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How Donald Trump Tried to Overturn the 2020 Election

James P. Pfiffner

George Mason University

The peaceful transition of power is the *sine qua non* of democracy. For more than two centuries (with the exception of the Civil War) the United States has enjoyed the consensus that elections are the means to change the leadership of the country. The 2020-2021 transition of the presidency marks an exception to that consensus. President Trump, elected with a minority of votes in 2016, refused to accept the reality of his 2020 defeat at the polls, despite the fact that Joe Biden won more than 7 million more votes than Trump and won the electoral college by a vote of 306 to 232.¹

This chapter will explain how Donald Trump, beginning in the summer of 2020, sowed doubt about the integrity of the upcoming election. Immediately after the election, he claimed to have won, and he challenged the outcome with meritless lawsuits. He then attempted to overturn the election, culminating in the attack on the Capitol on January 6 by his supporters. Finally, in 2021 he led the Republican Party to promote the falsehood that Democrats and Joe Biden had “stolen” the 2020 election. The chapter will conclude with an analysis of the consequences of Trump’s actions and how the Republican Party continued in 2021 to undermine public confidence in the integrity of the US electoral system.

Trump’s Response to the 2020 Election

Traditionally in the modern presidency, the loser of the election graciously concedes defeat, congratulates the winner of the election, and affirms the results of the democratic process. Never in US history has a president who lost the election attempted to stay in office by undermining the electoral process after the election has taken place. Yet, during the 2020-2021 transition of the presidency, Trump attacked the legitimacy of the election and incited a violent mob to attack a Joint Session of Congress in the Capitol, doing serious damage to the American polity. In his efforts to stay in office illegitimately, President Trump took the following actions, all of which are unprecedented in American history:

1. He undermined public confidence in the forthcoming election;
2. He falsely claimed that he had won the election;
3. He filed meritless lawsuits, without evidence, to change voting outcomes;
4. He pressured state and local officials not to certify voting outcomes;
5. He pressured governors and state legislatures to nullify state elections;
6. He pressured the Justice Department to overturn the election;
7. He Pressured Vice President Pence to change the electoral vote count in Congress;
8. He considered using military force to overturn the election;
9. He incited a mob to violently invade the Capitol to stop the electoral vote count;
10. In 2021 he continued to promote the “big lie” that the 2020 election was fraudulent.

1. He undermined public confidence in the forthcoming election

Trump began undermining the legitimacy of US elections shortly after he won the 2016 election with an electoral college victory, despite losing the popular vote by nearly 3 million votes. He was a sore winner, claiming that he actually won the popular vote because Hillary Clinton got 5 or 6 million illegal votes.²

In the summer of 2020, President Trump began to lay the groundwork for rejecting the outcome of the forthcoming November election if he did not win. When asked if he would accept the outcome of the election if he lost, he said “I will look at it at the time.”³ In the fall of 2020, many states anticipated that, because of the pandemic, many more voters would take advantage of state laws allowing voters to vote by mail. Democratic voters were more likely to take COVID-19 precautions seriously, and according to opinion polls, were more likely to vote early by mail. It was widely predicted that, on election night, the early reported votes of in-person voting would favor Trump since Republicans were more likely to vote in person on election day. Thus, it would appear that Trump was ahead on election day (a “red mirage”), but that there would be a “blue shift” as mail in ballots were tabulated. (The laws in many states did not allow states to count mail or absentee ballots until election day, thus creating large backlogs of votes to be counted.)

Trump expected this to happen and began to undermine the legitimacy of mail-in ballots. He asserted that mail-in ballots would favor Democrats and would be corrupt. The 2020 election “will be, in my opinion, the most corrupt election in the history of our country.”⁴ “The only way they can take this election away from us is if this is a rigged election.”⁵ In fact, there is no evidence that fraud in US elections is widespread or that voting by mail is any more susceptible to fraud than voting in person. In July 2020 Trump even tweeted about delaying the forthcoming election, “It will be a great embarrassment to the USA. Delay the Election until people can properly, securely and safely vote???”⁶

Arguing that voting by mail would be “fraudulent,” Trump opposed extra funding for the Post Office to handle the expected increase of mail-in ballots due to the COVID-19 pandemic. “They want \$25 billion for the Post Office. Now they need that money in order to make the Post Office work so it can take all of these millions and millions of ballots.”⁷ He Tweeted, “drop the Mail-In Scam before it is too late.”⁸

It is unprecedented for a president to equivocate about whether he would accept an election outcome and a peaceful transfer of power. When asked by Fox News Reporter Chris Wallace whether he would “accept the election” outcome in 2020, Trump replied, “I have to see. Look, you – I have to see. No, I’m not going to just say yes. I’m not going to say no”⁹ When asked later whether he would commit to a peaceful transfer of power after the November election, he refused to answer the question directly: “We’re going to have to see what happens. . . . You know that I’ve been complaining very strongly about the ballots, and the ballots are a disaster. . . . Get rid of the ballots and you’ll have a very peaceful — there won’t be a transfer, frankly. There will be a continuation”¹⁰ During his 2020 debate with Joe Biden, when asked whether he would condemn the actions of the white supremacist group “Proud Boys,” Trump

instead urged them to “stand back and stand by,” seeming to encourage them to consider violence if he did not win the election.¹¹

2. He falsely claimed that he had won the election

On the day of the election, it appeared that Biden had won sufficient states to win the electoral college, but final counts were delayed, as states tabulated all of the mail-in and absentee ballots. But Trump preemptively claimed victory. At 12:49 a.m., November 4 (of election night). Trump tweeted, “We are up BIG, but they are trying to STEAL the Election. We will never let them do it. Votes cannot be cast after the Polls are closed!” No votes were cast after the polls closed, though many were counted after the polls had closed.¹²

The day after the election it became clear that Biden would win the popular vote, and further that he was ahead in several of the battleground states. So, the country waited as those states continued to count ballots. Despite final vote counts not being reported, Trump asserted that mail in votes should not be counted. “A lot of votes came too late. I’ve already decisively won many critical states.”¹³ He claimed that he had won the election “If you count the legal votes, I easily win. If you count the illegal votes, they can try to steal the election from us.”¹⁴ During a news conference that day, he claimed, “We’re winning Michigan.” “We’re winning Wisconsin.” “Frankly, we did win this election. . . . This is a major fraud on our nation.”¹⁵ On November 5, he tweeted: “STOP THE FRAUD,” and “IF YOU COUNT THE LEGAL VOTES, I EASILY WIN THE ELECTION! IF YOU COUNT THE ILLEGAL AND LATE VOTES, THEY CAN STEAL THE ELECTION FROM US!”¹⁶

Despite Trump’s unwillingness to publicly admit defeat, internally reality was beginning to sink in. Trump asked his aides, “How did we lose to Joe Biden? What happened? What went wrong? Can we still win?”¹⁷ His aides, Hope Hicks, Kellyanne Conway and political allies, Senator Phil Graham and Chris Christie tried to get Trump to accept that he had lost.¹⁸ But Trump refused to face reality, and Rudi Giuliani claimed that he had affidavits that testified to fraud. On the same day he claimed to have “27,” or “80” affidavits and asked to be put in charge of challenging the election.¹⁹

As the days passed and more states completed counting their votes, Biden’s lead became more firmly established, and on November 7, Biden publicly claimed his victory. But unlike other modern presidential candidates who conceded to their opponents after very close elections, as did Nixon in 1960, Gore in 2000, and Clinton in 2016, Trump declared, “this election is far from over.”²⁰

On November 4, Christopher Krebs, the Trump-appointed director of the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA), which is in charge of coordinating with state and local governments for national election security, released a statement about the 2020 national elections. Noting that all of the states with close election results had paper records of each vote, the statement said, “The November 3rd election was the most secure in American history. . . . There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised.”²¹ After the statement, Trump tweeted, “NO WAY WE LOST THIS ELECTION!” Trump removed Krebs from his position on

November 17.²² In sum, allegations of computer rigging,²³ ballot “dumps,”²⁴ and denial of access to Republican observers.²⁵ were all thoroughly debunked.

Ironically, the election was not relatively close. Three presidential elections since 1960 have been won by a smaller electoral college vote margin than the Biden margin of victory, and five candidates have won with fewer electoral votes than Biden won.²⁶

On Nov. 16, Attorney General William Barr, after briefings by election experts from the FBI and DHS, concluded that tempering with election outcomes was virtually impossible. “It’s all bullshit,” Barr declared.²⁷ Nevertheless, on November 19, Sydney Powell and Rudi Giuliani held a news conference at the Republican Party headquarters in Washington and claimed that Dominion voting machines had been hacked by voting software company Smartmatic, George Soros, Antifa, and Venezuelan officials, in a conspiracy that was supported by a “massive influence of communist money.” The problem was that a Republican memo had already reported that an internal investigation demonstrated that Dominion did not use Smartmatic software in 2020, that Dominion had no direct ties to Venezuela, and that there was no evidence that any Dominion personnel had any ties to Antifa.²⁸ On August 11, 2021 a federal judge ruled that a defamation suit from Dominion Voting Systems against Trump aides could go forward, specifying that Dominion “adequately alleged” that the claims against Dominion were made “knowing that they were false or with reckless disregard for the truth.”²⁹

3. He filed meritless lawsuits, without evidence, to overturn the election

Presidential campaigns have often been bitter fights, but the tacit understanding of most losing candidates has been that the unity of the country is more important than partisan differences. Contrast President Trump’s unwillingness to accept the reality of his defeat with the following statements of two presidential candidates who won the popular vote but lost narrowly in the electoral college.

In 2000, immediately after the Supreme Court stopped the recount of votes in Florida, Al Gore, despite winning 500,000 more popular votes, congratulated George W. Bush. In his public remarks he said, “Just moments ago I spoke with George W. Bush and congratulated him on becoming the 43rd president of the United States. . . . This is America and we put country before party. We will stand together behind our new president.”³⁰ In 2016, after a very close election, in which Donald Trump won the electoral college by winning narrowly in three states (though losing the popular vote by 2.9 million), Hillary Clinton called Trump at 2:35 a.m. election night to concede the election. In her concession speech, she said, “I congratulated Donald Trump and offered to work with him on behalf of our country. I hope that he will be a successful president for all Americans.”³¹

Even Richard Nixon, despite a very close election in which he could have challenged Kennedy’s margins in Illinois and Texas, refused to do so. When he, as Vice President, presided over the electoral vote count in Congress, he remarked, “I do not think we could have a more striking and eloquent example of the stability of our Constitutional system and of the proud tradition of the American people of developing, respecting and honoring institutions of self-

government. . . . In our campaigns, no matter how hard-fought they may be, no matter how close the election may turn out to be, those who lose accept the verdict, and support those who win.”³²

But Donald Trump was not about to accept the reality of his electoral defeat. rather than concede his loss, Trump and his supporters filed numerous lawsuits to try to reverse the outcome.

In an election involving more than 160 million voters and more than 230,000 polling places in the United States,³³ it is probable that there would be some irregularities, some miscounting, or other problems. Nevertheless, Trump’s lawyers were not able to document any problems significant enough to question the outcome of the election results in any state. There were scattered instances of individuals trying to cast more than one ballot, including three Republican voters in Pennsylvania. But many searches in response to President Trump’s allegations of widespread fraud were unable to uncover any significant fraud.³⁴ In losing more than 60 lawsuits challenging votes in the election, Trump could not convince any court that illegal votes were cast for Biden or that election counting procedures shifted the election away from Trump.³⁵

Trump initiated multiple lawsuits in state and Federal courts to try to stop votes from being counted or to disqualify votes that had been cast. Trump lost all of these challenges, primarily because there was no evidence of significant fraud or irregularities. Republican and Democratic representatives were present at all polling stations and in the offices where the votes were counted. By mid-December, 86 judges (38 of whom were appointed by Republicans) in more than 60 court cases, from state courts through the Supreme Court rejected Trump’s claims of fraud.

In a case Trump brought in Pennsylvania, which Biden won by more than 80,000 votes, a Trump-appointed judge in the U.S. Third Circuit Court of Appeals wrote for a unanimous court, “Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here.”³⁶ The Supreme Court of Wisconsin, in rejecting a lawsuit to overturn the Wisconsin election, declared, “Judicial acquiescence to such entreaties built on so flimsy a foundation would do indelible damage to every future election. . . . This is a dangerous path we are being asked to tread.”³⁷

In the fall of 2020, when Trump had the opportunity to appoint a third justice to the Supreme Court, he said that he expected the election to “end up in the Supreme Court. And I think that it’s very important the we have nine justices.”³⁸ On December 9, Trump tweeted “OVERTURN,” tacitly admitting that Biden had won the votes necessary to win, but that Trump wanted the Supreme Court to overturn the election outcome. He tweeted that the Supreme Court “has a chance to save our Country” and “The Election was RIGGED.”³⁹

In the second of two suits rejected by the Supreme Court, the state of Texas, joined by Trump and the attorneys general of 17 states, argued that the voting procedures in four other states (Wisconsin, Georgia, Michigan, and Pennsylvania) were flawed and demanded that the Supreme Court overturn the election. It was extremely unusual for states formally to challenge

the voting laws, procedures, and administration of elections in other states. Even more alarming was the joining of the suit by Republican members of Congress. Initially, 126 House members had signed an *amicus* brief supporting the lawsuit, and after threats by Rep. Mike Johnson (R-LA) that President Trump would retaliate against those who did not sign on. Seventeen of the members of Congress who signed the amicus brief were, in effect, asking the Court to invalidate their own elections. [cite?]

In rejecting the lawsuit, the Supreme Court (with six conservatives and three Trump appointees) declared that Texas “had not demonstrated a judicially cognizable interest in the manner in which another state conducts its elections.”⁴⁰ After his loss in the Supreme Court, Trump called the decision a “disgraceful miscarriage of Justice,” and tweeted “WE HAVE JUST BEGUN TO FIGHT!!!”⁴¹

4. He pressured state and local officials not to certify election outcomes

With his lawsuits failing to convince any judges to reverse the vote count in any state, Trump turned to the formal, though usually *pro forma*, procedures for counting votes in presidential elections. After votes are cast in each polling station, the results are tabulated, certified, and then forwarded to the state capital, where Governors must certify the outcome of the election.

Trump tried to intervene at local levels in battleground states to try to stop vote counts from being certified. Trump lost Michigan by more than 150,000 votes, but after the initial certification of votes in heavily Democratic Wayne county, Trump personally called a Republican member of Wayne County’s Board of Canvassers to convince her not to cast her vote to certify the election, though she did. After more pressure from Trump, she tried to rescind her initial vote, but she was not allowed to rescind her vote, because it was an administrative duty.⁴² Such personal intervention of a president to put pressure on a local election administrator was unprecedented in modern times.

In the close race in Georgia, which Biden won by only about 12,000 votes, Trump pressured the Republican governor, Brian Kemp, to intervene in the vote count. Trump also attacked the Republican Secretary of State, Brad Raffensperger, demanding that he shift the vote count to favor Trump. Despite threats to his life, Raffensperger oversaw a hand recount of the votes and refused to intervene in what he called a free and fair election.⁴³ Raffensperger announced, on December 7, “We have now counted legally cast ballots three times, and the results remain unchanged.”⁴⁴ Subsequently, Trump called Raffensperger an “enemy of the people.”⁴⁵ Trump’s oral attacks were so vituperative that his supporters threatened the Georgia Republican Secretary of State and the Republican voting administrator with violence, and they had to be provided security protection. An audit of more than 15,000 signatures on absentee ballots in Georgia did not find any fraudulent ballots.⁴⁶

Inspired by Trump’s claims of fraud, armed protestors threatened state officials, Democrat and Republican, in Michigan, Georgia, Vermont, and Pennsylvania.⁴⁷ Georgia voting administrator Gabriel Sterling, a Republican who voted for Trump, specifically refuted allegations of voting improprieties in the Georgia election.⁴⁸ He then publicly admonished

Trump for inciting his followers to violence to overturn the election, “you have the right to go through the courts. . . . Stop inspiring people to commit potential violence. . . . Someone’s going to get killed. It’s not right. . . . Death threats, physical threats, intimidation — it’s too much.”⁴⁹

Three days before Congress was to meet to count electoral votes, Trump personally called the Georgia Secretary of State and pressured him to “find” enough votes to change the election outcome in Georgia. Urging Brad Raffensperger to change the election outcome, Trump said “there’s nothing wrong with saying that, you know, um, that you’ve recalculated So look. All I want to do is this. I just want to find 11,780 votes, which is one more than we have because we won the state.” He also threatened criminal prosecution. “You know what they did and you’re not reporting it. You know, that’s a criminal — that’s a criminal offense.”⁵⁰

5. He pressured governors and state legislatures to nullify state elections

Article II of the Constitution provides that, “Each State shall appoint, in such Manner as the Legislature thereof may direct” the electors who will cast electoral ballots for president. All states have laws providing that voters in the states determine the slates of electors who cast ballots for president. All states except two have decided that whichever candidate wins the most popular votes in the state will receive the full slate of electors to cast the state’s electoral ballots (Maine and Nebraska split their votes by electoral districts). After his other attempts to change the election outcome failed, Trump tried to take advantage of this constitutional provision to try to pressure state legislatures to ignore the laws in their states and award their electoral votes directly to Trump, despite his loss in the state elections.

In his efforts, Trump brought the leaders of the Michigan legislature to the White House to try to convince them to have the Michigan legislature throw out the popular vote and appoint their own slate of electors to cast their ballots for Trump. After talking with Trump, they refused to do his bidding.⁵¹ He called on the state legislature of Wisconsin to “overturn this ridiculous State Election. . . . We won in a LANDSLIDE.”⁵²

Despite two recounts that confirmed the initial count of votes, Trump called Republican Georgia Governor Brian Kemp and urged him to have the legislature ignore the popular vote in the state and appoint its own set of electors to cast their ballots for Trump. When Kemp refused because he could not legally do so, Trump called him “hapless” and a “moron,” saying “I will easily & quickly win Georgia” and threatened to support a primary rival to Kemp in the 2022 election.⁵³ Trump attacked the Republican governors of Georgia and Arizona, saying that voters should “vote them out of office!”⁵⁴

Despite losing Pennsylvania by more than 80,000 votes, Trump personally addressed by phone a meeting of State Senate Republicans to convince them to ignore the popular vote and award Pennsylvania’s electoral votes to him. When legislative leaders said that they did not have the authority to do it, 64 members of the Pennsylvania legislature sent a letter to Pennsylvania’s representatives in Congress and urged them to object to their own state’s slate of electors when the electoral votes were counted by Congress on January 6, 2021.⁵⁵

In all, Trump personally called at least 31 Republican state and local official in states that he lost and called to the White House twenty Republican state legislators and other officials to convince them to reverse elections in their states.⁵⁶ Despite Trump's attempts to overturn election outcomes in six states and recounts in two (Georgia and Wisconsin), Biden's victories were confirmed by multiple officials in each state.

6. He Pressured the Justice Department to overturn the election.

The Department of Justice had a long standing practice not to investigate allegations of election irregularities until after votes were certified so as not to insert itself into the politics of campaigns. Nevertheless, on November 9, Attorney General William Barr instructed his subordinates to begin investigating Trump's false claims of election fraud.⁵⁷ After the investigations, Attorney General Barr told Trump on December 1, that Justice Department investigations had, "not seen fraud on a scale that could have effected a different outcome in the election."⁵⁸

Immediately after Barr announced his resignation on Dec. 14, Trump and his chief of staff Mark Meadows began to pressure Acting Attorney General Jefferey Rosen to file briefs to support allegations that there had been fraud in the election. Rosen refused, stating that the Justice Department had already examined the issue and that there was no basis for such filings. Over the next month, Trump and chief of staff Mark Meadows continued to pressure Rosen.

According to the Senate Majority Report on Trump's actions, in his pressure campaign, Trump "directly and repeatedly asked DOJ's acting leadership to initiate investigations, file lawsuits on his behalf, and publicly declare the 2020 election corrupt."⁵⁹ After the election the president began talking with Assistant Attorney General for the Civil Division of DOJ, Jeffrey Clark, who agreed with Trump that the election had been marred by fraud.

On Dec. 28, after talking with Trump, Clark emailed Acting Attorney General Jeffrey Rosen and Principal Associate Attorney General Richard Donoghue, attaching a draft letter ("Georgia Proof of Concept") saying that DOJ had taken notice of irregularities in the 2020 election and that the state should call a special session of the state legislature to "consider appointing a new slate of Electors." He further suggested that similar letters be sent to "each relevant state."⁶⁰ Rosen and Donoghue rejected Clark's proposal, after which Clark disclosed that Trump had offered to fire Rosen and replace him with Clark. The implied threat was that if Rosen sent the letter, he [Clark] would reject Trump's offer.

According to notes taken by Deputy Attorney General Richard Donoghue, on Dec. 27, Rosen told Trump that the Justice Department could not change the outcome of the election. Trump responded, "just say the election was corrupt and leave the rest to me and the [Republican] Congressmen."⁶¹

The issue of the Clark-drafted letter to Georgia and the replacement of Rosen by Clark came to a head on January 3 when Rosen along with his deputy, Richard Donoghue were called to a meeting with Trump and Clark in the Oval Office. According to Rosen, Trump stated at the beginning of the meeting, "One thing we know is you, Rosen, aren't going to do anything to

overturn the election.”⁶² Note that Trump did not say challenge the vote count but specified “overturn the election.”⁶³ Rosen told Trump that he would not send the letter to Georgia because there was no evidence of fraud or irregularities in the election

Donoghue told Trump that he and seven DOJ assistant attorneys general (all Trump appointees) would resign if Clark were appointed to replace Rosen. The president’s counsel, Pat Cipollone, calling Clark’s proposal a “murder-suicide pact,” said that he and his deputy would also resign if Trump carried out his plan to replace Rosen with Clark.⁶⁴ At the end of the meeting, Trump decided not to replace Rosen with Clark.

7. He Pressured Vice President Pence to Change the Electoral Vote Count in Congress

After the electors had cast their ballots and were certified in their state capitals, the ballots were sent to the Capitol by December 14, and it was clear (as it always had been) that Biden received 306 electoral votes to Trump’s 232, Trump, however, continued to deny this reality. Hours after the electoral votes were cast, he tweeted, “Many Trump votes were routed to Biden. This Fake Election can no longer stand. Get moving Republicans.”⁶⁵

The law governing the counting of electoral ballots, the Electoral Count Act (3 USC 15), provides that Congress must meet in a joint session on January 6 after each election year. The law further provides that if the electoral ballots have been, ascertained “at least six days before the time fixed for the meeting of the electors” (which all were according to the laws of the states), the electoral vote count for the states “shall be conclusive” (3 U.S. Code 5). The Constitution (12th Amendment) provides that “The President of the Senate shall . . . open all the certificates and the votes shall then be counted.” Thus, the role of the Vice President is merely ministerial – to count votes and declare the winner -- and the role of Congress is only to assure that the electoral votes delivered from the states are authentic and counted, not to judge the outcome of the election.⁶⁶

The Electoral Count Act specifies that if a member of the House, along with a member of the Senate, challenges in writing, the validity of any state’s slate of electors, each house meets separately and must return with its judgment within two hours. If both houses agree that the slate of electoral votes is invalid, those votes are not counted; otherwise, the certified ballots remain valid.

Nevertheless, President Trump incorrectly asserted that “The Vice President has the power to reject fraudulently chosen electors.”⁶⁷ He urged Pence to, “come[s] through for us” in the joint session. “He’s a great guy. Of course, if he doesn’t come through, I won’t like him quite as much.”⁶⁸ He called Senators not supporting his objection the “surrender caucus.”

With Trump’s active encouragement, some of his supporters in Congress planned to challenge slates of electoral votes during the formal counting in the joint session of Congress.

Eleven Senators promised to challenge the electoral vote count, based on vague allegations of fraud, but without any specific evidence. Senator Mitt Romney (R-UT) said, “I could never have imagined seeing these things in the greatest democracy in the world. . . . Has

ambition so eclipsed principle?”⁶⁹ Historically, other electoral vote counts had been challenged, but they were merely symbolic, not serious objections.⁷⁰

The difference in 2020, however, was that President Trump had continued to claim, without evidence, that the election was invalid because of fraud perpetrated by Democrats. His challenges to the 2020 election were intended to be serious and to overturn the election. It is the duty of the states, according to their laws, to decide which slate of electors to send to Congress; it is not the role of Congress to choose electors. The only provision for questioning electors is a written objection raised by a Representative and a Senator, which triggers separate votes by each House, and unless both houses agree, the electoral votes certified by the states stand.

In the very close elections of 1961 and 2001 (compared to Biden’s margin of more than 7 million popular and 74 electoral votes in 2020), Vice Presidents Nixon and Gore, as Presidents of the Senate and candidates for the presidency, overruled challenges from their own parties. Importantly, they had quickly admitted that their opponents had won the election, despite the extreme closeness of each election. In 2017 Vice President Biden overruled several objections from Democrats and declared Donald Trump president-elect. “It is over,” he stated.⁷¹ If the Vice President could change the outcome of the election, Vice Presidents Nixon (in 1961) and Gore (in 2001) could have made themselves president despite having lost their elections.

In addition to the planned objections to slates of electors in 2021, Trump supporters concocted another ploy to reverse the electoral outcome. On December 14, the day that electors met in their capitals to formally cast their ballots, Trump aide Stephen Miller announced that in some states lost by Trump, the slate of Trump electors (who had no legal status because they lost the popular votes in their states) would nevertheless meet by themselves to vote for Trump and transmit their ballots to the Senate.⁷² In several states, the Republicans who were electors who would have cast their votes for Trump, had he won the vote their states, met and purported to cast electoral votes to send to the Capitol.⁷³ Any “votes” from such states had no legal significance, because they were not chosen according to the laws of the states.

Representative Louie Gohmert (R-TX) filed a lawsuit in Texas arguing that the Electoral Count Act was unconstitutional and that the Vice President had, “sole discretion in determining which electoral votes to count for a given State, and must ignore and may not rely on any provisions of the Electoral Count Act that would limit his exclusive authority.”⁷⁴ On January 1, 2021, the suit was dismissed by a Federal judge in Texas who had been appointed by President Trump.

With January 6 fast approaching, Trump told Vice President Pence to meet with Republican lawyer John Eastman. Pence met with Eastman on January 4, who showed Pence a memo he had written outlining how Pence could reject certified state electoral votes and either declare Trump the winner or throw the election to the House of Representatives.⁷⁵

The memo posited that “7 states have transmitted dual slates of electors,” one slate for Biden and one for Trump. Actually, no state submitted two slates of electors to Congress. The memo then argued that Pence could unilaterally decide that “because of the ongoing disputes in the 7 States [that had voted for Biden], there are no electors that can be deemed validly appointed

in those States.” Without the electoral votes for Biden in those seven states, Trump would be ahead in the electoral vote count, and Pence would declare him president. If that did not work, Pence would declare that there is no majority in the electoral vote count (270 would be a majority of the total 538 electoral votes), and thus, according to the 12th Amendment, the election would be determined by the House of Representatives (voting by states), where Republicans had control of 26 state delegations and thus would elect Trump as president.

Republican Senator Mike Lee of Nevada had checked with elected officials in Georgia, Pennsylvania, Wisconsin, and Michigan as well as Arizona. He was told that not even one legislative chamber in any of those states would send another slate of electors or decertify the ones they had sent to Congress.⁷⁶

Eastman’s memo then went on to assert that “the Constitution assigns this power [to decide which slates of electoral votes to recognize] to the Vice President as the ultimate arbiter.” But the 12th amendment does not give that authority to the Vice President. Rather, it states that “The President of the Senate shall . . . open all the certificates and the votes shall then be counted.” Note that it does not say that the Vice President shall count the votes. It is the duty of Congress in joint session to count the votes, and Congress had procedures for vote counting which had been followed since 1793.

This standard, historical process was reiterated by the newly elected 117th Congress on January 3, 2021 by Senate Concurrent Resolution 1. The Resolution stated that on January 6 in a joint session of Congress, “two tellers shall be previously appointed . . . to whom shall be handed, as they are opened by the President of the Senate, all the certificates,” and “the votes having been ascertained and counted . . . shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote.”

The Concurrent Resolution was agreed to by Congress; the Senate at that time was still controlled by Republicans, since the Georgia Senate runoff elections had not yet been held. It is clear from the Constitution, the Electoral Count Act, and historical precedent that the Vice President’s role is to “announce” the outcome, not count the votes or rule on which electoral votes should be counted.

Trump was putting great pressure on Pence to follow Eastman’s scheme and declare Trump the winner or at least say that the electoral votes were in doubt. On January 5, Trump told Pence, “This all I want you to do, Mike. Let the House decide the election. “I don’t want to be your friend anymore if you don’t do this.”⁷⁷ In a call on January 6, Trump told Pence, “You can either go down in history as a patriot, or you can go down in history as a pussy.”⁷⁸

Pence was very conflicted; he wanted to please the President, but he had been told by many conservative lawyers that the Vice President did not have the authority to do what he was asked to do by Trump and Eastman. Pence even called Dan Quayle, who had been Bush 41’s Vice President, and who, as President of the Senate on January 6, 1993, had declared that Bill Clinton had been elected president. Quayle told Pence, “Mike, you have no flexibility on this. None. Zero. Forget it. Put it away.”⁷⁹ When Pence told Trump that he would abide by the law, Trump told him, “You’ve betrayed us. I made you. You were nothing. Your career is over if

you do this.”⁸⁰ At 1am on January 6, Trump tweeted, “If Vice President @Mike Pence comes through for us, we will win the Presidency.”⁸¹

On January 6, Pence released a letter explaining that “no Vice President in American history has ever asserted” authority to ignore or throw out slates of electoral votes.⁸² This led directly to Trump’s denunciation of Pence before the mob on January 6 and the chants of “hang Mike Pence” as the Trump-incited mob marched toward the Capitol.

8. He considered using military force to overturn the election

In late December, President Trump continued his efforts to overturn the election. On December 18, he met in the White house with former General Michael Flynn, who had resigned as his first national security adviser, and Sydney Powell (one of his lawyers), to discuss conspiracy theories about how the election was stolen. Powell had argued that there was a Venezuelan plot to rig voting machines to switch votes from Trump to Biden.⁸³ Flynn had publicly suggested that Trump could impose martial law in the swing states and, “he could take military capabilities, and he could place those in states and basically rerun an election in each of those states.”⁸⁴

At the same White House meeting, Trump suggested that voting machines from the swing states could be seized by officials of the Department of Homeland Security to investigate them for fraud, though DHS does not have the authority to seize voting machines in any states.⁸⁵ Attorney General Barr said that he saw “no basis now for seizing machines by the federal government.”⁸⁶

There is a strong norm that the US military should not be used within the United States except in exceptional circumstances. Although the President can use regular military troops domestically in the United States, several laws, including the Insurrection Act of 1807 and the Posse Comitatus Act limit the circumstances in which he can do so. The White House discussions of the use of military force to change the election outcome worried U.S. military leadership so much that the Secretary of the Army, Ryan McCarthy, and the Army Chief of Staff, General James C. McConville, felt it necessary to issue a public statement declaring, “There is no role for the U.S. military in determining the outcome of an American election.”⁸⁷ Chairman of the Joint Chiefs of Staff, General Mark Milley, said in a speech, “We do not take an oath to a king or a queen, a tyrant or a dictator. We do not take an oath to an individual. No, we do not take an oath to a country, a tribe or a religion. We take an oath to the Constitution.”⁸⁸ Never before had military leaders felt compelled to reassure the nation that military force would not be used to affect the outcome of an election.

Trump’s consideration of using military force was so alarming that all 10 of the living former Secretaries of Defense wrote a public letter stating that, “any efforts to involve the U.S. armed forces in resolving election disputes” would be dangerous and potentially criminal. They argued that the Trump appointees in the Defense Department were bound by oath to facilitate the transition of the incoming administration and “refrain from any political actions that undermine the results of the election or hinder the success of the new team.”⁸⁹

On November 10, CIA Director Gina Haspel was upset at the way that Trump fired Defense Secretary Mark Esper and remarked to General Mark Milley, “We are on the way to a right-wing coup,” and that Trump was “acting out like a six-year-old with a tantrum.”⁹⁰ The next day she threatened to resign if she was forced to fire her deputy in favor of a Trump replacement.⁹¹ On November 12 Trump was considering a US attack on Iran, though General Milley and Secretary of State Mike Pompeo talked him out of it. Haspel remarked to Milley, “We are going to lash out for his ego?”⁹²

After the insurrection at the Capitol, Joint Chiefs Chair Mark Miley was so concerned that Trump might attempt to use the military to thwart the transition to a new administration that he took unusual steps. In a call with Speaker Nancy Pelosi, he agreed with her that Trump was unpredictable and assured her that standard procedures would prevent Trump from using nuclear weapons. He also called his Chinese counterpart to reassure him that the United States had no plans to attack China. In order to head off any unexpected actions by the president, Milley called a meeting of officers assigned to the National Military Command Center and told them that if they received any calls from the White House or any irregularity, that they were to inform him before taking any action.⁹³ The only known precedent for such an action was secretary of defense James Schlesinger’s order in 1974. Fearing that Nixon whom Congress was considering impeaching, might do something drastic, Schlesinger directed that any military order from President Nixon had to be conveyed strictly through the chain of command, that is, through Schlesinger.

9. He incited a mob to violently attack the Capitol to change the electoral vote count

Finally, in desperation, on January 6, President Trump incited a violent mob to attack the Capitol in order to stop the Joint Session of Congress from carrying out its legal and Constitutional duty to count the electoral votes.

The attack on the Capitol was not a spontaneous uprising. In fact, it had been well planned by leaders of the mob and had been encouraged by President Trump and some Republican members of Congress ever since the election. On November 3, election day, when it became likely that Biden would win, Trump asserted that the election had been stolen. That same day the “Stop the Steal” movement began and its adherents grew to 320,000 until it was shut down by Facebook, though the movement continued to grow on other social media platforms.⁹⁴ As President Trump continued to lie about supposed fraud that prevented him from winning the election, millions of his followers believed him.

To encourage the disruption of the congressional count of electoral votes, Trump tweeted to his followers to come to Washington on January 6, when Congress would count the electoral votes.

December 19: “Big protest in D.C. on January 6th. Be there, will be wild.”⁹⁵

December 27: “See you in Washington, DC, on January 6th. Don’t miss it.”⁹⁶

December 30: “JANUARY SIXTH, SEE YOU IN DC!”⁹⁷

January 1: “The BIG Protest Rally in Washington, D.C. will take place at 11:00A.M. on January 6th. Location details to follow. StopTheSteal!”⁹⁸

January 5: “I will be speaking at the SAVE AMERICA RALLY tomorrow on the Ellipse at 11AM Eastern. Arrive early – doors open at 7AM Eastern. BIG CROWDS!”⁹⁹

On January 5, Trump ally and former White House official Steve Bannon predicted “all hell is going to break loose tomorrow.”¹⁰⁰ In a podcast, Bannon called his followers to action, saying, “We are going into uncharted waters. We’re going into something that’s never happened before in American history. Tomorrow it’s going — we’re pulling the trigger.” “It’s all converging, and now we’re on the point of attack tomorrow,” in order to “kill the Biden presidency in the crib.”¹⁰¹

In response to Trump’s tweets, his followers continued to plan more concretely for the riot on January 6. On January 2, more than 100 Republican representatives and 12 Senators promised to object to the vote count in Congress, misleading Trump supporters into believing that Vice President Pence and Congress could somehow overturn the election.¹⁰² The crowd of thousands that turned up at the White House on January 6 included many members of the Proud Boys, neo-Nazis, other white supremacists, and QAnon members (who believe that the United States is run by a conspiracy of Satan-worshiping pedophiles), many of them carrying Confederate and Trump flags.¹⁰³

About noon, Trump addressed them in the Ellipse south of the White House. In his remarks, Trump said, “all of us here today do not want to see our election victory stolen by bold and radical left Democrats which is what they are doing. We will never concede. It doesn't happen. You don't concede when there's theft involved” The crowd chanted, “Fight for Trump. Fight for trump.”¹⁰⁴ In his remarks to the mob, Trump lashed out at the Vice President, saying that Pence did not have “the courage to do what should have been done to protect our country and our Constitution.” In response to Trump the mob chanted, “Hang Mike Pence. Hang Mike Pence.”¹⁰⁵

Trump went on to say, “We are going to have to fight much harder. . . . you will never take back our country with weakness.” Then “We will never give up. We will never concede. It doesn’t happen. You don’t concede when there’s theft involved. Our country has had enough. We will not take it anymore, and that’s what this is all about.”¹⁰⁶ He said that the crowd needed to give the Republicans, “the kind of pride and boldness that they need to take back our country.” He concluded, “Now it is up to Congress to confront this egregious assault on our democracy. And after this, we're going to walk down [to the Capitol] and I'll be there with you.”¹⁰⁷ Trump counselor Rudolph Giuliani told the crowd, “Let’s have trial by combat.”¹⁰⁸ As Senator Josh Hawley (R-MO) went to the Capitol for the Joint Session, he raised his clenched fist in solidarity with the mob approaching the Capitol.¹⁰⁹

The joint session to count the electoral votes began at 1:00 p.m. and, as both Houses were separately considering the Republicans’ objection to the electoral vote from Arizona, the Capitol police were unable to stop the rioters, many of whom said that they were sent by President

Trump. As the mob overcame police barriers and broke into the Capitol building, it threatened the safety of members of Congress, and at 2:00 p.m. Capitol police and the Secret Service took the Vice President and members of Congress to safe locations within the Capitol complex. The Trump supporters occupied the Senate and House chambers and roamed throughout the building, vandalizing congressional offices. Five people died as a result of the riot and 140 police officers suffered injury.

After his speech to the mob, President Trump watched the assault on the capitol on a large television screen. Despite pleas from his advisors and Republican members of Congress, he refused to make any public statement asking the rioters to stop the assault and withdraw from the Capitol.¹¹⁰ Finally, after more than three hours, he agreed to record a scripted statement. In his statement, Trump deviated from the script to justify the violence. “These are the things and events that happen when a sacred landslide election victory is so unceremoniously and viciously stripped away from great patriots who have been badly and unfairly treated for so long,” He finished with, “Go home with love and in peace. Remember this day forever!”¹¹¹ In his recorded video, he said: “I know you’re hurt. . . . We had an election that was stolen from us. It was a landslide election and everyone knows it, especially the other side. But you have to go home now. We love you. You’re very special.”¹¹²

When the violence subsided, some Republican leaders denounced the President. The third highest ranking Republican in the House, Liz Cheney (R-WY), said on Fox News, “We just had a violent mob assault the U.S. Capitol in an attempt to prevent us from carrying out our constitutional duty.... There’s no question the president formed the mob, the president incited the mob, the president addressed the mob. He lit the flame.” Senator Mitt Romney (R-Utah) said, “We gather due to a selfish man’s injured pride and the outrage of supporters who he has deliberately misinformed for the past two months and stirred to action this very morning. . . . What happened here today was an insurrection incited by the president of the United States.”¹¹³ Majority Leader Mitch McConnell (R-KY) said, “If this election were overturned by mere allegations from the losing side, our democracy would enter a death spiral.”¹¹⁴

After the violent mob had been cleared from the Capitol, the counting of electoral votes continued at 8 pm. Despite the violent attack, 139 House Republicans and eight Senators voted to challenge several slates of electors that had been certified by the states.¹¹⁵ After the challenges failed, Joe Biden’s status as president-elect was confirmed by Congress; the session adjourned at 3:45 a.m., January 7, 15 hours after it convened.¹¹⁶ In closing the joint session, Vice President Pence stated, “To those who wreaked havoc in our Capitol today, you did not win. Violence never wins. Freedom wins. This is still the people’s house.”¹¹⁷

In response to President Trump’s incitement of the mob to violence, on January 13 the House of Representatives moved swiftly to impeach the president for “incitement and insurrection”. The one article quoted some of Trump’s incendiary words and concluded that Trump should be removed from office, because, “He threatened the integrity of the democratic system, interfered with the peaceful transition of power, and imperiled a coequal branch of Government.” All Democrats and 10 Republicans voted in favor of the article. On February 13, 57 Senators voted guilty, 10 votes short of the two-thirds needed to convict.

In preparation for the inauguration of President-Elect Biden, streets around the Capitol were cordoned off and 25,000 National Guard troops were mobilized to secure the ceremony. Refusing to recognize the legitimacy of the 2020 election, Trump was the only president since Andrew Johnson in 1869 to refuse to attend the inauguration of his successor. At noon on January 20, 2021, Joseph Biden was sworn in as 46th President of the United States.

10. In 2021 he continued to promote the “big lie” that the 2020 election was fraudulent.

The 2020 presidential election was one of the most carefully watched elections in US history, and Trump supporters were not able to produce sufficient evidence to convince any court of law that fraud had been committed. Nevertheless, in 2021 Trump continued his campaign to overturn the 2020 election and to promote the “Big Lie” that President Biden was not legitimately the president.¹¹⁸

Through his PAC, Trump raised millions of dollars to support his efforts to convince his followers that the election had been stolen. Trump’s efforts were supplemented by millions of dollars spent by his allies to support his false claims.¹¹⁹ Despite the lack of evidence of fraud, sizable majorities of Republicans believed his claims. Majorities of Republicans believed, against all evidence, that the January 6 assault on the Capitol was committed by anti-Trump and Antifa rioters.¹²⁰ After the riot during which 140 police officers were injured and five people died, Representative Andrew Clyde (R-GA) characterized the mayhem as “a normal tourist visit.”¹²¹

Based on the myth of the stolen election, Republican state legislators proposed more than 250 laws in 43 states intended to limit voting, such as restricting absentee voting, limiting hours of polling places, and requiring stricter identification for voting.¹²² As of September 2021, 33 of those proposals in 19 states were enacted into law.¹²³ Perhaps more importantly, Republican legislatures in many states proposed and enacted new laws and procedures to take more direct control of the administration of elections. They changed election and appointment procedures for positions such as secretaries of state and local election officials, as well as giving state legislatures more discretion to affect the outcome of elections.¹²⁴ Some of these changes in state laws may have laid the groundwork for legislatures to appoint alternative slates of presidential electors to send to Congress in states in which the popular vote might go against the Republican presidential candidate in the future.

Trump’s lies were so effective that many of his followers were willing to threaten violence. Hundreds of election administrators in 17 states were threatened with death and other violence and had to be given special protection.¹²⁵ Reuters documented more than 800 threats of bodily harm or death to election officials and school board members. The FBI even opened up a “threat tag” to track threats of violence against school officials.¹²⁶ Representative Paul Gosar (R-AZ) was censured by the Democratic majority in the House for posting an animated video of himself slashing the neck of liberal Representative Alexandria Ocasio-Cortez (D-NY) and attacking President Trump with swords.¹²⁷

As of November 2021, a major poll (N=2508) found that 31% of Americans and 2/3 of Republicans believed that Trump won the 2020 election. Thirty percent of Republicans (and 18% of Americans) believed that “true American patriots may have to resort to violence in order to save our country.”¹²⁸ According to data gathered by the Center for Strategic and International Studies, between 2015 and 2021, right-wing violence has caused 91 deaths and 267 plots, whereas far-left plots and violence have led to 19 deaths and 66 plots.¹²⁹

Neither former President Trump nor his supporters among members of Congress were willing to denounce the threats of violence. In an interview, President Trump was asked if he was worried on January 6 about the safety of Mike Pence when the mob was chanting “Hang Mike Pence.” Trump replied that he thought that Pence was protected, but “well, the people were very angry. . . . because he's passing on a vote that he knows is fraudulent. How can you pass a vote that you know is fraudulent?”¹³⁰

Conclusion: Threats to the Constitution and Democracy

Trump’s denial of his loss to Biden was important in itself, but the impact on the United States was made much worse by the refusal of most Republican members of Congress to admit the reality of Biden’s win. As of December 6, 2020 after a survey of all 249 Republican members of Congress, only 26 admitted that Biden had won; two said that Trump had won; and 221 refused to answer, demonstrating the power of Trump to intimidate members of his party.¹³¹ Even after the violent riot in the Capitol, 139 Representatives and eight Senators voted against counting the electoral votes that provided Biden’s win.

The 2020 election put the US constitutional system under extreme pressure. Though many norms of the political system were shattered,¹³² the constitutional framework survived:

- * State and local officials of both parties fulfilled their duties.
- * Some Republicans spoke out against Trump’s efforts to overturn the election.
- * State and federal courts, including the Supreme Court, rejected bogus claims of fraud.
- * Electoral ballots were cast in state capitals.
- * Voting outcomes were certified by the states.

After the violent attack on the Capitol, the electoral votes were duly counted and Biden was declared president-elect.

On the other hand, President Trump found flaws in the system that allowed him to refuse to admit his electoral defeat. He rejected the customary civility of defeated candidates in dealing with his successor. Most importantly, most of the members of his party in Congress refused to recognize the outcome of the election and supported Trump’s specious claims. Consequently, the broad base of the Republican Party believed their leaders and denied the legitimacy of the election. These fervent beliefs, along with Trump’s incitement, led to the violent occupation of the Capitol by the mob and continued threats of violence in 2021.¹³³

The Constitution was not designed for chief executives like Donald Trump in a polarized era. The Framers of the Constitution feared the concentration of power and especially the

prospect of a chief executive becoming a tyrant. Yet they felt that there had to be an independent executive to prevent Congress from abusing its power. They nevertheless gave Congress most of the authority in the new Constitution (Article I, Section 8). But over more than two centuries political power has accreted to the executive.¹³⁴

The Framers of the Constitution feared, in Alexander Hamilton's words,

When a man unprincipled in private life desperate in his fortune, bold in his temper, possessed of considerable talents, having the advantage of military habits—despotic in his ordinary demeanour—known to have scoffed in private at the principles of liberty—when such a man is seen to mount the hobby horse of popularity—to join in the cry of danger to liberty—to take every opportunity of embarrassing the General Government & bringing it under suspicion—to flatter and fall in with all the non sense of the zealots of the day—It may justly be suspected that his object is to throw things into confusion that he may “ride the storm and direct the whirlwind.”¹³⁵

More ominously, in 1787, one prominent Pennsylvanian identifying himself only as “An Old Whig,” wrote about the danger of demagogues in Antifederalist 70:

suppose . . . that this man is without the virtue, the moderation and love of liberty which possessed the mind of our late general [Washington]. . . . We may also suppose that like Caesar, he may be at once ambitious and poor, and deeply involved in debt. Such a man would die a thousand deaths rather than sink from the heights of splendor and power, into obscurity and wretchedness.¹³⁶

Such a man would likely try to cling to office and become the tyrant that the Framers of the Constitution feared might become chief executive.

During the constitutional convention, impeachment was seen as an extreme remedy for a president who abused his power. James Madison argued that “some provision be made for defending the Community agst. the incapacity, negligence or perfidy of the chief Magistrate.”¹³⁷ In Federalist 65 Hamilton said, “offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust” would lead to impeachment and removal from office. Yet President Trump demonstrated that in a polarized era, if a president is backed by his party in one house of Congress the threat of impeachment and removal from office is nullified.

In November 2021, Representative Liz Cheney (R-WY), one of the few Republicans willing to resist Trump's takeover of the party, said that the United States is “confronting a domestic threat that we've never faced before: a former President who's attempting to unravel the foundations of our constitutional republic, aided by political leaders who have made themselves willing hostages to this dangerous and irrational man. . . . Political leaders who sit silent in the face of these false and dangerous claims are aiding a former President who is at war with the rule of law and the Constitution.”¹³⁸

If one of the major parties in a two-party constitutional republic refuses to accept the clear-cut outcome of an election and is willing to condone violence to keep or attain power, that democratic system is in trouble.¹³⁹

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⁶⁷ Maggie Haberman and Annie Karni. 2021. “Pence Said to Tell Trump that Votes Can’t be Blocked,” *New York Times* (January 6 , 2021).

⁶⁸ Richard Fausset, Rick Rojas, and Maggie Astor. 2021. “George Official Denounces Trump on Eve of Runoffs,” *New York Times* (January 5, 2021).

⁶⁹ Luke Broadwater, “Pence Welcomes Futile Bid by G.O.P. Lawmakers to Overturn Election,” *New York Times* (January 2, 2021).

⁷⁰ Previous objections had occurred. In 2001 and 2017, Democratic House members challenged electoral ballots, but no Democratic Senators would join them, so their objections were overruled. In 2004, Representative Stephanie Tubbs Jones (D-OH) and Senator Barbara Boxer (D-CA) objected to Ohio’s electoral votes. Boxer made it clear that her objection was “not about overturning the election.” [Aaron Blake, “GOP inches toward an unprecedented attempt to overturn the 2020 election,” *Washington Post*, (December 18, 2020).] and the Senate voted 74 to 1 against the challenge [Catie Edmondson and Michael Crowley, “Hawley Answers Trump’s Call for Election Challenge,” *New York Times* (December 30, 2020).] The losing candidate in 2004, John Kerry, had already admitted his defeat and did not support or vote for the challenge. Notably, these precedents were purely symbolic acts and did not attract much public attention because counting electoral votes had long been considered a *pro forma* recognition of the electoral vote outcomes in the states. Most importantly, each of the Democratic presidential candidates had already conceded the elections and publicly recognized the Republican candidates as presidents-elect.

⁷¹ Matt Flegenheimer, “‘It Is Over’: Democrats’ Efforts to Deny Trump Presidency Fail,” *New York Times* (January 6, 2017).

⁷² Philip Bump, “Trump’s two remaining points of leverage on the election and how he may use them,” *Washington Post* (December 14, 2020).

⁷³ Kyle Cheney, “Gohmert suite may force Pence’s hand in effort to overturn Trump’s defeat,” *Politico* (December 28, 2020).

⁷⁴ Kyle Cheney, “Gohmert suite may force Pence’s hand in effort to overturn Trump’s defeat,” *Politico* (December 28, 2020).

⁷⁵ The “Eastman Memo was titled, “Privileged and Confidential.” and dated “January 6, scenario.” It can be found at: <https://cdn.cnn.com/cnn/2021/images/09/20/eastman.memo.pdf>; See Woodward and Costa, *Peril*, pp. 209-211, 225-226.

⁷⁶ Woodward and Costa, *Peril*, pp. 227’ 237.

⁷⁷ Woodward and Costa, *Peril*, pp. 228-229.

⁷⁸ Peter Bake, Maggie Haberman and Annie Karni, “Pence Reached His Limit With Trump. It wasn’t Pretty,” *New York Times* (January 12, 2021).

⁷⁹ Woodward and Costa, p. 199, 228-230.

⁸⁰ Woodward and Costa, p. 228-230.

⁸¹ Woodward and Costa, *Peril*, p. 234.

⁸² Woodward and Costa, *Peril*, p. 240.

⁸³ Maggie Haberman and Zolan Kanno-Youngs, “Trump Discussed Making Conspiracist Special Counsel,” *New York Times* (December 20, 2020).

⁸⁴ Felica Sonmez, Josh Dawsey, Dan Lamothe, and Matt Zaptosky. 2020. “A frustrated Trump redoubles efforts to overturn election result,” *Washington Post* (December 20, 2020).

⁸⁵ Felica Sonmez, Josh Dawsey, Dan Lamothe, and Matt Zaptosky. 2020. “A frustrated Trump redoubles efforts to overturn election result,” *Washington Post* (December 20, 2020).

⁸⁶ Toulouse Olorunnipa and Cleve Wootson, “In challenging election defeat, Trump cements his control over the Republican Party,” *Washington Post* (December 12, 2020).

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⁸⁸ Felica Sonmez, Josh Dawsey, Dan Lamothe, and Matt Zaptosky. 2020. “A frustrated Trump redoubles efforts to overturn election result,” *Washington Post* (December 20, 2020).

⁸⁹ Former Secretaries of Defense: Ashton Carter, Dick Cheney, William Cohen, Mark Esper, Robert Gates, Chuck Hagel, James Mattis, Leon Panetta, William Perry and Donald Rumsfeld, “The time for questioning the elections results has passed” *Washington Post* (January 4, 2021).

⁹⁰ Bob Woodward and Robert Costa, *Peril* (NY: Simon and Schuster, 2021), p. 152.

⁹¹ Bob Woodward and Robert Costa, *Peril* (NY: Simon and Schuster, 2021), p. 156.

⁹² Bob Woodward and Robert Costa, *Peril* (NY: Simon and Schuster, 2021), p. 160.

⁹³ Bob Woodward and Robert Costa, *Peril* (NY: Simon and Schuster, 2021), pp. xiii-xxvii.

⁹⁴ Dan Barry and Sheera Frenkel, “‘Be There. Will be Wild!’: Trump all but Circled the Date,” *New York Times* (January 6, 2021).

⁹⁵ Dan Barry and Sheera Frenkel, “‘Be There. Will be Wild!’: Trump all but Circled the Date,” *New York Times* (January 6, 2021)..

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¹¹³ Rosalind Helderan, Jon Swaine, and Michelle Ye Hee Lee, “Despite Trump’s intensive hunt for voter fraud, officials in key states have so far identified just a small number of possible cases,” *Washington Post* (December 23, 2020).

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¹¹⁸ A discussion of the “big lie” is found in Adolph Hitler’s *Mein Kampf*. He argued that the “big lie” could have powerful effects on the masses. “. . . in the big lie there is always a certain force of credibility; because the broad masses of a nation are always more easily corrupted . . . they more readily fall victims to the big lie than the small lie, since they themselves often tell small lies It would never come into their head to fabricate colossal untruths, and they would not believe that others could have the impudence to distort the truth so infamously.” Although in this passage Hitler was accusing the Jews of deliberate deception, he was projecting his own approach to eliminating Jews from Germany. The point here is not to compare Trump with Hitler, but to point out the psychology of egregious political lies and their effects on large numbers of people. Adolph Hitler, 1939. *Mein Kampf*, 1939 p. 134, translation by James Murphy. Archived by Project Gutenberg:
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