5.11 Comparative US/UK Constitutions: Federal and Unitary Government: 10-minute Pack

EDEXCEL 9PL0 · about 10 minutes

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. Write full sentences for extended answers and for any question worth 6 marks or more. Time guidance: 10 minutes for the whole pack. The final question is a levels-marked essay; plan and write a structured response with a clear judgement.

1 In the context of US and UK constitutions, identify two formal sources of the UK constitution.

(Total for Question 1 is 2 marks)

2 Explain one reason why the US Constitution is described as entrenched, with a brief reference to Article V.

(Total for Question 2 is 3 marks)

3 Explain with examples how the US Supreme Court has limited the power of other branches through judicial review, referencing at least one landmark case such as Marbury v Madison. Briefly assess one constraint on the Court's ability to exercise this check.

(Total for Question 3 is 6 marks)

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Mark scheme · 5.11 Comparative US/UK Constitutions: Federal and Unitary Government: 10-minute Pack

Question 1

one valid formal source, e.g. Acts of Parliament such as the Human Rights Act 1998	**B1**
a second valid formal source, e.g. common law or statute example such as the Constitutional Reform Act 2005	**B1**

Answer: Any two of: Acts of Parliament (statute) such as the Human Rights Act 1998, Constitutional Reform Act 2005; common law; treaties; Royal Prerogative exercised through statute or convention.

Question 2

identifies that entrenched means the constitution is difficult to change	**B1**
refers to Article V and a requirement for supermajorities or state ratification to amend	**B1**
explains consequence, e.g. entrenchment makes fundamental change slower and protects core rights and structures	**B1**

Answer: Entrenched means the US Constitution is difficult to change because Article V requires an amendment to be proposed by two thirds of both Houses or a convention called by two thirds of state legislatures, and then ratified by three quarters of the states, which makes fundamental change slow and protects core institutions and rights.

Question 3

identifies Marbury v Madison 1803 as establishing judicial review	**B1**
explains Marbury significance, e.g. court asserted power to declare acts of Congress unconstitutional	**B1**
identifies a modern example, e.g. decisions limiting executive action or striking down state laws	**B1**
gives development of the modern example, e.g. examples such as United States v Lopez 1995 limiting Congress power under the Commerce Clause, or NFIB v Sebelius 2012 on the Affordable Care Act	**B1**
explains consequence, e.g. demonstrates the Court can check legislature and executive by interpreting constitutional limits	**B1**
provides a brief assessment of one constraint, e.g. standing requirements restrict which disputes the Court can hear, so it cannot review every disputed government action	**B1**

Answer: Marbury v Madison 1803 established the principle of judicial review, allowing the US Supreme Court to declare acts of Congress unconstitutional. In modern times the Court has constrained other branches, for example United States v Lopez 1995 limited Congress's Commerce Clause reach, and NFIB v Sebelius 2012 placed limits and conditions on parts of the Affordable Care Act. These cases show the Court interprets constitutional boundaries and can nullify legislation or executive acts, though its power is constrained by issues of standing, judicial appointment politics and institutional caution. For example, standing requirements restrict which disputes the Court can hear, so it cannot review every disputed government action.

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