Government of **Western Australia**
School Curriculum and Standards Authority

ATAR course examination, 2020

Question/Answer booklet

POLITICS AND LAW

Please place your student identification label in this box

WA student number: In figures

In words

Time allowed for this paper

Reading time before commencing work: ten minutes
Working time: three hours

Materials required/recommended for this paper

To be provided by the supervisor
This Question/Answer booklet

Number of additional answer booklets used (if applicable):

To be provided by the candidate
Standard items: pens (blue/black preferred), pencils (including coloured), sharpener, correction fluid/tape, eraser, ruler, highlighters

Special items: nil

Important note to candidates

No other items may be taken into the examination room. It is **your** responsibility to ensure that you do not have any unauthorised material. If you have any unauthorised material with you, hand it to the supervisor **before** reading any further.

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Structure of this paper

Section	Number of questions available	Number of questions to be answered	Suggested working time (minutes)	Marks available	Percentage of examination
Section One Short answer	4	3	45	30	30
Section Two Source analysis	2	1	35	20	20
Section Three Essay Part A: Unit 3	2	1	100	50	50
Part B: Unit 4	2	1			
				Total	100

Instructions to candidates

1. The rules for the conduct of the Western Australian external examinations are detailed in the *Year 12 Information Handbook 2020: Part II Examinations*. Sitting this examination implies that you agree to abide by these rules.

2. Answer the questions according to the following instructions.

   Section One: Consists of four questions. You must answer three questions. Write your answers in this Question/Answer booklet.

   Section Two: Consists of two questions. You must answer one question. Write your answers in this Question/Answer booklet.

   Section Three: Consists of two parts each with two questions. You must answer one question from each part. Write your answers in this Question/Answer booklet.

3. You must be careful to confine your answers to the specific questions asked and to follow any instructions that are specific to a particular question.

4. Supplementary pages for planning/continuing your answers to questions are provided at the end of this Question/Answer booklet. If you use these pages to continue an answer, indicate at the original answer where the answer is continued, i.e. give the page number.

Section One: Short answer **30% (30 Marks)**

This section has **four** questions. You must answer **three** questions. Write your answers in the spaces provided.

Supplementary pages for planning/continuing your answers to questions are provided at the end of this Question/Answer booklet. If you use these pages to continue an answer, indicate at the original answer where the answer is continued, i.e. give the page number.

Suggested working time: 45 minutes.

Question 1 **(10 marks)**

(a) Outline what is meant by co-operative federalism. (2 marks)

(b) Distinguish between horizontal fiscal equalisation (HFE) and vertical fiscal imbalance (VFI). (3 marks)

(c) Discuss **two** issues associated with how the Council of Australian Governments (COAG) functioned. (5 marks)

Question 2 **(10 marks)**

(a) Outline **two** roles of a cabinet minister in the lawmaking process of the Commonwealth Parliament. (2 marks)

(b) Explain **one** way in which a particular pressure group has influenced the lawmaking process in the Commonwealth Parliament. (3 marks)

(c) Discuss **two** ways in which a particular minor party has influenced the lawmaking process in the Commonwealth Parliament in recent years. (5 marks)

Question 3 **(10 marks)**

(a) Outline the role of the Administrative Appeals Tribunal (AAT). (2 marks)

(b) Explain **one** way in which the Administrative Appeals Tribunal (AAT) contributes to 'natural justice' being upheld in Australia. (3 marks)

(c) With reference to **one** recent example, discuss the role of the Commonwealth Auditor General. (5 marks)

Question 4 **(10 marks)**

(a) Outline what is meant by ‘open government’ in Australia’s political system. (2 marks)

(b) Distinguish between ‘political representation’ and ‘popular participation’. (3 marks)

(c) Discuss **two** ways in which Cabinet solidarity undermines 'open government' in Australia. (5 marks)

End of Section One

Section Two: Source analysis **20% (20 Marks)**

This section has **two** questions. You must answer **one** question. Write your answer in the spaces provided.

Supplementary pages for planning/continuing your answers to questions are provided at the end of this Question/Answer booklet. If you use these pages to continue an answer, indicate at the original answer where the answer is continued, i.e. give the page number.

Suggested working time: 35 minutes.

Question 5 **(20 marks)**

Read **Source 1** and answer **all** the question parts that follow.

Source 1

The following is an edited extract from an opinion piece and first published in the Sydney Morning Herald in January 2017 written by Professor George Williams entitled *OPINION Our nation's rulebook is showing its age: we desperately need a review of the Constitution.*

> … The figures reveal just how poor a time this has been for constitutional reform. The four decades since the 1977 referendum is the longest period in the nation's history without the people supporting a change ...
>
> … The failure to change the Constitution, or even to put a proposal to the people, would not matter if the document was in great shape. This, though, is far from the case. Constitutions, like any laws, need updating and renewal. Not surprisingly, the nation's 1901 rule book is showing its age.
>
> … Australia is locked in a cycle of constitutional misadventure. We must break out of this by adopting a new method of generating debate and reform. A reform agenda that for many years has been directed by political opportunism and ad hoc initiatives must be recast by systematic, community-based processes.
>
> Just as Australia has established other bodies to drive change, such as the Productivity Commission and law reform processes, so too should the government establish a small, ongoing Constitutional Review Commission. It should be charged with reviewing the Constitution, generating proposals for reform and listening to and educating the public.

(a) Outline what is meant by constitutional reform. (2 marks)

(b) With reference to **Source 1**, explain in your own words, **two** suggestions to end the 'cycle of constitutional misadventure' in Australia. (4 marks)

Question 5 (continued)

(c) Discuss **two** barriers posed by party politics to constitutional reform in Australia. (6 marks)

(d) Outline **one** current reform proposal to change the Commonwealth Constitution and analyse its possible effect on the Australian political and legal system. (8 marks)

Question 6 **(20 marks)**

Read **Source 2** and answer **all** the question parts that follow.

Source 2

The following is an edited extract from a speech delivered by Arthur Moses SC, President of the Law Council of Australia at the LAWASIA Constitutional & Rule of Law Conference, Malaysia, entitled *Why a separation of power in government? Its importance to constitutionalism* on 4 October 2019 and published by the Law Council of Australia.

... Chief Justice of NSW, the Honourable Tom Bathurst, has observed that:

The reality of separation of powers in Australia is not and never has been that the courts operate entirely independently of the executive and parliament ...

This in one sense makes the independence of the judiciary all the more important. It is up to the courts to independently and objectively determine the intention of parliament, rather than simply agreeing with what a particular minister thinks, or perhaps more accurately hopes, the relevant statute means at a particular time.

Former Chief Justice of Australia, the Hon Sir Gerard Brennan, said that:

Judicial independence does not exist to serve the judiciary; nor … the other two branches of government. It exists to serve and protect not the governors but the governed.

Public confidence, he said, is the "power base" of the judiciary. Unlike other arms of government, Sir Brennan said the Judiciary:

has not got, nor does it need, the power of the purse or the power of the sword to make the rule of law effective, provided the people whom we serve have confidence in the exercise of the power of judgment.

Rights and freedoms cannot be protected if people cannot access an independent legal profession and an independent judiciary that can undertake their roles without fear of reprisal.

(a) Outline what is meant by the rule of law. (2 marks)

(b) With reference to **Source 2**, explain in your own words, **two** reasons why judicial independence is important. (4 marks)

Question 6 (continued)

(c) Discuss **two** ways in which Australia upholds judicial independence. (6 marks)

(d) With reference to a country other than Australia, analyse the extent to which judicial independence is undermined by the executive **and/or** legislature in that country. Include specific examples in the analysis. (8 marks)

End of Section Two

Section Three: Essay **50% (50 Marks)**

This section has **four** questions. Answer **one** question from Part A: Unit 3 and answer **one** question from Part B: Unit 4. Write your answers on the pages following Question 10.

Supplementary pages for planning/continuing your answers to questions are provided at the end of this Question/Answer booklet. If you use these pages to continue an answer, indicate at the original answer where the answer is continued, i.e. give the page number.

Suggested working time: 100 minutes.

Part A: Unit 3

Answer **one** question from a choice of **two**.

Question 7 **(25 marks)**

With reference to the Commonwealth Constitution, analyse executive and judicial powers in Australia and compare these executive and judicial powers with those of **one** non-Westminster political and legal system.

or

Question 8 **(25 marks)**

Analyse the extent to which recent Commonwealth Parliaments have been dominated by competing mandates.

Part B: Unit 4

Answer **one** question from a choice of **two**.

Question 9 **(25 marks)**

Governors-General play a vital role in the Australian political and legal system but ultimately there are few constraints and no accountability.

Evaluate this claim with reference to particular Governors-General.

or

Question 10 **(25 marks)**

International covenants, protocols and treaties play a significant role in the protection of human rights in Australia.

Evaluate this claim with reference to the status of international covenants, protocols and treaties in protecting human rights in Australia.

End of questions

Question number: _____

Question number: _____

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Question number: _____

Question number: _____

Supplementary page

Question number: _____

Supplementary page

Question number: _____

ACKNOWLEDGEMENTS

Question 5

Source 1, sentences 1–7 & 9–11 from: Williams, G. (2016). Our nation's rulebook is showing its age: We desperately need a review of the Constitution. *The Sydney Morning Herald*. Retrieved May, 2020, from https://www.smh.com.au/opinion/our-nations-rulebook-is-showing-its-age-we-desperately-need-a-review-of-the-constitution-20161229-gtjf7l.html

Source 1, sentence 8 adapted from: Williams, G. (2016). Our nation's rulebook is showing its age: We desperately need a review of the Constitution. *The Sydney Morning Herald*. Retrieved May, 2020, from https://www.smh.com.au/opinion/our-nations-rulebook -is-showing-its-age-we-desperately-need-a-review-of-the-constitution-20161229-gtjf7l.html

Question 6

Source 2, paragraphs 1, 4, 6 & 8 from: Moses, A. (2019). *Why a separation of power in government? Its importance to constitutionalism*. Retrieved May, 2020, from https://www.lawcouncil.asn.au/docs/14a6fc48-5bea-e911-9400-005056be13b5/Why%20a%20separation%20of%20power%20in%20government%20Its%20importance%20to%20constitutionalism.pdf

Source 2, paragraphs 2 & 3 adapted from: Bathurst, T. F. (2013). [Quote]. In *Why a separation of power in government? Its importance to constitutionalism*. Retrieved May, 2020, from https://www.lawcouncil.asn.au/docs/14a6fc48-5bea-e911-9400-005056be13b5/Why%20a%20separation%20of%20power%20in%20government%20Its%20importance%20to%20constitutionalism.pdf
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Source 2, paragraphs 5 & 7 from: Brennan, G. (1996). [Quote]. In *Why a separation of power in government? Its importance to constitutionalism*. Retrieved May, 2020, from https://www.lawcouncil.asn.au/docs/14a6fc48-5bea-e911-9400-005056be13b5/Why%20a%20separation%20of%20power%20in%20government%20Its%20importance%20to%20constitutionalism.pdf

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