Université Paris Cité

Institut d'Études Judiciaires

Anglais Juridique

2023

- Déroulement et contenu de l'épreuve orale -

Les candidats seront interrogés sur un des textes de cette brochure.

Le candidat disposera d'un temps de 15 minutes de préparation pour 15 minutes d'interrogation **maximum**. On attend du candidat une présentation de 5 à 10 minutes, le reste du temps étant complété par les questions de l'examinateur.

- Attendus -

Cette épreuve est une épreuve d'anglais encadrée par le Cadre Européen Commun de Référence pour les Langues (CECRL). Le niveau attendu est C1 : utilisateur expérimenté et autonome. L'épreuve évalue une tâche de réception (lecture) combinée à une tâche de production (expression orale en continu et en interaction). La perspective est actionnelle (le candidat doit proposer une synthèse du texte considéré à son interlocuteur) et correspond à une situation professionnelle potentielle (la synthèse de documents) dans un cadre spécialisé (actualité politique et juridique).

Selon le site service-public.fr, un locuteur de niveau C1 a les capacités suivantes :

- Comprendre des textes longs et exigeants et saisir des significations implicites
- S'exprimer spontanément et couramment sans trop devoir chercher ses mots
- Utiliser la langue de façon efficace et souple dans la vie sociale, professionnelle ou académique
- S'exprimer sur des sujets complexes de façon claire et bien structurée et manifester son contrôle des outils linguistiques d'organisation, d'articulation et de cohésion du discours

Il s'agit pour le candidat avant tout de présenter un exposé construit et raisonné, de démontrer une solide maîtrise de la langue anglaise, des concepts et du vocabulaire. Il sera donc tenu compte de la qualité de la structure, de la clarté et de la pertinence de l'analyse, ainsi que de la capacité à s'exprimer dans un anglais fluide et articulé (intelligibilité, prononciation, syntaxe, capacité à s'adapter et à répondre aux questions, réactivité).

Quelques conseils basiques :

- Vous devez proposer une analyse du document : c'est le cadre dans lequel votre maîtrise de l'anglais est évaluée. Il ne s'agit donc pas de se contenter d'une lecture ou d'une description, mais dans la mesure du possible de montrer un esprit critique pour développer un propos nuancé. Le contexte d'un document, ainsi que la date à laquelle il a été écrit peuvent ainsi être essentiels, en particulier quand il traite de sujets d'actualité.
- Organisez votre présentation. Un plan est donc obligatoire.
- Vous devez montrer votre connaissance basique du sujet concerné (ou des sujets, de nombreux textes en traitant en fait plusieurs). Vous pouvez établir des liens avec d'autres sujets du cours, mais ceux-ci doivent rester pertinents.
- Il est bon de montrer (ou on vous le demandera) une solide maîtrise de l'anglais juridique. Des questions peuvent porter sur des points de vocabulaire précis, ou on peut vous demander de lire et/ou traduire quelques lignes.
- Enfin, il sera bienvenu de proposer (ou on vous le demandera) un avis personnel sur le sujet - en conclusion.
- Soyez aussi clair et intelligible que possible. Évitez cependant d'être trop lent, vous avez peu de temps pour donner votre analyse et démontrer votre maîtrise du sujet.
- Faites preuve d'honnêteté intellectuelle : il est inutile de répondre à une question que vous ne comprenez pas, ou à laquelle vous n'avez en fait pas de réponse.

- Préparation -

Cette brochure contient une sélection de textes utilisés pour l'épreuve.

Des cours et dezs séances d'entraînement seront proposés (de janvier à mai) pour se préparer. Des séances de révision seront également organisées après l'été en octobre ou novembre après les résultats d'admissibilité.

- Préparer l'épreuve : bibliographie non-exhaustive -

- BRAANA J-É., BRUNON-ERNST A., CHAUDOIR N., LETALLEUR S., DAVEY C., MERCHANT J., MOHAMMEDI Y., *The English of Law: England and Wales*. Paris: Belin, 2006.

- BRUNON-ERNST A., CHAUDOIR N., LETALLEUR S., MAGIDOFF J., MERCHANT J., MOHAMMEDI Y., PERDU M., PODOLIN F., ROGEZ Y-M., YEAGO W., *The English of Law: U.S. Law & Politics*, *The English of Law and Politics: The United States*. Paris: Belin, 2007.

- BULLIER A. J., *La Common Law*, Collection "Connaissance du droit". Paris: Dalloz, 4é ed., 2016.

- CORNETTE Fanny et HAERI Kami. *Cours d'anglais juridique 2023: Tout le programme en fiches et en schémas.* Enrick éditions, 2022.

- DARBYSHIRE P., *DARBYSHIRE on the English Legal System* (12th edition), Sweet & Maxwell, 2017.

- DARBYSHIRE P*., English Legal System in a Nutshell. "Nutshells series"* (10th edition). London: Sweet & Maxwell, 2016.

- DHUICQ Bernard and FRISON Danièle, *L'anglais juridique*. Paris: Pocket, 2012.

- FRISON Danièle, *Introduction au droit anglais et aux institutions britanniques*. Paris: Ellipses, 2005.

- PANSIER F.-J., *Legal English – Programme du CAPA*, (2nd edition). Paris, Maison du dictionnaire, 2013.

- PANSIER F.-J., *Dictionary of Legal English – Lexique raisonné de l'anglais juridique*. Paris, Maison du dictionnaire, 2013.

- SERVIDDIO-DELABRE E*., Common Law. Introduction to the English and American Legal Systems*. (2nd edition). Paris: HyperCours Dalloz, 2014. (Especially chapter 1: Origins of the Common Law)

Il est aussi recommandé de se tenir au courant des actualités, de consulter des documents audio-visuels et les sites des différentes institutions: Parliament.uk, Congress.gov, Ministry of Justice (Justice.gov.uk), The Cabinet (Direct.gov.uk), 10 Downing Street (Number10.gov.uk), the White House (Whitehouse.gov), H.M. Court System (HMcourts-service.info or Justice.gov.uk), the Supreme Court (Supremecourt.uk), Law Society (Lawsociety.org.uk), Bar Council (Barcouncil.org.uk), American Bar Association (Americanbar.org).

Enfin, il est extrêmement utile de consulter régulièrement les sites en ligne d'un ou plusieurs médias en langue anglaise : theguardian.com, nytimes.com, thetimes.co.uk, washingtonpost.com, independent.co.uk, thehill.com, telegraph.co.uk, abajournal.com, CNN, BBC... etc. S'habituer à traiter l'actualité politique et juridique du monde anglo-saxon directement en langue anglaise est sans doute la meilleure des préparations à l'épreuve.

- How to -

1. Presentation (introduction)

• nature of document

• date and place of publication

• source.

• writer (if well known)

• key idea, issue, topic, who is concerned, what the document is about, what is at stake in the text (*l'enjeu, la problématique*), writer's goal, aim, purpose

A FEW USEFUL EXPRESSIONS

The article is taken from/ an excerpt from/ an extract from…

It was published/ issued in 2022/ on September 4th 2017/ It is dated July 2nd 2022

It is about/deals with/ focuses on/ concentrates on/ It is entitled/ The headline shows…/ It deals with a topical issue

2. Summary and commentary

• Announce your outline clearly and explicitly: divide your commentary into 2, 3 or 4 parts with a short title for each part

• Express yourself in written formal style (no abbreviations) with complete sentences

A few useful expressions

The text can be divided into x parts… The text folds into x parts; I will follow a two-fold outline; I will adopt a three-fold approach

We/I will consider… ; As a starting point, we shall examine…; Having introduced the notion of…, I shall discuss…

First/ In the first place/ To begin (start) with…

• Summary and commentary

a) Do not copy out the text, but use synonyms and equivalent expressions

b) Quote the text regularly to back up your analysis: (on *line 34; in paragraph 2; as mentioned in the first part…)*

c) Clearly structure your summary and commentary, using link words:

First…, Second…., Last…; On the one hand…/ on the other hand ; However, …; Besides, …

3. Conclusion

Sum up your main points and opinions on the issue(s). This may include: • other possible solutions, prospects• your opinion

on the text, on the way problems are tackled/ dealt with/ if the journalist is biased/unbiased

A few useful expressions

In my opinion,…; To my mind,….; To conclude,….In conclusion…., Finally…;; Last

As a conclusion (= en guise de conclusion, se substitue à une veritable conclusion)

- Useful vocabulary and expressions -

Introduction: first, first of all, firstly, first and foremost, in the first place, to start with, to begin with

Presentation: this article is an extract from, taken from, it was published, it is dated…*see above*

Topic: the text informs us about, focuses on, concentrates on, tackles the issue of; it acquaints us about; draws attention to; poses/ sets/raises the question of the main issue under discussion in this text is, the issue at stake is *see above*

Au sujet de; on, about, regarding, concerning, as regards, as to, in this respect

Outline: As a starting point, we shall examine, Having first introduced the notion of, ; I shall discuss…

Addition: besides, moreover, furthermore, in addition to (adverbs and prepositions)

Let us now consider

Contrast: However, yet, still, nevertheless (advs.); although, though (conj); unlike (prep)

Consequence: So, then, consequently, therefore, thus (advs.)

Cause: as, since, because (conj.) because of (prep.)

Purpose: the author insists on, emphasizes something, lays the emphasis on, underlines, highlights, challenges,

questions, asserts, claims, states, his aim is to do something; he aims at, he means to, he intends to, he intimates

that (il *laisse entendre*) …

Explanation: in fact, in actual fact, actually (= really and not currently, presently) as a matter of fact, indeed, that

is to say, namely (*en l'occurrence*)

Examples: to take another example, for example, for instance, e.g.; by way of illustration; as the author remarks

Opinion: In my view, it seems to me that; I would maintain that (*je soutiens que*), it seems to me that;

As far as I/he am/is concerned, I believe that, According to the author (*not* according to me)

To sum up key ideas: in brief, in short, to sum up, in other words,

Comparison: compared with, in comparison with, similarly, equally

Condition: as long as, on condition that, provided (that)

Restrictive condition: unless (conj.) despite, in spite of (preps)

Opposition: whereas, while (conj), the pros and cons, on the one hand… see above

Referring to the text: as explained/ mentioned/ illustrated on line 2,.. Paragraph 2/ The first paragraph is a good illustration of this point, to quote the text lines 5 to 10; the first part goes from line 5 to line 10; on line 6, the text reads: "…", in the 4th paragraph.

- What to avoid -

Attention à l'**intonation** : l'anglais (tout du moins dans sa version soutenue) a par défaut une intonation *descendante*, et n'utilise l'intonation montante que pour les interrogations.

Faites attention aux défauts de prononciation les plus courants

Note : *les crochets [ ] sont utilisés pour encadrer des transcriptions phonétiques, et les guillements « » l'écrit.*

En phonétique on parle parfois de « paire minimale » pour distinguer deux mots proches.
Par exemple : ship / sheep [différence entre le « i court » et le « i long »]
Quelque chose d'approchant aussi avec : think / sink (penser vs couler)

L'accentuation
A la source de bien des erreurs des francophones on trouve des problèmes d'accentuation.
L'anglais nécessite de prendre le temps de bien accentuer certaines syllabes. C'est difficile à apprendre, mais cela se résoud souvent en parlant lentement et en articulant le mieux possible.

Les voyelles
L'anglais contient des « diphtongues » sur les syllabes accentuées. À l'inverse, les voyelles des syllabes non accentuées tendent à « fondre », cad à se transformer en son « e ».

Les diphtongues sont notamment : i → [ai] a → [ei] ou → [au]

Les voyelles sont souvent diphtonguées dans des constructions [V+C+e#] : voyelle + consonne + e + fin de mot. Par exemple « kite, nike, date... etc).
Par exemple dans « trial », le i est prononcé [ai] (« aï »), et ce prononce donc « traïeul ».
Attention : les terminaisons « -ine » sont souvent des exceptions (« engine » ou « marine »).

le « u » est souvent précédé d'un son [j] (prononcé « y »), y compris en milieu de mot.
Par exemple, le mot « tenure » se prononce : « tényure ».

En revanche les voyelles françaises « on » « un/in » ou « en/an » sont des voyelles nasales qui n'existent pas en anglais.

Le « i long » [i:] pose aussi parfois problème.
Les voyelles « doublées » donnent souvent un « i long », qu'elles soient en « ee » ou « ea ».
On connaît bien « sheep », « meat », « deep » … etc. Mais il y a des exceptions (comme « bear »).

Les consonnes
Le « th » pose de gros soucis aux francophones car il se prononce de deux façons différentes (comme dans « the » ou « think »).
Dans « think », le son la [θ] est ce qu'on appelle une consonne fricative dentale sourde : elle s'obtient en collant la langue contre les dents de devant (quelque chose de très peu naturel pour un francophone).

Les terminaisons
Les français ne prononcent souvent pas les terminaisons -s ou -ed à l'oral.
→ cela donne souvent des verbes non conjugués

A l'inverse, on peut parfois entendre les terminaisons -ed être prononcées « -èdes », alors que l'anglais ne marque que le son [d].

***- Textes classés par pays et par thèmes** (donnés à titre <u>indicatif,</u> les textes traitant toujours plusieurs thèmes) -*

Royaume-Uni

La monarchie et son avenir

- Texte 1 : The Guardian view on the death of Queen Elizabeth II: the end of an era
- Texte 2 : King Charles and the future of the monarchy

L'union et son avenir

- Texte 3 : Sinn Féin assembly victory fuels debate on future of union
- Texte 4 : Supreme court rules against Scottish parliament holding new independence referendum

Le Brexit et l'Union Européenne

- Texte 5 : Brexual healing? EU and Britain dream of a fresh start in 2023
- Texte 6 : Britain faces chaos if it scraps EU laws, warns ex-Whitehall legal boss

Scandales et crises politiques

- Texte 7 : Revealed: Tory peer Michelle Mone secretly received £29m from 'VIP lane' PPE firm
- Texte 8 : Distant cousin of Boris Johnson acted as credit guarantor while in No 10

Débats de société

- Texte 9 : Rishi Sunak tells MPs he will clear asylum backlog by end of 2023
- Texte 10 : Explained: UK seeks power to strip nationality, without warning
- Texte 11 : Sturgeon accuses UK ministers of using trans people as 'political weapon'
- Texte 12 : Keir Starmer pledges to tackle 'bureaucratic nonsense' to save NHS

États-Unis

La cour suprême

- Texte 13 : 'Force to be reckoned with': Ketanji Brown Jackson shines in first week
- Texte 14 : Onslaught of new abortion restrictions looms in reddest of states

Les élections de mi-mandat 2022 et ses conséquences

- Texte 15 : Democrats retain control of Senate after crucial victory in Nevada
- Texte 16 : Kevin McCarthy wins House speaker bid after gruelling 15-vote saga
- Texte 17 : House Republicans Preparing Broad Inquiry Into F.B.I. and Security Agencies
- Texte 18 : Rift in Trump's inner circle over 2024 presidential campaign announcement

« The big lie » et ses conséquences

- Texte 19 : The Inside Joke That Became Trump's Big Lie
- Texte 20 : Bad Losers
- Texte 21 : US House passes election law in response to January 6 insurrection
- Texte 22 : Trump won't blunt January 6 inquiry by entering 2024 race, panel member says

Scandales et crises politiques

- Texte 23 : Trump tax returns raise alarms about fairness of US tax code
- Texte 24 : Trump under investigation for potential violations of Espionage Act, warrant reveals
- Texte 25 : Exclusive: US intelligence materials related to Ukraine, Iran and UK found in Biden's private office, source tells CNN
- Texte 26 : Merrick Garland's unprecedented dilemma

1. The Guardian view on the death of Queen Elizabeth II: the end of an era

Editorial, *The Guardian*, Thu 8 Sep 2022

News of Queen Elizabeth's death was not wholly unexpected. She lived to the great age of 96. After enjoying markedly good health for so long, the oldest monarch in British history had recently appeared more fragile. She had understandably become a more private woman since the death of Prince Philip last year and had been less publicly visible, undertaking lighter duties. All of us knew that this moment was approaching.

It arrives nevertheless as a national shock, but also as a shared moment of reflection, and as the start of a new and unwritten chapter for the British monarchy and the country itself. The Queen's death brings personal loss for those close to her, and she had also been a constant presence in millions of lives. The longest monarchical reign in British history, stretching more than 70 years, is over. But the record book is less important than the widely shared sense of what has now slipped away, never to return.

The Queen's life spanned the entire history of modern Britain. She was born when Britain ruled a global empire of some 600 million people. She died when Britain was a medium-sized northern European country with an uncertain future.

She was crowned Queen in the first televised coronation in 1953. In the early years of her reign there was heady talk of Britain entering a new Elizabethan age. That never quite happened, and in retrospect the idea can be seen as a characteristic post-imperial conceit. She adapted, cautiously and pragmatically, to change. She managed to combine in her person the remote sacramental dimension of the British monarchy with a realistic acceptance that her standing rested on more secular foundations. In this, she provided an undeniable source of stability as the country underwent epochal changes at home and in the world during her lifetime.

The consequence of this generally deft approach is that her long reign was only rarely marked by anything that she herself did in the public sphere. There were exceptions. One was her visit to Ireland in 2011, which played a pivotal part in the historic reconciliations of that time. Another was the dispassionate care and affection, which often contrasted with the indifference of some politicians, that she displayed towards the nations of the United Kingdom, embodied in particular in her love of Scotland.

Even more long-lasting was her important formal part in the retreat from empire. This had begun under her father, when India became free in 1947. But from 1957 on, when Ghana became independent, many of the "possessions" that the Queen had sworn to govern in her coronation oath became self-governing instead, while mostly remaining within the Commonwealth. The post-imperial grouping mattered to the Queen and how it will survive her death is unclear.

Elizabeth II leaves a space behind that is unlikely to be filled. The monarchy of the future will not be the same. Much careful thought, in which parliament has a need to be properly consulted and a right to give its final approval, must be given both to reform of the royal finances and the civil list. Most immediately, the coronation – a religious ceremony that is unique among the European monarchies – must be debated.

The monarchy, built on a system of hereditary privilege, is an anachronism in the modern age. However, the day of the Queen's passing is not the right one for contentious reflection on the continuing place, if any, of the monarchy.

2. King Charles and the future of the monarchy

By Matthew Engel, *Financial Times*, September 16, 2022

[…] In addition to the daily crises on the desk of his equally neophyte prime minister, the United Kingdom faces an existential threat not seen since 1940, and that is very much the King's business.

First there is Scotland's longstanding restlessness, which, if it is finally translated into independence, is likely to be conducted with icy civility if not much goodwill. But the sleeping dragon of Northern Ireland is also stirring. This is not just about the Protocol, the document Boris Johnson signed (but probably never read) in an attempt to allow Brexit to happen without restoring a full-blown frontier in Ireland. Imminent census figures will reveal whether the Catholic population of Northern Ireland has finally overtaken the Protestants, thus creating the possibility of a referendum on the province joining a united Ireland. There are many possible outcomes from that, including a return to violence. An independent Scotland would probably keep the monarchy — the people who lined the roadsides this week were the sort who always vote. But a united Ireland emphatically would not. And anyway, Scotland would become a separate realm. Charles's main title would be "King of England and Wales", pending the possibility of the Welsh flouncing off as well, and it would all be a pretty miserable legacy for him to pass on to William.

Far away, the 14 other independent nations who maintain the monarch as head of state are flirting with change. Barbados, an improbable trendsetter in such matters, defected to republicanism last year. Charles gamely attended that ceremony and wished them well. Jamaica and Antigua are expected to follow, a product of the attention now being devoted to Britain's record on slavery. What used to be called "the white dominions" — Canada, Australia and New Zealand — are being more cautious. All three have left-of-centre governments and an increasingly heterogeneous population without ties to Britain. But — even in Australia, where republicanism is strong and to an extent bipartisan — leaders are happy to let sleeping dogs lie, sensing distraction, high political risk and little gain.

This is not through massive bow-and-curtsy zest for the monarchy. But for one thing, the Canadian constitution is very difficult to amend and any discussion of the subject would create all sorts of troublesome issues. Both the long-quiescent Québécois and the increasingly assertive indigenous peoples would want to impose their own priorities. And keeping the King has a special appeal to the Canadians' fragile national ego, perpetually attenuated by its overbearing neighbour. As Stephen Bates, author of Royalty Inc, puts it: "The monarchy is one thing the Americans don't have." But even in Britain the antis now have the moment for which they have waited almost as long as Charles. Graham Smith, head of the campaign group Republic, says: "We paused for a couple of days but we have picked up thousands of pounds in new funds and a lot of engagement on social media. "It's partly because of the baggage Charles brings, but mainly because he isn't the Queen, the heat shield that deflected all criticism," says Smith. "People did get outraged if you said something bad about her."

He still has to cope with the wayward family members — Andrew, with the taint of sexual allegations, and Harry and Meghan, who sometimes have given the impression of becoming republicans themselves. But one must remember that part of the British royal family's success is as the world's longest-running soap opera. With the proviso that the entertainment should never deflect from the faux-sanctity that surrounds the throne, part of royalty's job is not to be boring.

3. Sinn Féin assembly victory fuels debate on future of union

Rory Carroll and Lisa O'Carroll in Magherafelt, and Toby Helm*, The Guardian,* Sat 7 May 2022

Northern Ireland has slipped into political crisis after Sinn Féin's triumph in the assembly election triggered calls for a referendum on a united Ireland and the Democratic Unionist party vowed to block the formation of a new power-sharing executive at Stormont.

Jubilant Sinn Féin supporters celebrated across the region on Saturday when final vote counts confirmed a historic victory that turned the former IRA mouthpiece into the biggest party, with the right to nominate the first minister.

Sinn Féin won 29% of the first preference vote and will be the biggest party in the Stormont assembly, a seismic moment for a state that was designed a century ago to have a permanent unionist majority. The party seeks to abolish what it considers an illegitimate entity and shuns the term Northern Ireland, instead referring to "the North", presenting an existential challenge to the UK. Sinn Féin's MPs boycott Westminster.

In a coded reference to Irish unification, Michelle O'Neill, the party's deputy president, and the first minister elect, said: "It's a defining moment for our politics and for our people. Today ushers in a new era which I believe presents us all with an opportunity to reimagine relationships in this society on the basis of fairness, on the basis of equality, and on the basis of social justice, irrespective of religious or social backgrounds."

It was time for Ireland north and south to discuss a new, shared island, she said.

Sinn Féin's leader, Mary Lou McDonald, had a message for unionists: "Don't be scared. The future is bright for all of us."

She added there was a collective responsibility to get the government "up and running quickly". "This is not a time for theatrics, this is not a time for playing games this is the time for grown-up sensible partnership politics, that's what people want," she said. "The idea, at a time of a cost of living crisis, that people would stand on the sidelines and allow people to struggle, and struggle badly, for us is unthinkable, so we would appeal to everybody to take stock."

Sinn Féin has been in power at Stormont with other parties for 15 years and has promised to make the region work – but it sent a stark message to Boris Johnson's government that a referendum on a united Ireland was now on the agenda.

The party's soaring popularity in the Republic of Ireland, where it leads the opposition in the Dublin parliament, will add to No 10's alarm.

Under the Good Friday agreement the secretary of state for Northern Ireland is supposed to call a referendum if it appears likely a majority wants a united Ireland. Polls show most people favour staying within the UK but Sinn Féin hopes to change the tide within five to 10 years.

On Saturday night Brandon Lewis urged Northern Ireland's political parties to form an executive as soon as possible. "Over the coming days I will be meeting with all the party leaders and will urge them to restore the Stormont institutions at the earliest possible moment, starting with the nomination of an assembly Speaker within eight days," he said.

"The government remains committed to the Belfast (Good Friday) agreement and will continue to work with the Northern Ireland parties and the Irish government to deliver its vision for reconciliation, equality, respect for rights and parity of esteem.

"Together, we must move forward towards a brighter future - that means delivering for all the people of Northern Ireland."

4. Supreme court rules against Scottish parliament holding new independence referendum

By Libby Brooks and Ben Quinn*, The Guardian, Wed 23 Nov 2022 14.28 GMT*

The Scottish parliament cannot hold a second independence referendum without Westminster approval, the UK supreme court has ruled, in a unanimous judgment likely to anger Scottish nationalists who say the country's future is for Scottish voters to decide.

The first minister, Nicola Sturgeon, said immediately after the ruling: "Scottish democracy will not be denied. Today's ruling blocks one route to Scotland's voice being heard on independence – but in a democracy our voice cannot and will not be silenced."

Sturgeon said she respected the ruling, but accused Westminster of showing "contempt" for Scotland's democratic will. "This ruling confirms that the notion of the UK as a voluntary partnership of nations, if it ever was a reality, is no longer a reality," she told a news conference.

Sturgeon said her government would look to use the next general election as a "de facto referendum" on separating from the rest of the UK after more than 300 years.

Insisting that the SNP "is not abandoning the referendum route, Westminster is blocking it", she said: "We must and we will find another democratic, lawful and constitutional means by which the Scottish people can express their will. In my view, that can only be an election."

Acknowledging the "frustration and disappointment" felt by the SNP and the wider independence supporters following the judgment, Sturgeon said this must be shortlived. "The fact is, we have work to do. The case for Scotland becoming independent is more compelling and urgent than ever."

Delivering the unequivocal judgment, the supreme court president, Lord Reed, said the Scottish parliament did not have the power to legislate for a referendum on independence because such a bill would relate to the future of the union of the UK, a matter reserved to Westminster.

Reed rejected arguments put by the SNP, which the court permitted to intervene in the proceedings, based on the Scottish parliament's right to self-determination under international law. He said that in the absence of an agreement between the two governments, as happened in advance of the 2014 vote, the Scottish parliament did not have the power to legislate for a referendum.

The ruling came after an unprecedented hearing at the UK's highest court into whether Holyrood had the legal authority to legislate for a referendum on Scottish independence without Westminster granting it the required powers.

Four consecutive prime ministers have refused Sturgeon's requests to grant her a section 30 order, the section of the 1998 Scotland Act – the legislation that established the Scottish parliament – that allows Holyrood to pass laws in areas that are normally reserved to Westminster, such as the union.

The question was referred to the court by Scotland's lord advocate, Dorothy Bain KC, at Sturgeon's request after she confounded critics in June by announcing her preferred date for another referendum as 19 October 2023.

Bain argued that the referendum bill was within Holyrood's powers because the vote would merely be consultative and would not have any immediate consequences. Independence would be achieved through lengthy negotiations, as happened with Brexit.

But Reed said the effects of legislation "are not restricted to legal consequences but can include its practical consequences". The outcome of a referendum would "possess the authority … of a democratic expression of the view of the Scottish electorate" and would "either strengthen or weaken the democratic legitimacy of the union".

Therefore, Reed said, the five judges had concluded unanimously that "it is clear the proposed bill has more than a loose or consequential connection with reserved matters".

5. Brexual healing? EU and Britain dream of a fresh start in 2023

By Cristina Gallardo, *Politico*, December 29, 2022

LONDON — Three tortuous years after Britain left the EU, hopes are rising on both sides of the English Channel that 2023 will prove a transformative year for the U.K.-EU relationship.

Officials in London and in Brussels acknowledge an urgent need to heal the wounds of Brexit and start to smooth over cracks in the relationship that could be exploited by hostile states.

Relations between the two sides have been under a perennial cloud following Britain's vote to leave the EU in June 2016 and the subsequent political turbulence in London. But Russia's invasion of Ukraine in February 2022, and the departure of Boris Johnson as U.K. prime minister six months later, have shifted the dynamic, creating both an imperative for closer working — on issues such as energy, defense and security — and the political headroom for a fresh start.

Downing Street is now showing a willingness to conclude thorny negotiations over how Gibraltar and Northern Ireland — both British territories with EU land borders — will conduct business with the 27-country bloc. Deals on both issues could be signed off in the early part of 2023.

"There will be a concerted effort to try to get a positive outcome on the Northern Ireland protocol," said Raoul Ruparel, a former special adviser on Brexit to ex-British Prime Minister Theresa May, in reference to the Brexit deal's controversial protocol for trade between Northern Ireland the rest of the U.K. "I do think the government in the U.K. is now working honestly towards that, and obviously the EU says it's open to it."

A tale of two negotiations

Efforts to thrash out an international treaty on Gibraltar's future relationship with the EU could yield a resolution within the first few weeks of 2023, according to officials on all sides of the negotiation.

A Gibraltar settlement could in turn yield a positive spillover effect into the entrenched Northern Ireland protocol talks, those involved believe, while also removing the risk of Spain withholding a resolution on the latter until the former is resolved.

Successfully landing a Gibraltar deal in 2023 will require smart messaging from both London and Madrid, however, given domestic sensitivities. In the U.K., the European Research Group (ERG) of Euroskeptic Tory MPs fear the agreement may undermine Gibraltar's historic links to Britain. In Spain, right-wing opposition parties — expected to campaign on a Spanish nationalist ticket in the 2023 general election — are likely to portray any deal struck by the left-wing coalition government in Madrid as a missed opportunity to bring the Rock back under Spanish control.

In Northern Ireland, officials are aiming to deliver some sort of consensus on the main issues by April 10 — the 25th anniversary of the 1998 Good Friday/Belfast Agreement that helped bring peace to the region, and which might be marked by a visit to Europe of U.S. President Joe Biden.

The European Commission this month pushed back for three years the enforcement of new regulatory rules on veterinary medicines in Northern Ireland, creating more space for a deal. And former Irish Prime Minister Bertie Ahern, who's been helping negotiations behind the scenes, told the BBC he believes the protocol row "can be sorted out" over the "early weeks of next year."

Some fear that any swift deal will be just another sticking plaster, however, given British Prime Minister Rishi Sunak's limited headroom when managing his Conservative backbenchers, and the considerable gap between London and Brussels in key areas such as food safety checks on goods coming in and out of Northern Ireland.

6. Britain faces chaos if it scraps EU laws, warns ex-Whitehall legal boss

By Toby Helm *(*Political Editor*), The Guardian*, Sun 23 Oct 2022

Tory plans to scrap most EU laws by the end of 2023, to show that Brexit is being delivered, risk causing untold legal chaos and yet more damage to British businesses, according to the former head of the government's legal service.

With the country still reeling from the effects of Liz Truss and Kwasi Kwarteng's disastrous mini-budget, ministers are facing mounting opposition from business groups, environmentalists, legal experts, unions and opposition parties to what is being described as another dangerous, ideologically driven experiment by pro-Brexit Tory rightwingers.

Last night Jonathan Jones, who headed the government legal service from 2014 to 2020, and dealt with issues relating to Brexit, warned that the retained EU law (revocation and reform) bill, which will have its second reading in the Commons on Tuesday, will create deep uncertainty for businesses and many other organisations. "I think it is absolutely ideological and symbolic rather than about real policy," he said.

Under the bill's provisions, about 2,400 EU laws that were kept on the UK statute book after Brexit, to ensure continuity, will be automatically deleted at the end of next year, except in cases where ministers decide that there should be exemptions.

The plan – which critics say could even mean the scrapping of rules ensuring sports events such as the Olympics can be watched free on television – has outraged unions, who fear the disappearance of laws protecting workers' rights, and environmentalists, who believe well-established rules protecting wildlife habitats will be lost.

Jones says the government has given no clue as to which laws it plans to scrap, leaving organisations in all sectors completely in the dark as to what legislation will apply to them in future.

Business organisations say they need to need to know what regulations – such on standards for manufactured goods – they have to comply with years in advance.

"It is a very, very bad way to change and make law," Jones said. "This has nothing to do with Brexit. We have left. It creates great uncertainty within a very tight, and completely self-imposed timescale. There is nothing inherent in Brexit that says we have to change the law within a particular period after we have left. It has been driven by the usual suspects wing of the Tory party."

Lucy Monks, head of international affairs at the Federation of Small Businesses (FSB), said business groups had made their concerns clear. She said: "Among widespread economic instability and rampant inflation, changes to the regulatory environment for small firms must be carefully weighed up so as not to add an extra burden to already very difficult trading conditions.

"A year just isn't long enough for small businesses to work out how their operations will need to change in response to a fundamental shift in the regulatory environment, such as the one proposed by the EU revocation and reform bill."

Labour, which has been reluctant of late to take a stand on EU-related issues for fear of being branded anti-Brexit, will oppose the bill in the Commons.

Shadow business secretary Jonathan Reynolds said: "The last things businesses and workers need is more instability and uncertainty. Not content with crashing our economy, the Conservatives now want to rip up the rules that businesses rely on to trade, and the rights workers rely on to work."

7. Revealed: Tory peer Michelle Mone secretly received £29m from 'VIP lane' PPE firm

By David Conn*, The Guardian,* Wed 23 Nov 2022

The Conservative peer Michelle Mone and her children secretly received £29m originating from the profits of a PPE business that was awarded large government contracts after she recommended it to ministers, documents seen by the Guardian indicate.

Lady Mone's support helped the company, PPE Medpro, secure a place in a "VIP lane" the government used during the coronavirus pandemic to prioritise companies that had political connections. It then secured contracts worth more than £200m. Documents seen by the Guardian indicate tens of millions of pounds of PPE Medpro's profits were later transferred to a secret offshore trust of which Mone and her adult children were the beneficiaries.

Asked by the Guardian last year why Mone did not include PPE Medpro in her House of Lords register of financial interests, her lawyer replied: "Baroness Mone did not declare any interest as she did not benefit financially and was not connected to PPE Medpro in any capacity."

The leaked documents, which were produced by the bank HSBC, appear to contradict that statement. They state that Mone's husband, the Isle of Man-based financier Douglas Barrowman, was paid at least £65m in profits from PPE Medpro, and then distributed the funds through a series of offshore accounts, trusts and companies.

The ultimate recipients of the funds, the documents indicate, include the Isle of Man trust that was set up to benefit Mone, who was Barrowman's fiancee at the time, and her children. In October 2020, the documents add, Barrowman transferred to the trust £28.8m originating from PPE Medpro profits. That was just five months after Mone helped PPE Medpro secure contracts to supply masks and sterile gowns for use in the NHS.

Contacted about the new disclosures, HSBC said it was unable to comment, even to confirm if the couple had been clients. A lawyer for Mone said: "There are a number of reasons why our client cannot comment on these issues and she is under no duty to do so."

A lawyer who represents both Barrowman and PPE Medpro said that a continuing investigation limited what his clients were able to say on these matters.

Mone, 51, and Barrowman, 57, have over the last two years repeatedly insisted they had no "involvement" in PPE Medpro, and "no role" in the process through which the company was awarded its government contracts. PPE Medpro has repeatedly refused to identify its mystery backers, but denied it was awarded contracts because of "company or personal connections" to the UK government or Conservative party.

The Guardian has previously reported how those claims seem to be at odds with documents appearing to show the couple were secretly involved in PPE Medpro's business, and emails suggesting Mone repeatedly lobbied the government on its behalf during the nine-month period after she helped secure its place in the VIP lane.

However, the Guardian's latest revelation – that the peer and her husband secretly amassed an offshore fortune on the back of PPE Medpro profits – could prove the most consequential for Mone, who has already been placed under investigation by the House of Lords commissioner for standards.

The controversy over Mone and PPE Medpro threatens to embroil the prime minister, Rishi Sunak, who has pledged to make "integrity and accountability" pillars of his leadership. David Cameron, who was himself embroiled in a lobbying scandal last year, was the Conservative leader who appointed Mone the baroness of Mayfair in 2015. The former owner of a lingerie business, she has proven to be one of the party's most high-profile and controversial peers.

8. Distant cousin of Boris Johnson acted as credit guarantor while in No 10

By Rowena Mason, *The Guardian*, 15 January 2023

A distant cousin of Boris Johnson acted as a guarantor for a credit facility of up to £800,000 while he was in Downing Street that helped fund his lifestyle.

Johnson benefited from the backing of Sam Blyth, a Canadian millionaire businessman in the education sector, who is a second cousin of the former prime minister's father, Stanley. He is understood to have had use of the credit facility from February 2021 while in No 10 but did not draw down the full amount. Johnson and his family are also believed to have stayed in a holiday villa owned by Blyth in the Dominican Republic.

Blyth does not appear to have business interests in the UK but he founded a Canadian chain of private schools known as Blyth Academy. He is an adviser to a Canadian global education company, Apply Board, where the international chair is Johnson's brother, the former Conservative minister Jo Johnson.

The financial setup was revealed by the Sunday Times, which also reported that Blyth was on a recommendation list from headhunters for a chief executive job at the British Council, a non-departmental public body, at around the same time. His name did not progress.

Asked about the arrangement, Blyth told the Guardian it was "much less" than £800,000 and it was "done on fully commercial terms and fully approved beforehand by the Cabinet Office and ethics". "Nothing was asked for or given by the PM for this," he added. "And he knew nothing about the British Council role until I informed him that I had declined to be a candidate."

A spokesperson for Johnson said: "All Boris Johnson's financial interests are and were properly declared." The spokesperson added: "It is completely untrue that Boris Johnson in any way assisted with, or was even aware of, any application by Sam Blyth – formal or informal – to serve in any position whatever with the British Council, and neither was anybody in No 10 who was acting on his behalf."

It comes after persistent questions about how Johnson funded his lifestyle in No 10, after the furore over him using a Tory donor, David Brownlow, initially to pay for the refurbishment of his Downing Street flat.

Johnson was known to be struggling with his £164,000 salary as prime minister, even though he was provided with two homes – the flat and use of the country retreat at Chequers.

Since leaving office he has made more than £1m through speeches, including to insurers and investors in blockchain, the technology behind cryptocurrency. He was also given a £1m donation from a Thailand-based crypto investor, Christopher Harborne, in order to fund his office, fuelling speculation he is planning a political comeback – which his allies deny.

At the same time, his lifestyle continues to be subsidised by a wealthy Tory donor, with Anthony Bamford and his wife giving him use of a £20m London townhouse and a cottage in the Cotswolds. Johnson accepted the gifts despite part-owning three other homes, in Oxfordshire, London and Somerset.

In July, Lord Bamford hosted Boris and Carrie Johnson as they celebrated their wedding, which had taken place during lockdown, in the grounds of his 18th-century mansion, Daylesford House in the Cotswolds.

Johnson had abandoned plans, after his resignation as prime minister, to hold the celebration at the prime minister's official country residence, Chequers, in Buckinghamshire. The "festival-esque" celebration is said to have included a steel band, rum punch, Abba songs and a conga.

9. Rishi Sunak tells MPs he will clear asylum backlog by end of 2023

By Rajeev Syal, The Guardian, Tue 13 Dec 2022

Rishi Sunak has told MPs his government will end the backlog of UK asylum claims by the end of 2023, with the number of outstanding claims at more than 140,000. The prime minister was announcing a new set of aspirational policies designed to fix the UK's immigration system including law changes to criminalise and then remove tens of thousands of people who claim asylum after travelling to the UK by small boat.

He said he had signed an agreement with the Albanian government that would speed up the removal of recent arrivals from the Balkan country. He also claimed again that he would restart plans to deport people seeking refuge in the UK to Rwanda – a policy that is being challenged in the courts.

He also promised to rewrite modern slavery laws – a promise that the former prime minister Theresa May warned might undermine protections for victims.

Addressing the Commons, Sunak said the government pledged to tackle the backlogs clogging up the asylum system. "I said enough is enough, and I mean it. And that means I am prepared to do what must be done. So early next year we will introduce new legislation to make unambiguously clear that if you enter the UK illegally, you should not be able to remain here.

"Instead you will be detained and swiftly returned, either to your home country, or to a safe country where your asylum claim will be considered. And you will no longer be able to frustrate removal attempts with late or spurious claims or appeals.

"And once removed, you should have no right to re-entry, settlement or citizenship. And furthermore, if our reforms on Albania are challenged in the courts, we will also put them on a statutory footing to ensure the UK's treatment of Albanian arrivals is no different to that of Germany or France."

He outlined other new steps including a unified "small boats command" to try to stop the vessels crossing the Channel. He said the government would recruit another 700 new staff who would be deployed to tackle immigration crimes. He promised an end to the use of hotels for people seeking asylum by moving them to disused holiday parks and student accommodation.

Border Force officers would be embedded at Tirana airport under a new agreement with Albania, Sunak added. He told MPs the government would "establish a new permanent unified small boats operational command", bringing together "military and civilian capability and the National Crime Agency".

He also said "extra resources will free up immigration officers to go back to enforcement which will in turn allow us to increase raids on illegal working by 50%".

May told the Commons that people smuggling and human trafficking were "distinct" and "separate crimes" and modern slavery was a "very real and current threat".

"Contrary to what is said by some commentators, and sadly some members of this house, people smuggling and human trafficking are distinct and separate crimes and should not be treated or spoken of as one and that modern slavery is a very real and current threat with too many people brought to this country into slavery," she said.

Keir Starmer, the Labour leader, said Sunak was indulging in more "unworkable gimmicks" following previous promises by other Conservative prime ministers. "Money is being wasted on the unworkable and unethical plan to deport people to Rwanda. The prime minister has promised more legislation but the last time the governme

The number of people seeking asylum who arrive on small boats is expected to exceed 50,000 this year.

10. Explained: UK seeks power to strip nationality, without warning

Al Jazeera, 6 Dec 2021

Under a new draft clause added to the government's Nationality and Borders Bill, which was proposed by Home Secretary Priti Patel, people in the United Kingdom could be stripped of their citizenship without warning.

Clause 9 of the Nationality and Borders Bill, proposed in July and updated in November, exempts the government from giving notice of a decision to deprive a person of citizenship if authorities do not have the subject's contact details or if it is not "reasonably practical" to do so.

The clause states that notice would also not be given if such a move is "in the public interest".

However, the Home Office has said those deprived of citizenship will still have the right to appeal.

A precedent was set in 2019, after Shamima Begum, who was born in London, was stripped of her UK citizenship due to her connections with the ISIL (ISIS).

Sajid Javid, home secretary at the time, argued that although Begum did not have a foreign passport, she would not be stateless because of her Bangladeshi ancestry. However, Bangladesh, which she had never visited, said she had no claim to the South Asian nation.

Since 2006, the UK has had the power to strip dual nationals of their British citizenship.

The measures were introduced after the 2005 London bombings – four suicide bombings on July 7 that killed 52 people. At that moment, British anti-terrorism laws changed, and collective security was trumped over protecting civil liberties and freedoms.

Under Tony Blair, then-prime minister, 12 counterterrorism measures were outlined, also including the expansion of the controversial Prevent programme, which was quietly created in 2003. This required public officials working in schools, universities, hospitals and local councils to report people they found to be showing "radical" tendencies to the authorities.

The ability to deny people citizenship was increased in 2010 by then-Home Secretary Theresa May, who used the powers to strip 20 dual-national Britons who were believed to be fighting in Syria.

In 2014, May took this further, extending the measures to foreign-born British citizens without dual nationality, as long as they were eligible for foreign citizenship and would not be left stateless.

But the new clause – which means people may not be notified of their stripped citizenship – can also be applied before it becomes law, making an appeals process harder.

A report by the New Statesman found that almost six million people from ethnic minority backgrounds could be affected by the proposed clause.

The bill also aims to rule as inadmissible asylum claims made by undocumented people as well as criminalise them and anyone taking part in refugee rescue missions in the English Channel.

Moreover, border force staff will be granted immunity if people die in the Channel during "pushback" operations, a matter of concern among immigration lawyers who say the bill breaches international and domestic law.

According to The Guardian, in response to the new clause, the Home Office has said: "British citizenship is a privilege, not a right. Deprivation of citizenship on conducive grounds is rightly reserved for those who pose a threat to the UK or whose conduct involves very high harm. The nationality and borders bill will amend the law so citizenship can be deprived where it is not practicable to give notice, for example, if there is no way of communicating with the person."

The bill is currently going through the House of Commons and will progress to the House of Lords by next year.

11. Sturgeon accuses UK ministers of using trans people as 'political weapon'

By Jessica Elgot, *The Guardian*, 16 January, 2023

Nicola Sturgeon has warned the UK government against blocking gender reforms passed by the Scottish parliament, accusing ministers of "using trans people as a political weapon."

Scotland's first minister said the move to block the legislation would create a "very, very slippery slope indeed" and would embolden the UK government to do the same in other areas.

There is a widespread expectation that the British prime minister, Rishi Sunak, will block the gender recognition reform bill using provisions of the Scotland Act 1998, though No 10 sources insisted the prime minister was yet to fully review the legal advice.

Ministers are meeting on Monday to consider how to approach the legislation at the constitutional committee with a decision expected as soon as the evening.

Sunak must make the decision by Wednesday whether to block the legislation to allow self-identification for transgender people, which would make it easier for them to obtain official gender recognition certificates, including by reducing waiting times, removing the need for a medical diagnosis and bringing the minimum age down to 16 from 18.

The UK is able to veto the legislation using section 35 of the act, although Sunak could also take the decision to refer the bill to the supreme court.

Sturgeon told reporters there were "no grounds to challenge this legislation" and that it did not affect the operation of the Equality Act."

It was passed by a large majority of the Scottish parliament cross-party, although there have been strong objections from some MSPs as well as some Scottish campaigners.

"If there is a decision to challenge, in my view, it will be quite simply a political decision and I think it will be using trans people – already one of the most vulnerable, stigmatised groups in our society – as a political weapon," Sturgeon said. "And I think that will be unconscionable and indefensible and really quite disgraceful."

The majority of Labour MSPs backed the legislation, although two resigned in order to vote against, but on Sunday the Labour leader Keir Starmer voiced concern about some of its provisions, including reducing the minimum age to 16.

Sturgeon said she was "not the only one who starts to wonder, if there is anything Keir Starmer is willing to stand up and be counted on in the face of Tory attacks.

"On this particular issue, this is legislation that was scrutinised and voted for by Keir Starmer's own party in the Scottish parliament, so if he backed any move by the government to block this he would be showing utter contempt for his own Scottish party as well as the Scottish parliament."

Senior cabinet figures – including the equalities minister, Kemi Badenoch – have raised concerns about the bill and its implications for the Equalities Act 2010.

Sunak visited Scotland last week and had dinner with Sturgeon, during which he acknowledged there were concerns about the bill. "Obviously this is a very sensitive area and I know there were very robust debates and exchanges on it as the bill was passing in Scotland," he said.

"There may be impacts across the UK that we need to be aware of and understand the impact of them, and that's what we're doing, and once the government has received final advice it will set out next steps."

12. Keir Starmer pledges to tackle 'bureaucratic nonsense' to save NHS

By Rowena Mason, *The Guardian*, 15 January 2023

Keir Starmer has said Labour is prepared to reform the NHS to prevent it dying, as he said the current system of GP visits "isn't working".

The Labour leader said his party was going to tackle "bureaucratic nonsense" in the NHS and argued people should be able to self-refer themselves to a physio for back pain or to order a test for "internal bleeding" rather than having to see a GP.

Starmer set out his views on the health service in interviews with the BBC and the Sunday Telegraph, saying: "If we don't get real about reform, the NHS will die."

In the wide-ranging BBC interview, Starmer also said:

- He had "concerns" about Scotland's laws to allow people legally to change their gender without medical diagnosis, saying he did not agree that those aged 16 should be able to do this. The UK government is considering whether to block the legislation in a constitutionally controversial move.
- He had never dreamed of wanting to be prime minister when younger or when he first entered parliament, but his mission as Labour leader was now motivated by "duty".
- He could not guarantee his leadership pledge that Labour would abolish tuition fees because the political landscape had changed after the Covid pandemic.
- Labour would not take the UK back into the EU or the single market, and he resisted the idea that Brexit was to blame for the country's financial troubles.

After his shadow health secretary, Wes Streeting, proposed an overhaul of the GP system, the Labour leader said he would "look at all sorts of reform" for the NHS but stressed it would always be "free at the point of use".

Starmer told BBC One's Sunday with Laura Kuenssberg that the risks of not reforming the health service were greater than doing so. "The reason I want to reform the health service is because I want to preserve it. I think if we don't reform the health service, we will be in managed decline."

However, some doctors were sceptical about the idea that patients with conditions such as internal bleeding should be advised to skip seeing their GP, with Dr Rachel Clarke, the doctor and writer on the NHS, describing it as "monumentally stupid and insulting on multiple levels".

With waiting lists at record highs and people struggling to get GP appointments, Starmer appears to have made a calculation that voters will back NHS reform and may trust Labour with this more than the Conservatives. "It's time for us to think about a new, sustainable system, one that allows GPs to focus on caring for patients rather than the admin that comes with effectively running a small business," he told the Sunday Telegraph.

"We also need to be ruthless with the bureaucratic nonsense you encounter every day in the health service. Why can't people with persistent back problems self-refer to physio?"

He added: "Ambulances queue outside A&E with stroke victims left in the back; cancer patients wait to see specialists; people are stuck on hold at 8am every morning, desperate for a doctor's appointment. "The idea that the service is still 'the envy of the world' is plainly wrong."

Rishi Sunak, the prime minister, has made reducing waiting lists one of his five key pledges but he is facing problems on many fronts with the NHS, from long ambulance waits to people struggling to see a GP and health workers planning a raft of further strikes over pay and conditions.

13. ‘Force to be reckoned with’: Ketanji Brown Jackson shines in first week

By Sam Levine in New York*, The Guardian*, Sun 9 Oct 2022

It was the final round of questions and Ketanji Brown Jackson, the newest member of the US supreme court, had one final thing to ask.

For nearly an hour, Edmund LaCour, Alabama’s solicitor general, had been laying out the case for why his state’s congressional map did not discriminate against Black voters. The plaintiffs in the case, Merrill v Milligan, showed it was possible to draw a map with two majority-Black districts instead of one, but LaCour argued that was only possible if a mapmaker went out of their way to consider race. He argued that was inconsistent with the US constitution’s 14th amendment, which guarantees all citizens, regardless of their skin color, are treated equally under the law.

Jackson quickly started taking a scalpel to his argument. She was confused, she said, as to why considering race created a problem under the 14th amendment.

“I don’t think we can assume that just because race is taken into account that that necessarily creates an equal protection problem,” she said. History, she said, showed that the founders and framers adopted the 14th amendment “in a race-conscious way.

“That they were, in fact, trying to ensure that people who had been discriminated against, the freed men in – during the reconstructive – reconstruction period were actually brought equal to everyone else in the society.”

She continued for nearly four minutes uninterrupted, laying out historical evidence and analysis supporting the idea that the 14th amendment was designed to be race-conscious. By the time she finished speaking, it appeared to be one of the longest speeches ever made during an oral argument, according to Adam Feldman, who tracks supreme court statistics at Empirical Scotus. By the end of the argument, the rookie justice had spoken more than any of her colleagues on the bench, Feldman noted.

In just her first few oral arguments, Jackson has wasted little time making her presence felt – earning praise from court observers for asking sharp questions.

“I think it’s really clear she’s just going to be a force to be reckoned with,” said Leah Litman, a law professor at the University of Michigan. “Both in questioning positions that she’s skeptical of, but also in providing support for lawyers when they’re being subject to hostile questioning.”

A day before the Alabama case, Jackson asked her first questions from the bench in Sackett v EPA, a high-stakes environmental case dealing with the Clean Water Act. When a lawyer representing the challengers said that certain language in the statute was “unenlightening” Jackson cut in and said “let me try to bring some enlightenment to it”.

She proceeded to press the lawyer, Damien Schiff, to defend his argument that the Clean Water Act does not cover wetlands near a major waterway, only those that abut it, Bloomberg reported. She prodded Schiff on why Congress would make such a distinction “when the objective of the statute is to ensure the chemical, physical, and biological integrity of the nation’s waters?”

It was the kind of questioning that showed a clear difference between the styles of Jackson and Stephen Breyer, the justice she replaced on the bench, wrote Mark Stern, who covers the supreme court for Slate. “Breyer had a habit of bringing arguments to a standstill with endless, convoluted questions that failed to move the needle. So far with Jackson, there’s no self-indulgent wheel-spinning, just rapid-fire questions that cut to the heart of the case.”

14. Onslaught of new abortion restrictions looms in reddest of states

By Poppy Noor, *The Guardian*, Tue 13 Dec 2022

In Nebraska, a total abortion ban could be on the horizon. In Florida, the gestational limit for abortions could drop from 15 weeks to 12. Elsewhere, lawmakers have abortion pills in their sights.

When Roe v Wade fell, most states were no longer in legislative session, meaning the term during which they usually write and pass bills had ended. In January, state legislatures will reconvene in an entirely new reality, one where conservative lawmakers are no longer constrained by the constitutional right to abortion once assured by Roe.

The midterm elections brought victories for abortion rights in a number of states. But in others, politics are on the side of anti-abortion advocates. In those reddest of states, the new state legislative sessions are likely to bring a fresh onslaught of efforts to restrict, penalize or altogether ban abortion.

Katie Glenn, the state policy director at Susan B Anthony Pro-Life America, confirms the group's top priority in 2023 will be reducing the gestational age for legal abortion, alongside bringing new outright bans. Abortion is currently banned in 13 states.

Exactly how restrictive those bans will be remains to be seen, with conservatives across the country embroiled in conflicts over which exceptions – if any – should be allowed for abortion. "Exceptions in the case of rape and incest, we realise, are sometimes a necessary political reality. And we would not block a bill or oppose a bill that would prevent 95% of abortions," explains Glenn.

In some states, anti-abortion advocates previously stymied by Democrats now have room to maneuver since the midterms, which brought some conservative wins. In 2022, progressive members of Nebraska's legislature filibustered a ban proposed by Republicans, effectively killing it. But lawmakers say that the party no longer has the votes to block an abortion ban.

Meanwhile, in states where abortion bans have been mired in lengthy court proceedings, Republican majorities could pass more stringent laws when the session starts.

In Iowa, for example, a six-week ban has been held up in court since 2019. With the legislature reconvening on 9 January, it could choose to pass a new ban rather than waiting for the courts. That would be helped by the fact that, just before Roe fell, Iowa's state supreme court ruled there is no constitutional right to abortion in the state. Similarly, a six-week ban in Georgia that was recently reinstated by the state supreme court could pave the way for new restrictions when the legislature convenes, considering that Georgia's governor, state house and state senate are all under Republican control. And in Florida, where the GOP clinched supermajorities in both chambers, legislators have indicated an interest in further limiting abortion, lowering the gestational limit from 15 to 12 weeks.

Any legislation in Florida ultimately depends on its Republican governor, Ron DeSantis. DeSantis has grown quiet on the issue as bans have increasingly proven unpopular, and since he is weighing up a 2024 presidential bid, he may hold off.

Nor does Republican control over state governments elsewhere necessarily guarantee new restrictions. In some states, consensus has been hard to come by in a GOP increasingly mired by internal divisions. Conservatives are also increasingly concerned with how to enforce abortion bans in a climate where people can access pills online and manage their own abortions. Medication abortion is approved by the Food and Drug Administration, and considered very safe in the first trimester. In Oklahoma, lawmakers have asked the state attorney general to clarify whether self-managed abortion through pills violates the law. Restricting telemedicine is one route anti-abortion advocates will take to target medication abortion this year.

15. Democrats retain control of Senate after crucial victory in Nevada

Guardian staff, The Guardian, Sun 13 Nov 2022

Democrats have kept control of the Senate after the crucial race in Nevada was announced in their favor, cementing a midterms election performance for the party that widely beat expectations.

Democratic US senator Catherine Cortez Masto has now beaten Republican challenger Adam Laxalt, a former state attorney general who was endorsed by former president Donald Trump, according to the Associated Press.

With Masto's victory coming on the heels of Democratic senator Mark Kelly winning re-election in Arizona late on Friday, the win takes the Democrats to the crucial number of 50 seats in the Senate, with the Republicans at 49. The race in Georgia is set to go to a runoff in December, but even if Republicans win there, a 50-50 split means the Senate would effectively be controlled by the Democrats because the tying vote falls to the vice-president, Kamala Harris.

For the Republicans, it was another blow after they steeply underperformed in many races. The party had touted hopes of a "red wave" that could sweep across the US and deliver the upper chamber of Congress into their hands. Instead – with a few exceptions, such as Florida – the wave was more of a trickle.

The Democrat win in the Senate is likely to prompt further recrimination in Republican circles over who is to blame for the poor showing. Much attention has so far focused on Trump after he backed rightwing or celebrity candidates in several key races who lost, such as Dr Mehmet Oz in Pennsylvania.

The victory is also another boost for president Joe Biden after his party defied immediate fears that his low popularity ratings and an electorate battered by high inflation would translate to punishment at the polls. The Democrats also defied historical precedent, as the party holding the White House often loses heavily in midterm elections.

The election performance is likely to quiet speculation that Biden may duck out of the 2024 presidential race and leave office after a single term. Now he can point to solid pieces of domestic legislation in his first years as president, as well as a strong midterms performance, in order to bolster internal support in his party.

Biden said he was "incredibly pleased" with the turnout in the US election and that the Republican party would now need to decide "who they are". Speaking to reporters in Cambodia ahead of an East Asia summit, Biden said his attention was on the Georgia Senate race.

"We're focusing now on Georgia. We feel good about where we are," Biden said. "And I know I'm a cockeyed optimist. I understand that.

"I'm not surprised by the turnout. I'm incredibly pleased. And I think it's a reflection of the quality of our candidates."

Control of the House of Representatives has still not been decided. Biden acknowledged such a victory would be "a stretch" for the Democrats, but Republicans have fallen well short of predictions they would sweep to power in Washington.

Meanwhile, the loss of the Senate will focus minds sharply on Trump's ongoing dominance of the Republican party. Fissures have opened up, with some prominent Republican figures openly appealing to Trump not to announce a 2024 run, as he is widely expected to do next week.

Trump himself has lashed out at popular Republican figures who may rival him, such as the Florida governor, Ron DeSantis, who was a rare Republican success in the midterms as he easily won re-election and flipped several once strong Democrat districts, especially in Miami.

16. Kevin McCarthy wins House speaker bid after gruelling 15-vote saga

By Joan E Greve and Lauren Gambino in Washington*, The Guardian*, Sat 7 Jan 2023

The Republican leader Kevin McCarthy was elected as speaker of the US House of Representatives in a dramatic late-night vote, after quelling a days-long revolt from a bloc of far-right conservatives to finally capture the gavel on a historic 15th attempt.

McCarthy's ascension to speaker came after 14 defeats and a string of concessions to ultraconservative lawmakers that would significantly weaken his power while strengthening their influence over the party's new House majority. After winning over most of the holdouts earlier on Friday, McCarthy withstood a surprise defeat on the 14th ballot later that evening and finally clinched the gavel on the next round with the slimmest majority, just 216 votes, in the early hours of Saturday morning.

The spectacle concluded in stunning fashion during the tense, late-night session on the House floor that erupted in shouting and finger pointing. A Republican lawmaker had to be physically restrained by a colleague. But the bitter speakership battle, the longest since 1859, ended shortly after, when the last remaining holdouts switched their votes to "present", lowering the threshold and allowing McCarthy to secure the post. The final tally was 216-212 with Democrats voting for their leader Hakeem Jeffries, and six Republican holdouts to McCarthy voting present.

A beaming McCarthy hugged members of his leadership team and allies who stood with him throughout the days-long saga. Cheers broke out in the chamber and the galleys above, where family members watched the vote unfold. Ascending to the speaker's rostrum, he raised the gavel and gave it two vigorous thwacks. "That was easy, huh?" he said, eliciting laughs.

House Democrats remained unified behind Jeffries, a congressman from New York, until the last ballot. Marking "a moment of transition" after four years of Democratic control of the House, Jeffries said Democrats would seek to work with Republicans where possible, but vowed to always put "American values over autocracy."

Joe Biden congratulated McCarthy on winning the speakership and urged the new Republican House majority eager to challenge his administration with long-promised subpoenas and investigations to "govern responsibly."

The protracted fight paralyzed the new Congress and exposed deep rifts within the House Republican conference that foreshadowed a rocky two years ahead for the newly elected speaker. The conflict marked the first time in a century that the House failed to choose a speaker on the first ballot, and only four other speakership elections in US history have required more than 12 votes.

"It's been a long week," Republican congressman Patrick McHenry conceded at the start of his speech nominating McCarthy for the speakership. "The president has called this process an embarrassment. Talking heads labeled this a chaos and a mess. And some would call it shambolic, even. But it's called democracy."

When McCarthy finished speaking, he moved quickly to swear in the members and formally open the 118th Congress in the post-midnight hours. Among them was George Santos, the embattled New York Republican, who is facing multiple federal and local investigations as well as calls to resign after it was revealed that he lied repeatedly about aspects of his background during his election campaign.

Although McCarthy has successfully won the speakership, he now faces the considerable challenge of attempting to govern with an unruly conference and a slim majority. The dynamics of the House Republican conference could make it much more difficult to advance must-pass legislation, such as a government spending package or a debt ceiling hike.

17. House Republicans Preparing Broad Inquiry Into F.B.I. and Security Agencies

By Charlie Savage and Luke Broadwater, *The New York Times*, Jan. 8, 2023

WASHINGTON — Newly empowered House Republicans are preparing a wide-ranging investigation into law enforcement and national security agencies, raising the prospect of politically charged fights with the Biden administration over access to sensitive information like highly classified intelligence and the details of continuing criminal inquiries by the Justice Department.

The House plans to vote this week on a resolution to create a special Judiciary subcommittee on what it calls the "weaponization of the federal government," a topic that Republicans have signaled could include reviewing investigations into former President Donald J. Trump.

The panel would be overseen by Representative Jim Jordan, Republican of Ohio, who is also poised to become the Judiciary Committee's chairman. It remains to be seen who else Speaker Kevin McCarthy, who made numerous concessions to a far-right faction of his party to win the speakership, will put on it.

In a Fox News interview on Friday evening, Representative Chip Roy of Texas, a lead negotiator for hard-right lawmakers who pushed Mr. McCarthy's team for concessions, portrayed the panel as part of the agreement they struck for their support. He said Mr. McCarthy had committed to giving the subcommittee at least as much funding and staffing as the House special committee in the last Congress that investigated the Jan. 6, 2021, attack on the Capitol.

"So we got more resources, more specificity, more power to go after this recalcitrant Biden administration," Mr. Roy said. "That's really important."

A spokesman for Mr. Jordan did not reply to a request for comment, but both he and Mr. McCarthy have spoken for months about their desire for such an investigation and pledged to voters during the 2022 campaign to carry one out. "We will hold the swamp accountable, from the withdrawal of Afghanistan, to the origins of Covid and to the weaponization of the F.B.I.," Mr. McCarthy said in his first remarks as speaker early Saturday. "Let me be very clear: We will use the power of the purse and the power of the subpoena to get the job done."

The text of the resolution establishing the subcommittee would give the panel essentially open-ended jurisdiction to scrutinize any issue related to civil liberties or to examine how any agency of the federal government has collected, analyzed and used information about Americans — including "ongoing criminal investigations."

The Justice Department has traditionally resisted making information about open criminal investigations available to Congress, suggesting that legal and political fights over subpoenas and executive privilege are most likely looming.

Republicans are promoting Mr. Jordan's panel as a new "Church Committee," referring to a 1970s investigation by Senator Frank Church, Democrat of Idaho, that uncovered decades of intelligence and civil liberties abuses by presidents of both parties. But in an environment in which Mr. Trump has been the subject of multiple criminal investigations for years — including continuing inquiries into his attempts to overturn the 2020 election results and his hoarding of sensitive documents — Democrats predicted the new investigative subcommittee was likely to adopt a more partisan edge.

Representative Jerrold Nadler of New York, the top Democrat on the Judiciary Committee, said the Church Committee had been "a serious and bipartisan attempt to reform the conduct of the intelligence community, based on hard and verifiable evidence." By contrast, he said that "this new thing, fueled by conspiracy theories and slated to be run by the most extreme members of the MAGA caucus," was likely to be more similar to the notorious House Un-American Activities Committee of the mid-20th century.

18. Rift in Trump's inner circle over 2024 presidential campaign announcement

By Hugo Lowell, *The Guardian,* Fri 11 Nov 2022

Donald Trump's top political staffers at Mar-a-Lago are pressing him to move forward with his planned 2024 presidential campaign announcement next week but a chorus of allies are suggesting delaying until after the Senate runoff in Georgia in December, according to sources familiar with the matter.

The former US president has been forced to reckon with Republican blame for underwhelming performances from rightwing candidates he endorsed in the midterm elections, with the defeat of Republican candidate Mehmet Oz in Pennsylvania, contributing to uncertainty over which party will control the Senate.

Trump's top staffers have firmly pressed him to announce his latest White House campaign as planned on Tuesday, the sources said, suggesting that he would appear weak and wounded by the results were he to cave to demands that he hold off until the Senate runoff early next month.

Trump also has no upside in waiting until the Senate runoff, where his handpicked Republican candidate Herschel Walker trails Democratic incumbent Raphael Warnock. His staffers are said to have told him: if Walker wins, he can take credit, and if Walker loses, his position would be no different.

But Trump is also being urged by a growing chorus of advisors with no formal role on his team or his political action committees, to hold off until the Senate runoff – and then decide how to announce his candidacy based on how votes break down in Georgia, the sources said.

The chief reason for delaying is that the Trump-endorsed candidate Walker came out with around 35,000 votes fewer than Warnock in the general election. Delaying would also give Trump time to assess the results of the Arizona and Nevada Senate races that remain too close to call.

The group urging a delay appears to fear Trump could sink the Senate runoff for Republicans as he is widely considered to have done in 2020, when he focused on his own grievances about the 2020 election rather than helping Republican candidates.

The initial plan was to have Trump announce his candidacy on Tuesday and turn the campaign launch into a several-day affair, the sources said – though it was always on the assumption that Republicans would surf a "red wave" in the midterms that did not ultimately materialize.

Though some invitations for the anticipated announcement have been sent, the sources said, it was done knowing that Trump could easily change his mind and feel no need to even bother to explain if the event was eventually cancelled.

Trump has been itching for weeks to launch his 2024 presidential campaign, and took advice in the summer to wait until after the midterms to make the announcement. But he could not help himself last Saturday and teased making a "very big announcement" a week after election night.

The disappointing performances by some of his endorsed candidates has cast a cloud over Trump, and the usually talkative former president delivered only a brief speech at the election watch party he held at Mar-a-Lago and ultimately eschewed talking to assembled reporters.

By contrast, DeSantis spent election night celebrating his mammoth re-election in Florida, with some supporters chanting for him to run as president. Trump has long viewed DeSantis as a threat and started attacking him before the Florida governor's race was called, warning him against running for president in 2024 under the threat that he would release damaging information about his personal life.

19. The Inside Joke That Became Trump's Big Lie

By Carlos Lozada, *The New York Times*, Sept. 22, 2022

Donald Trump's so-called big lie is not big because of its brazen dishonesty or its widespread influence or its unyielding grip over the Republican Party. It is not even big because of its ambition — to delegitimize a presidency, disenfranchise millions of voters, clap back against reality. No, the lie that Donald Trump won the 2020 election has grown so powerful because it is yoked to an older deception, without which it could not survive: the idea that American politics is, in essence, a joke, and that it can be treated as such without consequence.

The big lie depends on the big joke. It was enabled by it. It was enhanced by it. It is sustained by it.

When politicians publicly defend positions they privately reject, they are telling the joke. When they give up on the challenge of governing the country for the rush of triggering the enemy, they are telling the joke. When they intone that they must address the very fears they have encouraged or manufactured among their constituents, they are telling the joke. When their off-the-record smirks signal that they don't really mean what they just said or did, they are telling the joke. As the big lie spirals ever deeper into unreality, with the former president mixing election falsehoods with call-outs to violent, conspiratorial fantasies, the big joke has much to answer for.

The big joke drains language of meaning, divorces action from responsibility and enables all manner of lies. "Getting the joke" means understanding that nothing you say need be true, that nobody expects it to be true — at least nobody in the know. "The truth of this scam, or 'joke,' was fully evident inside the club," The Atlantic's Mark Leibovich writes. "We're all friends here. Everyone knew the secret handshake, spoke the native language and got the joke."

Without the big joke, the big lie would not merit its adjective. Its challenge to democracy would be ephemeral, not existential.

The chroniclers of Donald Trump's election lie typically seek out an origin story, a choose-your-own adventure that always leads to the Capitol steps on Jan. 6, 2021. In his book, "*The Big Lie: Election Chaos, Political Opportunism, and the State of American Politics After 2020*," Politico's Jonathan Lemire pinpoints an August 2016 campaign rally in Columbus, Ohio, during which Trump first suggested that the contest against Hillary Clinton would be rigged against him. This, Lemire writes, was when "the seeds of the big lie had been planted."

Tim Alberta of The Atlantic starts six months earlier, when Trump accused Senator Ted Cruz of Texas of cheating in the Iowa caucuses. "That episode was a bright red, blinking light foreshadowing everything that was to come," Alberta told PBS Frontline. In "*The Destructionists: The Twenty-Five Year Crack-Up of the Republican Party*," the Washington Post columnist (and my former colleague) Dana Milbank offers a far longer accumulation of lies from the right: the notion that Bill and Hillary Clinton were involved in the death of the White House lawyer Vince Foster, the illusions behind President George W. Bush's invasion of Iraq, the birther concoctions, the death-panel ravings — all building toward the big one. "The G.O.P.'s quarter-century war on facts had come to this, a gargantuan fabrication aimed at discrediting democracy itself," Milbank sums up. And Leibovich quotes Representative Adam Schiff's view of how his House colleagues slowly submitted to Trump's fantasies. "It's one small lie, followed by a demand for a bigger lie and a bigger concession, a bigger moral lapse, until, you know, these folks that I admired and respected, because I believe that they believe what they were saying, had given themselves up so completely to Donald Trump."

20. Bad Losers

By Tim Alberta, *The Atlantic,* October 3, 2022

The GOP assault on the legitimacy of Biden's victory has led to death threats against election workers and a lethal siege of the United States Capitol. But perhaps the gravest consequence is the erosion of confidence in our system. Late this summer, a Quinnipiac poll found that 69 percent of both Republicans and Democrats believe that American democracy "is in danger of collapse." They hold this view for somewhat different reasons. Republicans believe that Democrats already rigged an election against them and will do so again if given the chance; Democrats believe that Republicans, convinced that 2020 was stolen despite all evidence to the contrary, are now readying to rig future elections. It's hard to see how this ends well. By the presidential election of 2024, a constitutional crisis might be unavoidable.

The irony is that America's voting system is far more advanced and secure than it was just two decades ago.

The 2000 election was a catalyst for reform. Mass confusion surrounding the showdown between Al Gore and George W. Bush in Florida—butterfly ballots, punch cards, hanging chads—demonstrated that murky processes and obsolete technology could undermine public confidence in the system. Recognizing the threat, Congress passed a law to help local administrators modernize their voting machines and better train their workers and volunteers. Elections officials from around the country began collaborating on best practices. Several states introduced wholesale changes to their systems that allowed ballots to be cast more easily, tracked more accurately, and counted more efficiently.

At the same time, the machinations that Americans observed—poll workers studying ballots through a magnifying glass, teams of party lawyers and CNN camera crews looking on—bred a public skepticism that never quite went away. In the years following Bush v. Gore, the number of cases of election litigation soared. The small chorus of congressional Democrats who objected to the certification of Bush's 2000 victory swelled to several dozen following the president's reelection in 2004, with 31 House Democrats (and one Democratic senator) voting to effectively disenfranchise the people of Ohio. Republicans could not return the favor in 2008—Obama's margin of victory was too wide—so they sought to delegitimize his presidency with talk of birth certificates and mass voter fraud, introducing measures to restrict voting access despite never producing evidence that cheating was taking place at any meaningful scale.

Much of this can be attributed to what Richard Hasen, a law professor and an elections expert, has called "the loser's effect": Studies have shown that voters report more confidence in our elections after their party or candidate has won. But partisan outcomes are no longer the decisive factor: In October 2020—weeks before Trump lost his bid for reelection—Gallup reported that just 44 percent of Republicans trusted that votes would be cast and counted accurately, "a record low for either party."

This isn't entirely surprising, given Trump's crusade to undermine our democratic institutions, which began well before he was ever elected. In 2012, he called Obama's victory over Mitt Romney "a total sham," adding: "We can't let this happen. We should march on Washington and stop this travesty." In early 2016, after losing the Iowa caucus to Ted Cruz, Trump called the chair of the Iowa GOP and pressured him to disavow the result; when that failed, he took to Twitter, denouncing the "fraud" in Iowa and calling for a new election to be held.

By the time November 3, 2020, arrived, Trump had already constructed his elaborate narrative of a rigged election. Republican leaders did little to keep their voters from falling for the president's deception. In fact, most of them enabled and even participated in it. What began as a fringe movement after *Bush v. Gore* has spread into the GOP mainstream: Polls continue to show that more than half of all Republican voters believe that the 2020 election was stolen.

21. US House passes election law in response to January 6 insurrection

Le Monde with AP, Published on September 22, 2022

The House has passed legislation on Wednesday, September 21, to overhaul the rules for certifying the results of a presidential election as lawmakers accelerate their response to the January 6, 2021 insurrection and Donald Trump's failed attempt to subvert the election results and remain in power.

The bill, which is similar to bipartisan legislation moving through the Senate, would overhaul an arcane 1800s-era statute known as the Electoral Count Act that governs, along with the US Constitution, how states and Congress certify electors and declare presidential election winners.

While that process has long been routine and ceremonial, Mr. Trump and a group of his aides and lawyers unsuccessfully tried to exploit loopholes in the law in an attempt to overturn his defeat to Joe Biden in the 2020 election. Democrats are pushing to pass the bill before the end of the year and ahead of the 2024 election cycle as Mr. Trump, mired in legal woes, is considering another run.

While at least 10 GOP senators have signed on to the Senate version, the House vote fell mostly along party lines. House Republicans – most of whom are still aligned with Mr. Trump – argued that the legislation shouldn't be a priority and that it is a political vehicle for Democrats ahead of November's midterm elections.

The final vote was 229-203, with nine Republicans joining all Democrats in voting for the bill. None of the nine Republicans is returning to Congress next year.

The legislation would set new parameters around the Jan. 6 joint session of Congress that happens every four years after a presidential election. The day turned violent last year, after hundreds of Mr. Trump's supporters interrupted the proceedings, broke into the building and threatened the lives of then-Vice President Mike Pence and members of Congress. The rioters echoed Mr. Trump's false claims of widespread fraud and wanted Mr. Pence to block Mr. Biden's victory as he presided over the joint session.

The legislation intends to ensure that future Jan. 6 sessions are "as the Constitution envisioned, a ministerial day," said Wyoming Rep. Liz Cheney, a Republican who co-sponsored the legislation with House Administration Committee Chairwoman Zoe Lofgren, D-Calif. Both Ms. Cheney and Ms. Lofgren are also members of the House committee investigating the Jan. 6 attack.

Ahead of the vote, House Speaker Nancy Pelosi said the legislation is necessary as there have been attempts in states across the country to change election laws to make it easier to nullify future results.

The bill would clarify in the law that the vice president's role presiding over the count is only ceremonial and that he or she cannot change the results. It also sets out that each state can only send one certified set of electors after Mr. Trump's allies had unsuccessfully tried to put together alternate slates of illegitimate pro-Trump electors in swing states where Mr. Biden won.

"This bill will make it harder to convince people that they have the right to overthrow an election," Ms. Lofgren said.

The legislation would increase the threshold for individual lawmakers' objections to any state's electoral votes, requiring a third of the House and a third of the Senate to object to trigger votes on the results in both chambers. Currently, only one lawmaker in the House and one lawmaker in the Senate has to object. The House bill would set out very narrow grounds for those objections, an attempt to thwart baseless or politically motivated challenges.

22. Trump won't blunt January 6 inquiry by entering 2024 race, panel member says

By Ramon Antonio Vargas, *The Guardian,* Sun 17 Jul 2022

Donald Trump won't blunt the investigation by the congressional committee investigating the deadly January 6th attack on the Capitol by announcing that he's running for the Oval Office again, a member of the panel said Sunday.

Elaine Luria, a Virginia congresswoman and one of seven Democrats on the committee, told CNN: "The bottom line is that no one is above the law – whether he's a president, former president or a potential future presidential candidate, we are going to pursue the facts."

Luria's remarks were in response to an oft-asked question about whether Trump could simply announce he is running for president again in 2024 and shield himself from the threat of prosecution posed by the evidence presented during the January 6 committee's recent hearings.

While the committee itself can't charge Trump, it can recommend that federal prosecutors do so.

Federal prosecutors have historically avoided pursuing criminal cases against prominent candidates ahead of high-stakes elections. But Luria's comments suggest the committee members won't shelf their inquiry or avoid potentially recommending charges against Trump just because the ex-president were to announce his aspirations to seek an electoral rematch against Joe Biden.

Millions of Americans have watched live as witnesses summoned by the January 6 committee have exposed the lengths to which Trump tried to keep himself in the presidency after losing to Biden in the 2020 race.

Among the most alarming episodes: he is accused of trying to commandeer his armored car and turn it towards the Capitol as a mob of his supporters – whom he told to "fight like hell" – stormed the building on the day Congress was supposed to certify his defeat. And when his vice-president faced a mob trying to hang him for not impeding the certification, Trump allegedly told aides that Mike Pence "deserves it".

Luria and the Illinois congressman Adam Kinzinger, one of two Republicans on the panel, are slated to lead the committee's next hearing on 21 July.

Luria on Sunday said the committee planned to call new witnesses close to Trump and air additional "minute-by-minute" evidence to establish that he sat idly by as the attack on the Capitol unfolded. A bipartisan Senate report has linked seven deaths to the riots that day.

Meanwhile, Sunday on CBS' Face the Nation, Kinzinger pledged that the committee's investigation is "not winding down". He said he personally hoped the panel could set up an interview with Pence, though he acknowledged, "I am not sure we get a lot out of him."

Similarly, when asked on ABC's This Week if the committee would seek to interview Pence or Trump himself, panel member Zoe Lofgren of California said: "Everything is on the table."

The committee over time has recommended criminal charges against four prominent Trump White House aides who refused to cooperate with its investigation: Steve Bannon, Peter Navarro, Mark Meadows and Dan Scavino.

Federal prosecutors charged Bannon and Navarro, who face jail time and have pleaded not guilty, but it did not charge Scavino or Meadows.

Bannon's trial is set to start Monday with jury selection, though he's recently offered to meet with the committee and provide sworn testimony.

23. Trump tax returns raise alarms about fairness of US tax code

By by Tobias Burns and Sylvan Lane, *The Hill*, January 2, 2023

A preliminary review of the thousands of pages of Donald Trump's tax returns released by a key congressional committee on Friday confirms that the former president was using business losses in the tens of millions of dollars to reduce his annual tax liability, in some cases all the way down to zero.

While one of Trump's main businesses was found guilty of criminal tax fraud earlier this month, Trump himself has so far not been accused of doing anything illegal with his taxes and personal accounting. But that's raising more urgent questions about the fairness of the U.S. tax code and tax regulations, which number in the millions of words and in the case of Trump proved effectively unenforceable.

Advocates for tax reform say that a shift in mindset is needed, that a flawed conception of taxation as punitive and economically destructive is what allows for the sort of serial tax avoidance on display in the Trump tax returns.

"With the release of Donald Trump's tax returns we have learned that he did not pay any federal income taxes [in some years]," Frank Clemente, director of tax advocacy group Americans for Tax Fairness, said in a statement to The Hill.

Clemente said that Trump's tax avoidance was made possible by "a loophole-ridden tax system in need of fundamental change."

Trump on Friday touted his ability to use the tax code to his advantage, specifically praising his use of business losses to wipe out his own personal tax bill.

"The 'Trump' tax returns once again show how proudly successful I have been and how I have been able to use depreciation and various other tax deductions as an incentive for creating thousands of jobs and magnificent structures and enterprises," Trump said in a statement.

In an apparent violation of IRS policy, which mandates that presidents receive regular audits, U.S. tax collectors were not auditing Trump on an annual basis, according to the House Ways and Means Committee report released last week. The reason for that isn't clear, but the complexity of Trump's financial situation and the tax laws that enable it may have been to be too much for the IRS to handle with the resources dedicated to it.

"The individual tax return of the former President included the activities of hundreds of related and pass-through entities, numerous schedules, foreign tax credits, and millions of dollars in [net operating loss] carryforwards," the Ways and Means report found.

The lone IRS agent assigned to one of Trump's audits noted that "the lack of resources was the reason for not pursuing certain issues on the former President's returns."

"With over 400 flow-thru returns reported on the form 1040, it is not possible to obtain the resources available to examine all potential issues," an internal IRS memo stated, according to the report.

While the committee dumped thousands of pages of documents on Trump's taxes on Friday, it did not release IRS audit files along with them — a notable omission since the reason for obtaining and releasing Trump's returns was supposed to be IRS oversight.

"Where are the IRS workpapers?" tax expert Steve Rosenthal said in an email to The Hill. "I thought the Ways and Means Committee was sharing Trump's tax returns to allow the public to assess the IRS audit. The Joint Tax Committee reported the IRS audit was abysmal, which seems correct. But Joint Tax used the IRS workpapers to illuminate. We ought to see them also."

24. Trump under investigation for potential violations of Espionage Act, warrant reveals

By Hugo Lowell in Washington*, The Guardian,* Fri 12 Aug 2022

Donald Trump is under criminal investigation for potential violations of the Espionage Act and additional statutes relating to obstruction of justice and destroying federal government records, according to the search warrant executed by FBI agents at the former president's home on Monday.

The search warrant – the contents of which were confirmed by the Guardian – shows the FBI was seeking evidence about whether the mishandling of classified documents by Trump, including some marked top secret, amounted to a violation of three criminal statutes.

Most notably, the search warrant authorized FBI agents to seize materials from Trump's Mar-a-Lago residence to investigate crimes in connection with the Espionage Act, which outlaws the unauthorized retention of national security information that could harm the United States or aid an adversary. The other statutes listed on the warrant include the federal law that makes it a crime to destroy or conceal a document in order to obstruct a government investigation, and the federal law that prohibits the unlawful removal of government documents more generally.

The inclusion of the obstruction statute could be an indication that the justice department is investigating Trump not just over the potentially unlawful retention of records, but also whether he attempted to impede a separate, or wider, criminal inquiry.

The disclosures, which came in an attachment to the search warrant, mark a dramatic escalation in the justice department's criminal inquiries into Trump. They represent perhaps one of the most treacherous legal and political moments faced to date by the former president.

A conviction for violating any of the detailed laws would be severe: the Espionage Act has a maximum penalty of 10 years in federal prison and the statute for obstruction has a maximum penalty of 20 years, while the statute for destruction of records can also bar anyone convicted from holding future office.

The contents of the search warrant became public days after FBI agents seized 11 boxes worth of materials from Trump's Mar-a-Lago resort in Palm Beach, Florida, including records considered so sensitive that they could not be individually listed in the "receipt" of what was removed. The most sensitive set of documents removed from Trump's post-presidency home in Florida were listed generically as "Various Classified/TS/SCI" – the abbreviation for top secret/sensitive compartmented information – the warrant shows.

FBI agents retrieved a total of 11 sets of classified documents, some of which were marked top secret, the Wall Street Journal first reported. Federal agents also took away four sets of top secret documents, three sets of secret documents, and three sets of confidential documents, the receipt showed.

The search warrant receipt did not provide any further detail about the substance of the classified documents. Other materials removed from Mar-a-Lago included binders of photos, information on the "President of France", and a grant of clemency for the Trump political operative Roger Stone.

Caught at the center of a rapidly escalating controversy, Trump lashed out at the justice department on Friday, saying in a statement that he had declassified all of the records in question. "It was all declassified," Trump asserted.

The former president's claim was met with immediate scepticism, partly because the seized documents appeared to retain their original classified markings. But whether the former president actually declassified the documents may not ultimately matter. The Espionage Act, for instance, does not distinguish between classified and declassified materials – unauthorized retention of any document relevant to the statute remains a crime.

25. Exclusive: US intelligence materials related to Ukraine, Iran and UK found in Biden's private office, source tells CNN

By Jamie Gangel, Marshall Cohen, Evan Perez and Paula Reid, *CNN*, January 10, 2023

Among the items from Joe Biden's time as vice president discovered in a private office last fall are 10 classified documents including US intelligence memos and briefing materials that covered topics including Ukraine, Iran and the United Kingdom, according to a source familiar with the matter.

Attorney General Merrick Garland has received a preliminary report on the documents inquiry, a law enforcement source said, and now faces the critical decision on how to proceed, including whether to open a full-blown criminal investigation. John Lausch Jr., the US attorney in Chicago, has briefed Garland multiple times. No additional briefings are scheduled but would be conducted if necessary, a source said.

The classified documents were dated between 2013 and 2016, according to the source familiar. They were found in three or four boxes also containing unclassified papers that fall under the Presidential Records Act. The vast majority of the items in the office contained personal Biden family documents, including materials about Beau Biden's funeral arrangements and condolence letters, the source told CNN. It is not clear if the boxes with classified documents contained personal materials.

Attorney General Merrick Garland has assigned the US attorney in Chicago, a holdover from the Trump administration, to investigate the matter, CNN previously reported. Garland made this move after receiving a referral from the National Archives and Records Administration. The documents were discovered on November 2, just six days before the midterm elections, but the matter only became public Monday due to news reports.

The turn of events with classified documents found at Biden's former office has forced some politicians into a tough spot. Trump has responded with a spate of social media posts lampooning Biden and publicly egging on the FBI to search Biden's offices and even the White House for mishandled documents.

Key Democrats on Capitol Hill have expressed confidence in Biden's handling of government materials, even though classified records turned up in a place where they weren't supposed to be.

Newly empowered House Republicans have already pledged to broaden their oversight probes to include the Biden documents matter, and some are eying NARA as a target of additional scrutiny. Rep. James Comer, the Kentucky Republican who now chairs the House Oversight Committee, swiftly sent letters to the White House Counsel's Office and the National Archives, which his committee oversees. Among the requests made in the letters were: All documents retrieved from Biden's personal office where the classified documents were found; a list of people who had access to that office; all documents and communications between the White House, Department of Justice and National Archives regarding the documents that were retrieved; and all documents and communications related to the handling of classified material by Biden's personal lawyers, including their security clearance statuses.

The Kentucky Republican asked that documents and other information be turned over no later than January 24 and that NARA General Counsel Gary Stern and NARA Director of Congressional Affairs John Hamilton be made available for transcribed interviews with committee staff no later than January 17.

Also on Tuesday, the new GOP chair of the House Intelligence Committee asked the Director of National Intelligence to conduct a damage assessment for the classified records found at Biden's private office. "Those entrusted with access to classified information have a duty and an obligation to protect it," Rep. Mike Turner of Ohio wrote. "This issue demands a full and thorough review."

26. Merrick Garland's unprecedented dilemma

by Douglas E. Schoen, *The Hill*, January 2 2023

In the new year, Merrick Garland will face two unprecedented scenarios: He could become the first attorney general in American history to indict a former president, as well as the first attorney general to be impeached by Congress.

For months, Garland has faced the unenviable prospect of having to eventually decide whether or not to prosecute Donald Trump. There are two ongoing federal investigations into the former president: One involving his possible mishandling of classified documents and presidential records, and the other concerning his role in the Jan. 6, 2021 attack on the U.S. Capitol.

This month, the House Select Committee that was separately investigating Jan. 6 unanimously recommended that the Department of Justice pursues at least four criminal charges against Trump for attempting to block the peaceful transfer of power after losing the 2020 election.

Declaring that "one man," was the "central cause" of the attack on the U.S. Capitol on Jan. 6, the committee released a scathing report detailing their findings and recommended that Trump be charged with obstruction of an official proceeding, conspiracy to defraud the United States, conspiracy to make a false statement and incitement of insurrection.

Though criminal referrals from Congress have no legal weight, and the DOJ's own investigation into Jan. 6 is still running its course, the committee's final report adds to the pressure that has been building on Garland for months.

Seeking political insulation, the attorney general appointed an independent special counsel, Jack Smith, to handle the DOJ's active investigations into Trump after he announced his intention to seek the presidency again in 2024.

But regardless of what Smith recommends, Garland will have the ultimate say in bringing an indictment, as the attorney general has the full power to override a special counsel's recommendation. Appointing a special counsel does not offer Garland any real degree of political absolution, and he will personally bear the consequences of the department's eventual decision.

Based on the current rhetoric from Republicans in the House, these consequences will likely include an impeachment inquiry into his conduct as attorney general. House Republicans already filed two impeachment resolutions against Garland in the 117th Congress, and far-right Representative Marjorie Taylor Greene (R-Ga.), who will become one of the most prominent members in the new Republican caucus, has indicated her desire to move forward with impeachment in a GOP-controlled House.

Even if House Republicans are successful in impeaching Garland with their slim majority, he is not at real risk of being removed by the Senate, which is controlled by Democrats. There is also a sizable group of Republican senators who have rejected the idea that Biden administration officials should face impeachment en masse.

Garland is, of course, no stranger to the Republican Party's brazen politicization of the judicial system. He was nominated to the Supreme Court by President Barack Obama to replace the late conservative justice, Antonin Scalia, in February 2016 and the Republican-controlled Senate blocked proceedings for nearly one year, leaving the highest court one justice short for most of its term. It must be said that, despite the right's baseless accusations of weaponized politicization, there is no reason whatsoever to believe that the attorney general is motivated by anything other than a sense of duty. If Garland makes the determination to charge Trump criminally, it will be because Trump broke the law.