the Commonwealth Constitution. or makes a general statement about the appointment of the Governor-General of Australia.	1
Total	3
Answers could include, but are not limited to: Current practice: <ul style="list-style-type: none"> the Governor-General is selected by the Prime Minister who informs the Queen of the selection. After receiving the commission, the Governor-General takes an oath of Allegiance and an Oath of Office to the Queen and issues a Proclamation assuming office. it is an expectation that the appointment of the Governor-General will be for around five years Commonwealth Constitution: <ul style="list-style-type: none"> S.2 of the Commonwealth Constitution stipulates that the Governor-General is appointed by the Queen the appointment is at the Queen's pleasure, i.e. without a term being specified Key difference: A prime-ministerial appointment as opposed to an appointment by the Queen.	

- (c) With reference to the 'Hollingworth Affair', discuss how a Governor-General of Australia is removed from the position. (5 marks)

Description	Marks
Discusses how a Governor-General is removed from the position. Makes reference to the 'Hollingworth Affair' and how Hollingworth was removed as Governor-General.	5
Outlines how a Governor-General is removed from the position. Makes some reference to the 'Hollingworth Affair' and how Hollingworth was removed as Governor-General.	3–4
Makes a general statement regarding how a Governor-General of Australia is removed from the position and/or makes reference to the 'Hollingworth Affair' or Hollingworth's removal as Governor-General.	1–2
Total	5
<p>Answers could include, but are not limited to:</p> <p>Governor-General removal:</p> <ul style="list-style-type: none"> • Commonwealth Constitution is largely silent on the method of removal of the Governor-General – Governor-General holds office 'during the Queen's pleasure' • Governor-General can be recalled or dismissed by the monarch before their term is complete • by convention, removal may only be on the advice of the Prime Minister, who retains responsibility for selecting an immediate replacement or letting the vacancy provisions take effect. <p>Hollingworth Affair:</p> <ul style="list-style-type: none"> • Peter Hollingworth resigned his position as Governor-General of Australia in May 2003 more than three years short of the term for which he had been appointed. His resignation came after nearly eighteen months of controversy over how he had handled cases of sexual abuse of children while in his previous job • the Anglican Church report was released on 1 May 2003. Five days later a Herald-AC Neilsen public opinion poll showed 76% to 18% support for Hollingworth's resignation • Hollingworth temporarily stood aside on 11 May pending the dismissal of rape allegations • public support from Prime Minister Howard for Hollingworth but senior Cabinet Ministers suggested that Hollingworth should reconsider his position • 25 May Hollingworth resigned. <p>Principal lesson in the Hollingworth affair is that the Governor-General cannot survive in office without the confidence of the Australian people. The office is regarded as socially important and is increasingly subject to media scrutiny. The Governor-General's tenure lies in the hands of the Prime Minister. Public opposition to the Governor-General's continuation in office will eventually rebound on the Prime Minister, who will ultimately be forced to urge the Governor-General to resign.</p>	

Question 4

(10 marks)

- (a) Explain what is a 'charter of rights' within Australia's political and legal system. (2 marks)

Description	Marks
Explains a 'charter of rights' in the Australian political and legal system.	2
Outlines a 'charter of rights' in the Australian political and legal system or gives an example of a 'charter of rights' in the Australian political and legal system or makes a general statement about a 'charter of rights' in the Australian political and legal system.	1
Total	2
Answers could include, but are not limited to: <ul style="list-style-type: none"> • a statute of a particular Parliament/Assembly in Australia • lists particular human rights and how these are protected Examples of charter of rights in Australia: <ul style="list-style-type: none"> • <i>Charter of Human Rights and Responsibilities Act 2006</i> (Victoria) • <i>Human Rights Act 2004</i> (ACT). 	

- (b) Distinguish between civil rights and political rights. (3 marks)

Description	Marks
Outlines what is meant by civil rights and political rights. Recognises the difference between the two types of rights.	3
Outlines what is meant by civil rights and political rights.	2
Outlines what is meant by civil rights or political rights or makes a general statement concerning civil and/or political rights.	1
Total	3
Answers could include, but are not limited to: Civil rights: <ul style="list-style-type: none"> • non-political rights especially related to personal liberty • free from unequal treatment especially in terms of race, gender and disability. Political rights: <ul style="list-style-type: none"> • rights related to involvement in the establishment or administration of government • rights that entitle adult citizens to vote, hold public office, to participate in other political activity. Key difference: Civil – non-political/individual freedoms.	

- (c) With reference to **one** statute, discuss its impact on the experience of a particular group within Australia's political and legal system. (5 marks)

Description	Marks
Outlines a relevant statute. Discusses the impact of the statute on the experience of a particular group within Australia's political and legal system.	5
Outlines a relevant statute. Outlines the impact of the statute on the experience of a particular group within Australia's political and legal system.	3–4
Identifies a relevant statute and/or makes a general statement regarding the impact of a statute on the experience of a particular group within Australia's political and legal system.	1–2
Total	5
Answers could include, but are not limited to: Statutes: <ul style="list-style-type: none"> • <i>Racial Discrimination Act 1975</i> • <i>Sex Discrimination Act 1984</i> • any of the Electoral Acts and voting rights/accessibility for Indigenous Australian or other citizens in Australia • any of the Migration Acts pertaining to refugees within Australia. 	

Section Two: Source analysis

20% (20 Marks)

Source 1

Question 5

(20 marks)

- (a) Explain what is meant by 'creeping centralism'. (2 marks)

Description	Marks
Explains the meaning of 'creeping centralism'.	2
Outlines the meaning of 'creeping centralism' or gives an example of 'creeping centralism' or makes a general statements about creeping centralism/centralisation.	1
Total	2
The answer could include, but is not limited to: <ul style="list-style-type: none"> • shifting of power to the Commonwealth government from the States over time • power has shifted through – intergovernmental agreements, High Court judgements, COAG decisions, use of financial powers. 	

- (b) With reference to **Source 1**, discuss **two** reasons for the rise of centralism in the Australian federation. (4 marks)

Description	Marks
Identifies two reasons for the rise of centralism in the Australian federation from the source and discusses each of these.	4
Identifies two reasons for the rise of centralism in the Australian federation from the source and discusses one of these.	3
Identifies two reasons for the rise of centralism in the Australian federation from the source or identifies and discusses one reason.	2
Identifies one reason for the rise of centralism in the Australian federation from the source.	1
Total	4
Answers could include, but are not limited to: <ul style="list-style-type: none"> • the financial strength of the Commonwealth/vertical fiscal imbalance • the expansive definition of Commonwealth powers by the High Court • the necessities associated with two world wars • the embrace of centralism by the Liberal Party. <p>Note: The reasons must be drawn from the source.</p>	

- (c) Discuss **two** reasons why the States still play a significant role in the Australian federation. (6 marks)

Description	Marks
Discusses two reasons why the States still play a significant role in the Australian federation or discusses one reason why the States still play a significant role in the Australian federation (and outlines the other).	5–6
Outlines one reason why the States still play a significant role in the Australian federation and lists the other or discusses one reason	3–4
Identifies one/two reasons why the States still play a significant role in the Australian federation or makes a general statement concerning the States in the Australian federation.	1–2
Total	6
Answers could include, but are not limited to: <ul style="list-style-type: none"> • S.106 which preserves the States' Constitutions • S.107 which saves the power of the States (unless the power has been exclusively vested by the Constitution in the Commonwealth Parliament) and S.108 which states that all laws in force at the time of federation that relate to matters of that State shall continue to remain with the State • States have important revenue-raising powers, even if insufficient to meet their needs • States perform crucial functions of government, particularly in the delivery of essential services • States (as opposed to Territories) can innovate in ways that displease the Commonwealth. States can initiate and respond to national debates, and do so with vigour when they know majority opinion within the electorate is with them: <ul style="list-style-type: none"> ◦ WA's poker machine free hotels and clubs, Qld's City of Brisbane, NSW's medically supervised injecting centre, Victoria's Charter of Rights. <p>Note: the reasons must be in terms of the States in the federation.</p>	

- (d) Evaluate the extent to which the Council of Australian Governments (COAG) has impacted the federal balance of power. (8 marks)

Description	Marks
Discusses COAG and federalism. Could discuss other possible impacts on federalism. Makes an evaluation of the extent to which COAG has impacted the federal balance of power.	7–8
Discusses COAG and federalism. Could outline other possible impacts on federalism. Attempts an evaluation of the extent to which COAG has impacted the federal balance of power.	5–6
Outlines COAG and federalism. Could identify other possible impacts on federalism. Makes a statement of the extent to which COAG has impacted the federal balance of power.	3–4
Outline the role of COAG in the federal system and/or identifies its impact/cites an example of a COAG decision on the federal balance and/or makes a general statement concerning COAG and the federal balance.	1–2
Total	8
<p>Answers could include, but are not limited to:</p> <p>Council of Australian Governments (COAG):</p> <ul style="list-style-type: none"> • is the peak intergovernmental forum in Australia which consists of the Prime Minister, State/Territory Premiers/Chief Ministers and the President of the Australian Local Government Association. The role of COAG is to promote policy reforms that are of national significance, or which need co-ordinated action by all Australian governments and they generally meet twice a year • the centralising trend that results from COAG is exacerbated by the nature of COAG. As the Prime Minister decides if and when COAG is to meet and what will be discussed, the Council's priorities are more likely to align with the Commonwealth's policy agenda than the concerns of the States • COAG is now the central forum for the formulation of policy responses to some of the nation's most pressing problems, including health care, water management, and microeconomic reform • in recent years, under reforms introduced by the Rudd Government in 2007, the number of SPPs has been significantly reduced and they are now much less prescriptive, with a focus on agreed outcomes rather than inputs and processes. However, they have, in effect, been replaced by National Partnership Payments (NPPs) which are focused more narrowly on particular reforms that the Commonwealth wishes to achieve. Through these payments the Commonwealth has maintained its capacity to use its greater financial resources to coerce the States through national partnerships, where 'incentive payments' will only be paid if certain 'milestones' and 'performance benchmarks' are met by the States. <p>Other impacts on federalism could include:</p> <ul style="list-style-type: none"> • High Court rulings • the vertical fiscal imbalance • horizontal fiscal equalisation and how it operates. 	

Source 2**Question 6****(20 marks)**

- (a) Explain the role of the Commonwealth Auditor-General. (2 marks)

Description	Marks
Explains the role of the Commonwealth Auditor-General	2
Outlines the role of the Commonwealth Auditor-General.	1
Total	2
The answer could include, but is not limited to: <ul style="list-style-type: none"> • leads the ANAO (Australian National Audit Office) and is an officer of the parliament • investigates the use of public money • has the power to investigate the finances of all government departments and agencies in terms of 'economy, efficiency and effectiveness'. 	

- (b) With reference to **Source 2**, explain **two** reasons why the Auditor-General was requested to investigate WestConnex. (4 marks)

Description	Marks
Identifies two reasons why the Auditor-General was requested to investigate WestConnex from the source and explains each of these.	4
Identifies two reasons why the Auditor-General was requested to investigate WestConnex from the source and explains one of these.	3
Identifies two reasons why the Auditor-General was requested to investigate WestConnex from the source or identifies and explains one reason.	2
Identifies one reason why the Auditor-General was requested to investigate WestConnex from the source.	1
Total	4
Reasons from the source include: <ul style="list-style-type: none"> • a request from Opposition's Anthony Albanese on the basis that the funding was improperly awarded to the project • a Greens motion which passed the Senate asking for an investigation of both WestConnex and the Perth Freight Link project. <p>Note: the reasons must be drawn from the source.</p>	

- (c) With reference to at least **one** example, discuss the role of the Administrative Appeals Tribunal (AAT) in terms of the accountability of public servants. (6 marks)

Description	Marks
Discusses the role of the Administrative Appeals Tribunal (AAT) in terms of accountability of public servants making reference to at least one example.	5–6
Outlines the role of the Administrative Appeals Tribunal (AAT) in terms of accountability of public servants making reference to one example.	3–4
Identifies the role of the Administrative Appeals Tribunal (AAT) in terms of accountability of public servants and/or cites an example of a relevant AAT case.	1–2
Total	6
<p>Answers could include, but are not limited to:</p> <p>Role of AAT:</p> <ul style="list-style-type: none"> • independent merits review of administrative decisions made under Commonwealth laws • review decisions made by Australian Government ministers, departments and agencies • no general power of review, only if an Act or regulation states that the decision can be reviewed by the AAT • review a decision based on the facts, law and policy related to the decision • has the power to: affirm a decision, vary a decision, set aside a decision and substitute a new decision, or ask that the decision is reconsidered by the decision-maker. 	

- (d) Evaluate the extent to which Senate Estimates promotes executive accountability in Australia. (8 marks)

Description	Marks
Discusses how Senate Estimates promotes executive accountability in Australia. Includes a discussion of one relevant example. Makes an evaluation of the extent to which Senate Estimates promotes executive accountability in Australia.	7–8
Discusses how Senate Estimates promotes executive accountability in Australia. Cites one relevant example in the discussion. Attempts an evaluation of the extent to which Senate Estimates promotes executive accountability in Australia.	5–6
Outlines how Senate Estimates promotes executive accountability in Australia and/or cites a relevant example in the discussion. Makes a statement concerning the extent to which Senate Estimates promotes executive accountability in Australia.	3–4
Outlines how Senate Estimates promotes executive accountability in Australia and/or cites a relevant example in the discussion and/or makes a statement concerning Senate Estimates and executive accountability in Australia.	1–2
Total	8
Answers could include, but are not limited to: Senate Estimates: <ul style="list-style-type: none"> • to question Ministers and officials, questions must relate to the estimates of expenditure but this is interpreted widely to allow anything related to government's operations and financial position • only Ministers from the Senate are required to appear in person • may take advice from Australian National Audit Office (ANAO) • have power to 'send for persons or papers' hence they can demand that individual officials, and documents are made available • questions normally answered at hearings, but can be supplied later. Weaknesses in current procedures: <ul style="list-style-type: none"> • many Senators lack the experience/expertise to analyse and evaluate complex financial information • hearings are often combative and aggressive • Ministers hide behind rhetoric/public servants take questions 'on notice' or 'bureaucratise' • political point scoring/'gotcha' moments tends to dominate. 	

Section Three: Essay

50% (50 Marks)

Marking guide to essay answers

Questions 7–10

Description	Marks
Explains relevant terms and outlines parameters of discussion	
Explains all relevant terms and outlines parameters of discussion.	5
Explains some of the terms and outlines parameters of discussion.	4
Indicates what will be addresses in the discussion.	3
Attempts to provide a focus for discussion.	2
Makes a general statement concerning the topic/claim.	1
Subtotal	5
Discussion of relevant issues including pertinent examples	
Discusses comprehensively relevant issues using a well-structured format and supportive examples in a cohesive, logical sequence and using relevant political and legal terminology.	9–10
Discusses some relevant issues incorporating some examples in a cohesive, logical sequence and using relevant political and legal terminology.	7–8
Limited discussion with limited examples in a logical sequence and using relevant political and legal terminology.	5–6
Limited discussion of the issues with limited political and legal terminology.	3–4
Makes general statements concerning the topic.	1–2
Subtotal	10
Evaluation/assessment/analysis	
Evaluates/assesses/analyses the claim using specific evidence which demonstrates a comprehensive understanding of the topic.	7
Evaluates/assesses/analyses the claim using appropriate evidence which demonstrates an understanding of the topic.	6
Evaluates/assesses/analyses the claim using some evidence which demonstrates some understanding of the topic.	5
Constructs a relevant but weak evaluation/assessment/analysis.	4
Constructs a weak evaluation/assessment/analysis.	3
Limited evaluation/assessment/analysis.	2
No relevant evaluation/assessment/analysis. A statement only.	1
Subtotal	7
Conclusion	
Draws together the argument linking evidence.	3
Summarises the argument.	2
Makes general/superficial statements.	1
Subtotal	3
Total	25

Section 3: Part A

Question 7

(25 marks)

Analyse whether or not the decline of parliament thesis is applicable to recent Commonwealth Parliaments.

Relevant terms and parameters of discussion

- the decline of parliament thesis: failure of the Parliament to fulfil its functions
- functions of parliament include: legislate, check the executive, authorise expenditure, representation of the people/States, forum for debate.
- recent Parliaments include those Parliaments since 2007:
 - 43rd 2010-2013: Gillard/Rudd minority government/HofR: Coalition 72, ALP 71, Crossbenchers 7; Senate: Coalition 34, ALP 31, Crossbenchers 11 including 9 Greens
 - 44th 2013–May 2016: HofR: Coalition 90, ALP 55, Crossbenchers 5; Senate from July 2014: Coalition 33, ALP 26, Crossbenchers 17
 - 45th Sept 2016: HofR: Coalition 76, ALP 69, Crossbenchers 5; Senate: Coalition 29, ALP 26, Crossbenchers 22 (incl Bernardi).

Issues including pertinent examples could include:

- the extent particular functions have been compromised in various parliaments in recent years
- the Senate and the legislative process in particular
- minority government/Gillard and Rudd and the functions of parliament
- party discipline and the various functions of parliament.

Analysis

Whether or not the decline of parliament thesis is applicable to recent Commonwealth Parliaments?

Question 8

(25 marks)

Making reference to particular bills/legislation, analyse the relative power of the Prime Minister and Cabinet compared to that of the Opposition in the lawmaking process of the Commonwealth Parliament.

Relevant terms and parameters of discussion

- Prime Minister (PM) and Cabinet and lawmaking process
- Opposition and lawmaking process
- lawmaking process of Commonwealth Parliament: formulation and introduction of legislation, passage of bill through House of Representatives and Senate
- particular bills/legislation.

Issues including pertinent examples could include:

- relative strength of PM and Cabinet compared to Opposition in each House/various parliaments
- attitude/stance of minor parties/independents towards PM/Cabinet and/or Opposition and vice versa
- the type of legislation and the stance of minor parties/independents in the House/Senate
- 2016 double dissolution triggers and what has happened since.

Analysis

Is the PM/Cabinet more powerful than the Opposition in the lawmaking process of the Commonwealth Parliament?

Part B

Question 9

(25 marks)

Evaluate the extent to which the Australian court system is open and accountable.

Relevant terms and parameters of discussion

- Australian court system: Hierarchical structure presided over by judicial officers- judges/ magistrates
- 'open': members of the public can attend judicial proceedings, method of appointment of judges, judgements of the court
- 'accountable': processes available to ensure that members of the judiciary and court proceedings can be subject to scrutiny.

Issues including pertinent examples could include:

- the role and effectiveness of the appeals process
- through parliamentary scrutiny and legislation
- the extent that judicial processes are transparent including judgements
- the role and effectiveness of judicial commissions in particular States (New South Wales, Victoria, South Australia) or other means of complaining in other jurisdictions (Western Australia, Queensland)
- code of judicial conduct (Australia)
- appointment, censure and removal of judges.

Evaluation

Is the Australian court system both open and accountable or are there aspects of the court system that suggest improvement is possible in terms of openness and/or accountability?

Question 10

(25 marks)

Evaluate the extent to which Australia and **one** other country uphold the democratic principles of political representation and judicial independence.

Relevant terms and parameters of discussion

- political representation: ability of the individual to influence the political system through their vote; the extent that the local representative(s) in the legislature reflect the will of the electorate
- judicial independence: judiciary that is independent of executive and legislative influence/pressure especially in terms of appointment, security of tenure and conditions of service; judges and the judiciary as a whole are impartial and independent of external pressures and of each other and as such those appearing before the courts, and the wider community, can have confidence that cases will be heard fairly and in accordance with the law
- Australia and one other country identified.

Issues including pertinent examples could include:

- Australia and the upholding of political participation: electoral system used and the ability of the individual to influence the political system; role of party politics/party discipline in parliament; the emergence of micro parties and independents in parliament
- Australia and the upholding of judicial independence: judicial appointments; extent independent of external pressures; mandatory sentencing within various jurisdictions in Australia; open courts; right of appeal
- other country and the upholding of political participation
- other country and the upholding of judicial independence.

Note: this is not a comparative essay.

Evaluation

Raises both positives and negative points in terms of upholding political representation and judicial independence by Australia and another country. Better responses will differentiate between the two principles in each country.

ACKNOWLEDGEMENTS

- Question 3(b)** Excerpt adapted from: Office of the Official Secretary to the Governor-General. (n.d.). *Governor-General's role*. Retrieved September, 2017, from www.gg.gov.au/governor-generals-role
Used under Creative Commons–Attribution 3.0 Unported licence.
- Question 3(c)** Excerpt adapted from: Winterton, G. (2003). *Lessons from the Hollingworth affair* (p. 1) [Report]. Retrieved September, 2017, from <http://apo.org.au/system/files/7918/apo-nid7918-54756.pdf>
Used under Creative Commons Attribution-Non-Commercial 3.0 Australia licence.
- Excerpt adapted from: Tenure. (n.d.). In *Wikipedia*. Retrieved September, 2017, from https://en.wikipedia.org/wiki/Governor-General_of_Australia
Used under Creative Commons Attribution-ShareAlike 3.0 Unported licence.
- Excerpt from: The resignation of the Governor-General: Family drama and national reproduction. *Cultural Studies Review*, 15(2), p. 65. Retrieved September, 2017, from <http://epress.lib.uts.edu.au/journals/index.php/csrj/article/viewFile/2054/2236>
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- Question 5(c)** Excerpt adapted from: Gallop, G. (2011). Australian federalism—a case study in pride and prejudice. *Sydney Morning Herald*. Retrieved September, 2017, from www.smh.com.au/federal-politics/political-opinion/australian-federalism--a-case-study-in-pride-and-prejudice-20110228-1bbkw.html
- Question 5(d)** Excerpt adapted from: Council of Australian Governments. (n.d.). *About COAG*. Retrieved September, 2017, from www.coag.gov.au/about-coag
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- Excerpt from: Botterill, L. (2005). *Managing intergovernmental relations: COAG and the Ministerial Council* (p. 2) [Report]. Retrieved October, 2017, from <http://apo.org.au/system/files/2713/apo-nid2713-29291.pdf>
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- Excerpt from: Kildea, P. & Lynch, A. (2011). Entrenching 'cooperative federalism': Is it time to formalise COAG's place in the Australian federation? *University of New South Wales Faculty of Law Research Series* (UNSWLRS 25). Retrieved October, 2017, from www.austlii.edu.au/au/journals/UNSWLRS/2011/25.html

Excerpt from: Wise, T. (2011). *Coercive federalism, COAG and uniform legislation: a lethal mix for the states?* (p. 5). Retrieved October, 2017, from [http://retired.anzacatt.org.au/parliament/general/Anzacatt/Anzacatt.nsf/0/CB1E677DA28532B7CA257ACD0004F86A/\\$file/PLPP%20Course%202011%20Research%20Paper%20for%20ANZACATT.pdf](http://retired.anzacatt.org.au/parliament/general/Anzacatt/Anzacatt.nsf/0/CB1E677DA28532B7CA257ACD0004F86A/$file/PLPP%20Course%202011%20Research%20Paper%20for%20ANZACATT.pdf)
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Question 6(c)

Excerpt adapted from: Administrative Appeals Tribunal. (n.d.). *What we do*. Retrieved October, 2017, from <http://www.aat.gov.au/about-the-aat/what-we-do>

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