

EXAMEN D'ENTREE EN DEUXIEME ANNEE 2025

Epreuve de Langue (durée conseillée 1h30)

ANGLAIS

The New York Times, 23 February 2025. By Jeff Shesol.

Alexander Hamilton saw it coming. In the Federalist Papers, he described the judiciary as a feeble branch of government, easily “overpowered, awed or influenced” by Congress and the president. Lacking the means to enforce their rulings, judges, he wrote, would need an “uncommon portion of fortitude.”

If any judge feels that necessity now, it is Chief Justice John Roberts. The legal challenges to President Trump’s constitutional crime spree are multiplying. One case, concerning the president’s purge of government watchdogs, has already reached the Supreme Court. The justices could soon take up another, weighing whether the president can end birthright citizenship for the children of immigrants. As Chief Justice Roberts no doubt knows, these battles pose one of the most profound tests his institution has ever faced — a test of its authority and the idea of equal justice under the law. The chief will have to find his fortitude.

For now, he appears to be steeling himself. His most recent report on the federal judiciary — issued a few weeks before Mr. Trump’s inauguration — opens with a parable about King George III, who tried to bring colonial judges to heel, and brims with concern about “violence, intimidation and defiance directed at judges.” This has been interpreted, in part, as a swipe at Vice President JD Vance, who has been peddling the idea that judges have no business telling a president how to “control his own government.”

If the chief justice intended a shot across the bow, Mr. Vance remains undeterred. He and other Republicans — egged on by Elon Musk and right-wing legal theorists — continue to talk, gleefully, about defying the court. This includes the president. “He who saves his Country does not violate any Law,” Mr. Trump recently posted on social media, a nod to Napoleon, if not other dictators. A day later, he reposted the quote, proudly attaching it to a headline stating that his administration was refusing to obey a district court order unfreezing billions of dollars in federal grants.

It is possible that these threats are theater, meant to cow the justices into compliance. But it is more likely that they are not. Mr. Trump is clearly well aware that the court is unpopular and no longer commands the reverence that long protected it from attacks. According to a Marquette Law School poll, a majority of Americans believe that politics, not law, drives most Supreme Court decisions. Mr. Trump has felt free — perhaps never freer than now — to show contempt for judges, juries, lawyers, the rule of law and the Constitution. The question is not whether Mr. Trump will defy the court, but how soon and to what extent.

A clash is coming, despite the court's sympathy for some aspects of the Trump agenda. In recent years, with gathering force, Chief Justice Roberts and his conservative supermajority have been crippling federal agencies, dismantling environmental regulations, weakening voter protections, stripping away reproductive rights and undercutting racial diversity — advance work, all of it, for Project 2025. The assault on the “deep state” echoes the chief justice's own disdain for government “functionaries” and his indulgent view of executive power.

At some point, presumably, the justices will draw the line. They may allow Mr. Trump to purge parts of the federal government, but it is hard to imagine them endorsing his attempt to revoke birthright citizenship. His executive order, issued on his first day in office, is dressed up in legal language but directly contravenes the 14th Amendment, as more than one judge has pointed out. The court also seems unlikely to countenance Mr. Trump's freeze of funds that Congress appropriated. A long line of cases, including a recent 7-2 opinion by Justice Thomas, affirms “the principle of legislative supremacy over fiscal matters.” As the administration continues, by increasingly artful means, to undermine court orders that it restart spending, the fundamental issue becomes starker and clearer. “If presidents can impound appropriated funds at any time and for any reason,” Georgetown Law's Stephen Vladeck observes, “then there's not much point to having a legislature.”

In any consequential ruling, Chief Justice Roberts will likely be tempted to narrow his reasoning, soften his tone and, if possible, leave Mr. Trump out of it. Such was the case in *Trump v. Anderson*, which tiptoed awkwardly around the central question of whether Mr. Trump had engaged in insurrection and should therefore be barred from federal office. The chief justice's instinct for self-preservation is strong, as is his faith in sleights of hand. But that faith would be disastrous here. A vague, performatively nuanced opinion will almost certainly be perceived by the White House as weakness — and a green light to further lawlessness.

During Mr. Trump's first term, when the court ruled that he had improperly revoked the immigration program known as DACA, the justices split 5-4; in a dissent, Justice Thomas accused the chief justice of writing an opinion with “no basis in law.” But even a divided decision can be definitive by the force of its logic, the directness of its language, the unambiguity of its intent. Nothing less will suffice.

Of course, Mr. Trump might defy the court anyway — a historical breach with consequences that can scarcely be imagined. It could be the spark that sets off a revolt against the courts: copycat noncompliance by Republican governors and attorneys general. If any of this comes to pass, the chief justice will have no real recourse. The cudgels that lower courts use to sanction and disbar lawyers or fine officials and agencies are of little use against a rogue commander in chief. The court could threaten to hold the president in contempt. But that threat would be hollow: Without the support of federal marshals, who answer to Mr. Trump's attorney general, Pam Bondi, the court cannot enforce its order. And Congress, for its part, will almost certainly line up behind Mr. Trump — as it has in nearly all matters, even when its own powers are being usurped. The court will stand alone, abandoned; and Chief Justice Roberts, it is safe to assume, will not escalate a conflict his institution has already lost.

He will, however, have one last tool in his arsenal: his voice. He might be reluctant to use it. Except if it is a constitutional crisis. Charles Evans Hughes, one of John Roberts's most esteemed predecessors, might provide a model. In 1937, when Franklin D. Roosevelt proposed to expand the Supreme Court by adding up to six justices, Chief Justice Hughes drafted a letter refuting Roosevelt's false claims about the court and permitted it to be read aloud in the Senate chamber. Critics called it a breach of judicial protocol, but Hughes took pride in dealing the court-packing plan a blow. “This letter,” he observed later, “appears to have had a devastating effect.”

That is too much to hope for here. No letter is going to deter Mr. Trump. Still, Chief Justice Roberts should say his piece. If Mr. Trump flouts a court ruling, the nation will need its chief justice to explain what is happening — and why the executive branch, for all its prerogatives, must be bound by the Constitution. The nation will need him to summon the bravery displayed by Danielle Sassoon — the interim U.S. attorney who quit last week rather than implement a corrupt order from the Justice Department — and by Hagan Scotten, the assistant U.S. attorney (and former Roberts clerk) who did the same. In a letter to the attorney general, Ms. Sassoon called the department's directive "breathtaking and dangerous." At a time of fear and acquiescence, her example has inspired many. Let us hope the chief justice is among them. His responsibility is greater; his courage must be, too.

COMPREHENSION

I. **Answer the questions. Use your own words. Do not quote. Respect the number of words (/8)**

1. Which title suits best? (/1)
 - a. John Roberts is likely to give in when facing Trump
 - b. John Roberts is on a collision course with Trump
 - c. John Roberts is wary of Trump's compliance with the Constitution
 - d. John Roberts is about to trick Trump into accepting a court ruling.
2. Why is King George III mentioned in the text? (20-30 words) (/1)
3. What makes Trump feel he can be disrespectful towards the Supreme Court? (20-30 words) (/1)
4. True or false? The Supreme Court mostly opposes Trump's agenda. (20-30 words) (/1)
5. True or false? Birth-right citizenship could be a bone of contention between the executive power and the judiciary. (/2) (20-30 words)
6. What is the journalist's idea in the last paragraph? (/2) (20-30 words)

II. **The American constitution set up a system of checks and balances between the 3 – executive, judiciary and legislative – branches of the US government.** What for? Has the system been challenged recently? Is the Trump presidency opening a new chapter of American politics? If so, to what extent?

(/12) (300 words, +/- 10%)