

**Droit - Economie - Sciences Sociales**

<b>Session :</b>	<b>Janvier 2019</b>
<b>Année d'étude :</b>	<b>Deuxième année de Licence Droit</b>
<b>Discipline :</b>	<b><i>Anglais juridique</i></b>
<b>Examen :</b>	<b>Premier semestre (UEC1 7031)</b>
<b>Durée :</b>	<b>1h30</b>
<b>Titulaires du cours :</b>	<b>Ms. Cingal, Mr. Huet, Mr. Jendoubi, Mr. Lecocq, Ms. Loukam</b>

**Les documents et les appareils électroniques ne sont pas autorisés.**

**I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)**

1. Unlike US Courts of Appeal and Federal District Courts...
2. Treaties...
3. Since the Vice-President...
4. Checks and balances...
5. In order to nominate ambassadors and judges...

**II. Read the following document and answer each of the questions below. (approximately ten lines/100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)**

**When Is an Offense Impeachable? Look to the Framers for the Answer**

By Adam Liptak, *The New York Times*, August 22, 2018 (adapted)

There are more serious crimes than violating campaign finance laws. Some offenders face jail time, while others catch a break.

But the campaign finance violation President Trump's former lawyer accused him of on Tuesday — arranging to pay hush money<sup>1</sup> to influence an election — may nonetheless be precisely the

sort of offense that the drafters of the Constitution meant to cover in granting Congress the power to impeach and remove a president.

“At the constitutional convention, the framers repeatedly expressed anxiety about the president seeking to obtain office through corrupt means,” said Joshua Matz, an author of “To End a Presidency: The Power of Impeachment.”

“In fact,” he said, “that was one of the principal reasons they included an impeachment power in the first place.”

Mr. Trump is unlikely to face criminal prosecution while he is in office, as the Justice Department’s longstanding policy and something approaching a scholarly consensus say that the Constitution does not permit criminal proceedings against a sitting president. And political realities will probably protect him from impeachment proceedings, at least as long as Republicans control the House of Representatives.

But legal scholars said that committing crimes aimed at undermining the integrity of an election could well satisfy the constitutional standard for impeachment, which is set out in Article II, Section 4: “The president, vice president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.”

When the framers met in Philadelphia in 1787, they singled out one offense in particular as worthy of impeachment: a candidate’s interference with the Electoral College.

“Shall the man who has practiced corruption, and by that means procured his appointment in the first instance, be suffered to escape punishment by repeating his guilt?” George Mason, a leading voice at the convention on the question of impeachment, asked.

Of course, bribery is not the same thing as depriving voters of information by paying hush money.<sup>1</sup> But both interfere with the democratic process, said Laurence H. Tribe, a law professor at Harvard, the other author of “To End a Presidency” and a frequent critic of Mr. Trump.

Most scholars agree that the impeachment clause covers abuse of official power by a sitting president but not wholly private conduct committed before assuming office.

Misconduct before assuming office is not typically a fit subject for impeachment, legal scholars said. But there is one important exception.

“The main and possibly only form of pre-Inauguration Day conduct that would properly qualify as an impeachable offense is conduct relating directly to the acquisition of the presidential office,” Mr. Matz said.

Richard L. Hasen, an expert in election law who teaches at the University of California, Irvine, said the crime that Mr. Cohen described Tuesday in court was a serious one.

Mr. Cohen said he had arranged to make large, secret payments to a pornographic film actress whose stage name was Stormy Daniels and to a former Playboy model, Karen McDougal, to buy their silence. He indicated that Mr. Trump had instructed him to make the payments, and that he had acted to influence the election.

“It’s a felony,” Mr. Hasen said. “It’s serious enough that prosecutors would consider jail time for it. If someone is a first-time offender, prosecutorial discretion could lead to no jail time or little jail time.”

But for purposes of impeachment, though, it is the nature of the conduct that matters.

“Not every impeachable offense is a crime, and not every crime is an impeachable offense,” Mr. Matz said. “Impeachment is not about punishing the president. That’s what criminal liability is for. It’s about getting him out of office so he can’t use its powers in a harmful manner going forward.”

1. What point is the author of the article trying to make? What are his arguments?

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<sup>1</sup>Hush money = money you pay someone to buy their silence.

2. Explain and discuss the underlined sentence using your knowledge of the American Constitution in general and the impeachment procedure in particular.
3. Based on the article and your knowledge of the Constitution and of the situation, do you think Donald Trump's actions before he became President are enough to justify his impeachment?

**III. Choose ONE of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)**

1. Comment on this quotation by Chief Justice John Roberts: "By ensuring that no one in government has too much power, the Constitution helps protect ordinary Americans every day against abuse of power by those in authority."
2. Do you think the process of electing the American President should be reformed? Justify.