

THE EDITORIAL BOARD

A President Accused of Betraying His Country

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By The Editorial Board

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Of all the ways that Donald Trump desecrated his office as president, the gravest — as outlined in extraordinary detail in the criminal indictment issued against him on Tuesday — was his attempt to undermine the Constitution and overturn the results of the 2020 election, hoping to stay in office.

The special counsel Jack Smith got right to the point at the top of the four-count federal indictment, saying that Mr. Trump had knowingly “targeted a bedrock function of the United States federal government: the nation’s process of collecting, counting and certifying the results of the presidential election.”

Bedrock. It’s an apt word for a sacred responsibility of every president: to honor the peaceful transfer of power through the free and fair elections that distinguish the United States. Counting and certifying the vote, Mr. Smith said, “is foundational to the United States democratic process, and until 2021, had operated in a peaceful and orderly manner for more than 130 years,” since electoral counting rules were codified. Until Mr. Trump lost, at which point, the indictment makes clear, he used “dishonesty, fraud and deceit to impair, obstruct and defeat” that cornerstone of democracy.

The criminal justice system of the United States had never seen an

indictment of this magnitude. It's the first time that a former president has been explicitly accused by the federal government of defrauding the country. It's the first time a former president has been accused of obstructing an official proceeding, the congressional count of the electoral votes. Mr. Trump also stands accused of engaging in a conspiracy to deprive millions of citizens of the right to have their votes counted. This fraud, the indictment said, led directly to a deadly attack by Mr. Trump's supporters on the seat of American government.

It's the third criminal indictment of Mr. Trump, and it demonstrates, yet again, that the rule of law in America applies to everyone, even when the defendant was the country's highest-ranking official. The crimes alleged in this indictment are, by far, the most serious because they undermine the country's basic principles.

The prosecution's list of false voter fraud claims made by Mr. Trump and his associates is extensive: that 10,000 dead people voted in Georgia, that there were tens of thousands of double votes in Nevada, 30,000 noncitizens voting in Arizona and 200,000 mystery votes in Pennsylvania, as well as suspicious vote dumps and malfunctioning voting machines elsewhere.

After presenting this list, the indictment makes its case with 12 simple but searing words: "These claims were false, and the defendant knew that they were false." Mr. Smith points out how many people told Mr. Trump that he was repeating lies. He was told by Vice President Mike Pence that there was no evidence of fraud. He was told the same thing by the Justice Department leaders he appointed, by the director of national intelligence, by the Department of Homeland Security, by senior White House attorneys, by leaders of his campaign, by state officials and, most significantly, by dozens of federal and state courts. The indictment emphasizes that every lawsuit filed by Mr. Trump and his allies to change the outcome was rejected, "providing the defendant real-time notice that his allegations were meritless."

Demonstrating Mr. Trump's knowledge that he was lying will be central to the prosecution's case when it comes to trial, because Mr. Smith wants to make clear that Mr. Trump wasn't genuinely trying to root out credible instances of voter fraud. The indictment doesn't charge him with lying or speaking his mind about the outcome of the election, and it notes that he had the right to challenge the results through legal means. But the charges show in detail how, after all those methods failed, his "pervasive and destabilizing lies" set the table for the criminal activity that followed, specifically fraud, obstruction and deprivation of rights. As much as defense lawyers are trying to frame the case as an attack on Mr. Trump's free speech, the indictment makes clear that it was his actions after Election Day that were criminal.

That "criminal scheme" began, the indictment says, on Nov. 14, 2020, when Mr. Trump turned to Rudy Giuliani (acknowledged by his lawyer to be "co-conspirator 1") to challenge the results in the swing state of Arizona, which Mr. Trump had lost. "From that point on," the charges state, "the defendant and his co-conspirators executed a strategy to use knowing deceit in the targeted states," which also included Georgia, Michigan, Pennsylvania and Wisconsin. In an example cited in the charges, Mr. Giuliani sent a text to the Senate majority leader in Michigan on Dec. 7 demanding that the legislature pass a resolution saying the election was in dispute and that the state's electors were not official. That demand was refused, but Mr. Trump continued to claim that more than 100,000 ballots in Detroit were fraudulent.

The scope of Mr. Trump's plot touched every level of American political life. While the four federal crimes charged by Mr. Smith all relate to the same set of facts, three of those crimes, one for fraud and two related to obstruction of a proceeding, are crimes against the U.S. government. The fourth crime is against the American people, millions of whom Mr. Trump sought to deprive of their right to have their vote counted. This crime carries a sentence of up to 10 years in prison.

It appears increasingly likely that Mr. Trump will soon face charges for

crimes against yet another level of American government — the states — as the district attorney in Atlanta reaches the final stages of a grand jury investigation into his pressure campaign to get Georgia to reverse its certified vote count and award its 16 electors to him instead of Joe Biden.

The former president responded to this latest and most serious indictment in his customary style, denouncing it as “corrupt” and invoking, among other things, the “Biden Crime Family” and Nazi Germany. Mr. Smith, a veteran prosecutor on the International Criminal Court who has prosecuted far more brutal and popular leaders than Mr. Trump, has surely heard it all before. But that does not excuse the support Mr. Trump is receiving from his Republican allies in Congress, who insist that this prosecution is political and have helped damage the respect for the criminal justice system in the minds of so many voters. Yes, some in Mr. Trump’s party, including his former vice president, have stood up for democratic norms in the wake of these indictments, and yet it is impossible to ignore those who have not. These attacks are dangerous and have led to death threats against prosecutors, judges and other civil servants for doing their jobs.

If Mr. Smith’s previous indictment of Mr. Trump is any indication, we have not heard the end of the charges in this case. In that earlier case, which charged Mr. Trump with illegally hoarding and refusing to return highly classified documents after he left office, the special counsel issued a superseding indictment last week, adding serious obstruction charges against the former president and one of his aides at Mar-a-Lago. It would not be surprising if Mr. Smith has more coming in the new case as well, whether additional evidence of Mr. Trump’s lawbreaking or charges against his co-conspirators, who are not named in the indictment but who are readily identifiable. Several are lawyers who advised or worked for the former president, including Mr. Giuliani, Sidney Powell and John Eastman.

In many ways, the indictment continues the work of the House Jan. 6

committee, which uncovered many of the same allegations. Several of the committee's members had urged this prosecution, particularly after the Senate failed to convict Mr. Trump after he was impeached for his role in the Jan. 6 insurrection. After he voted to acquit Mr. Trump, Senator Mitch McConnell, the Republican leader, said there were other ways to bring Mr. Trump to account. "We have a criminal justice system in this country," he said. "We have civil litigation. And former presidents are not immune from being accountable by either one."

In that, at least, Mr. McConnell was right. A former president is now being charged with extreme abuse of office and will eventually be judged by a jury. Mr. Trump tried to overturn the nation's constitutional system and the rule of law. That system survived his attacks and will now hold him to account for that damage.