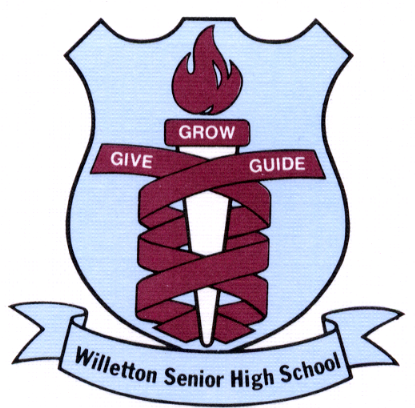
**Willetton SHS**

**Year 11 Politics and Law Exam**



**Semester 1 2021**

**Question/Answer Booklet**

Student Name

**Time allowed for this paper**

Reading time before commencing work: ten minutes

Working time for paper: two hours and thirty minutes

**Materials required/recommended for this paper**

***To be provided by the supervisor***

This Question/Answer Booklet

***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.

**Structure of this paper**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Section** | **Number of questions available** | | **Number of questions to be answered** | **Suggested working time**  **(minutes)** | | **Marks available** | **Percentage of exam** |
| Section One:  Short answer | 4 | 3 | | 55 | /30 | | 40 |
| Section Two:  Source analysis | 2 | 1 | | 40 | /20 | | 27 |
| Section Three:  Essay | 3 | 1 | | 55 | /25 | | 33 |

Total /75

**Instructions to candidates**

1. The rules for the conduct of Western Australian external examinations are detailed in the *Year 11 Information Handbook 2021.* 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 three questions. You must answer one question only. Write your answer in this Question/Answer booklet.

3. You must be careful to confine your responses 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 40% (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: **55 minutes.**

**Question 1 (10 marks)**

(a) Outline the purpose of the ‘division of powers’ as it operates within the Australian political and legal system. (2 marks)

(b) Distinguish between the ‘legislature’ and the ‘executive’ within the Australian parliamentary system. (3 marks)

(c) Discuss the significance of **two** Westminster conventions as they operate within the Australian political system. (5 marks)

**Question 2 (10 marks)**

(a) What is meant by the term ‘delegated legislation’? (2 marks)

(b) Outline the purpose of a ‘private member’s bill’ with reference to a specific example in the Australian political and legal system. (3 marks)

(c) Provide **one** argument for and **one** argument against the proposition that ‘the second reading debate is the most significant stage of the legislative process’. (5 marks)

**Question 3 (10 marks)**

1. Outline the purpose of the ‘ratio decidendi’ in the judicial trial process. (2 marks)

(b) Distinguish between the ‘golden rule’ and the ‘mischief rule’ in the interpretation of statutes in the Western Australian legal system. (3 marks)

(c) Discuss the extent to which laws made in the parliament are superior to laws made through the courts. (5 marks)

**Question 4 (10 marks)**

1. What is meant by the concept of ‘rule of law’? (2 marks)

(b) Outline **three** rules of evidence used within the Western Australian trial process. (3 marks)

(c) For **one** specific court decision, discuss how precedent can be changed in the Australian legal system. (5 marks)

**End of Section One**

**Section Two: Source analysis 27% (20 Marks)**

This section has **two** questions. You must answer **one** question.

Write your answer in the space 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: 40 minutes.

**Question 5: (20 marks)**

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

# The following is an edited extract from the Australian High Commission website entitled *Defending Liberal Democracies In An Increasingly Contested World* delivered by George Brandis on 25 June 2020.

|  |
| --- |
| As Australia’s Prime Minister Scott Morrison said recently:   “There are some who believe liberal democracies and free societies cannot cope with these [COVID-19] sorts of challenges.  We will prove them wrong here in Australia.”  [There have been] attempts by some to use the pandemic to promote what I might call a “contest of efficacy” between different systems of government, based upon criticism of how effectively different countries have responded.   Of particular concern, we have seen some countries engage in concerted disinformation, along medical, political and economic lines to complicate healthcare responses and economic recovery efforts.  There are many weaknesses with that argument, not the least of them that it is too soon in the lifecycle of this pandemic to make any definitive judgments about relative success and failure.  Secondly, while some of the liberal democracies, such as the United Kingdom and the United States, have seemed to fare worse, in comparative terms, in the early days, others – such as Australia, New Zealand, Japan and South Korea – have been among the most successful in containing and nearly eliminating COVID-19.  Thirdly, the argument itself depends upon the reliability of reported case numbers, about which there is already dispute, which we can expect to continue for a long time to come.  Nevertheless, the attempt by some to turn comparative national responses to the pandemic into a critique of the liberal democratic model of governance, whose responses are asserted to be disunited and confused, compared with that of single-party states whose responses are represented to have been decisive, firm and therefore effective, does tell us that the lines of division in international politics have evolved from the kind of ideological contest which the liberal democracies fought, and won, in the twentieth century, into an attack upon the efficacy of our systems of government in protecting our citizens.  [Efficacy – the ability to produce a desired or intended result.] |

(a) What is meant by the term ‘liberal democracy’? (2 marks)

(b) With reference to **Source 1**, explain in your own words, **two** arguments against the idea that ‘liberal democracies and free societies cannot cope’ with challenges such as COVID-19. (4 marks)

**Question 5** (continued)

1. Discuss how liberal democratic nations, such as Australia, are protected through the separation of powers. (6 marks)

(d) Evaluate the extent to which Australian governments upheld **two** liberal democratic principles during the COVID-19 crisis. (8 marks)

**Question 6 (20 marks)**

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

The following is an edited extract from the AUSPUBLAW website entitled [*Courts and COVID-19: Challenges and Opportunities in Australia*](https://auspublaw.org/2020/05/courts-and-covid-19-challenges-and-opportunities-in-australia/) written by Joe McIntyre, Anna Olijnyk and Kieran Pender on 4May, 2020

|  |
| --- |
| Like so many of our social institutions, courts were initially caught flatfooted in response to the emerging crisis [of COVID-19].  Subsequently, most Australian courts have begun to utilise digital solutions to allow virtual hearings (perhaps best described as emergency remote hearings). Even the High Court has adapted to this context: the case of [Cumberland v The Queen](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCATrans/2020/49.html) was the first to be heard entirely electronically. While there have been many challenges, the speed with which the judiciary and the profession have managed to adjust to the digital-only landscape is striking. There is already senior court jurisprudence on when it is appropriate to hold virtual hearings, and the Judicial College of Victoria is usefully collating the emerging jurisprudence on, and judicial institutional responses to, the pandemic.  Open justice is an essential feature of the Australian judicial system, with constitutional underpinnings. It is both an ‘overarching principle’ and the source of practical rules, including that judicial proceedings should be conducted in public.  COVID-19 has endangered open justice in Australia, with the rapid shift to online courts posing challenges to the ability of the public, and particularly the media, to access judicial hearings. As matters are now being heard online, observers cannot exactly wander the halls of court buildings, visiting court rooms as they see fit. While several Australian courts have stated an intention to uphold the principle in their fast-evolving digital practices, their statements have been sparse on detail. The Supreme Court of Victoria, for example, merely offered that ‘[p]rinciples of open justice have been an important part of the Court’s planning of its response to the coronavirus (COVID-19) pandemic. The means of achieving this will be considered on a case by case basis’. |

1. What is meant by ‘judicial independence’ in the Australian legal system? (2 marks)

1. With reference to **Source 2**, explain in your own words, **two** challenges to the achievement of open justice within Australia as a result of COVID-19. (4 marks)

**Question 6** (continued)

1. Discuss **three** key differences between civil and criminal law. (6 marks)

(d) Evaluate the significance of the court hierarchy in the Western Australian legal system. (8 marks)

**End of Section Two**

**Section Three: Essay 33% (25 Marks)**

This section has **three** questions. Answer **one** question only.

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: **55 minutes.**

**Question 7 (25 marks)**

Evaluate the extent to which the Australian political and legal system is a hybrid of other key western liberal democracies.

**OR**

**Question 8 (25 marks)**

Evaluate the key strengths and weaknesses of one on democratic system you have studied in comparison to Australia’s democratic system.

**OR**

**Question 9 (25 marks)**

Discuss the key features of the adversarial system which are said to enable it to find the truth.

End of questions

**Additional working space**

**Additional working space**

**Additional working space**

**Additional working space**

**ACKNOWLEDGEMENTS**

**Question 5** Source 1 is an adapted from: Brandis,G (2020, June 25) Defending Liberal Democracies In An Increasingly Contested World, *Department of Foreign Affairs and Trade*, Retrieved in December, 2020, from <<https://uk.embassy.gov.au/lhlh/20200625.html>>

**Question 6** Source 2 is adapted from: McIntyre, J, Olijnk and Pender, K (2020, May 4) [Courts and COVID-19: Challenges and Opportunities in Australia](https://auspublaw.org/2020/05/courts-and-covid-19-challenges-and-opportunities-in-australia/), *Auspublaw*, Retrieved in December, 2020, from <https://auspublaw.org/2020/05/courts-and-covid-19-challenges-and-opportunities-in-australia/>