5.7 The US Supreme Court: Role, Appointment and Judicial Philosophy: 10-minute Pack

EDEXCEL 9PL0 · about 10 minutes

Total Marks

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. For levels-marked questions write full sentences and structured argument. The two levels-marked essays/questions require developed analysis and evaluation. Spend about 10 minutes on the whole pack.

1 State two formal steps in the US federal appointment process for a Supreme Court nominee, from presidential nomination to Senate action.

(Total for Question 1 is 2 marks)

2 State four institutional features of the Senate Judiciary Committee that shape the confirmation process for Supreme Court nominees.

(Total for Question 2 is 4 marks)

3 Explain two contrasting judicial philosophies, originalism/textualism and the living constitution approach, and how each affects judicial decision making on constitutional questions.

(Total for Question 3 is 5 marks)

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Mark scheme · 5.7 The US Supreme Court: Role, Appointment and Judicial Philosophy: 10-minute Pack

Question 1

identifies the President formally nominates a candidate	**B1**
identifies the Senate gives advice and consent through hearings and a confirmation vote	**B1**

Answer: The President formally nominates a candidate; the Senate undertakes advice and consent, typically with Judiciary Committee hearings followed by a full Senate confirmation vote.

Question 2

identifies that the Committee holds confirmation hearings where the nominee testifies	**B1**
identifies that the Committee votes to report the nomination to the full Senate, positively, negatively or without recommendation	**B1**
identifies use of the Committee to subpoena documents and witnesses	**B1**
identifies the Committee's ability to shape the hearing agenda and questions	**B1**

Answer: The Senate Judiciary Committee holds confirmation hearings where nominees testify and senators question them; it also votes to report the nomination to the full Senate, and it can subpoena documents and witnesses and otherwise shape the hearing agenda and lines of questioning.

Question 3

identifies originalism/textualism as interpreting the Constitution according to original meaning or text	**B1**
explains how originalism/textualism constrains judges to the fixed meaning and can limit judicial policy making	**B1**
identifies the living constitution approach as interpreting the text in light of contemporary values and social change	**B1**
explains how the living constitution approach allows judges to adapt constitutional principles to modern circumstances	**B1**
explains a consequence, e.g. originalism may lead to narrower readings of rights while living constitutionalism may support broader, evolving protections	**B1**

Answer: Originalism or textualism interprets the Constitution according to its original public meaning or the ordinary meaning of the text, which tends to constrain judges to the framers' intent or the statute as written and can limit courts from reading new rights into the text. The living constitution approach treats the document as a dynamic instrument whose principles must be applied in light of contemporary values and problems, giving judges scope to adapt constitutional doctrines to modern circumstances; as a result originalism may produce narrower readings while living constitutionalism can yield broader, evolving protections.

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