

'Flight 93 Election' Anti-Trumpers Imperil the Rule of Law

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COMMENTARY

On Sept. 5, 2016, The Claremont Review of Books' website published "The Flight 93 Election" under the pseudonym Publius Decius Mus. The high-brow polemic went viral a few days later when Rush Limbaugh read it aloud on his radio show. Author Michael Anton – who served on President Trump's National Security Council and is now a fellow at Hillsdale College and the Claremont Institute – analogized the choice between Hillary Clinton and Donald Trump to the one faced by passengers on the last of the four doomed commercial aircraft that had been hijacked by Al Qaeda terrorists on Sept. 11, 2001. If Flight 93 passengers did nothing, they faced certain death. If they charged the cockpit, they might still die, but they gave themselves a fighting chance to seize control of the plane.

A Clinton presidency, argued Anton, would plunge the nation into an authoritarian progressive dystopia, a secession crisis, or internal collapse. Meanwhile, despite his vulgar and erratic character and lack of government experience, "Trump articulated, if incompletely and inconsistently, the right stances on the right issues – immigration, trade, and war – right from the beginning." Notwithstanding the manifest risks, maintained Anton, the real-estate mogul and reality-TV star gave hope of preserving America's constitutional order.

Desperate times, Anton counseled, necessitated desperate measures. He did not call for lawlessness. But by maintaining that Clinton's election would produce unmitigated catastrophe, he encouraged the notion that all bets were off if she prevailed at the ballot box.

Today's anti-Trumpers go Anton one better. Whereas he warned of the danger of progressive dictatorship a mere two months before the 2016 election, anti-Trumpers have been sounding the alarm continuously against Trumpian tyranny since 2016 and have picked up the pace this cycle. This gives Democrats time to grasp the grave threat and take suitable precautions. But what precautions are suitable to thwart the authoritarian conquest of America?

Much of the elite media is marching in lockstep to alert the nation of its imminent peril. New York Times columnist Charles Blow argued in mid-December that the prospect of a Trump-led Republican Party taking power shows that "our democracy hangs by a thread." Talking heads on CNN and MSNBC have been affirming matter-of-factly that Trump will extinguish democracy.

Former Republican Congresswoman Liz Cheney, who, in her recently released book “Oath and Honor: A Memoir and a Warning” chronicles her service on the congressional select committee investigating the Jan. 6 Capitol Hill riots, declared that with Trump dominating his party and leading Biden in national polls, America is “sleepwalking into dictatorship.” In “A Warning” – his editor’s note to “If Trump Wins,” a special project of The Atlantic – Jeffrey Goldberg indicated that “Trump has finally earned the epithet ‘fascist’” and boasted that his magazine’s “team of brilliant writers makes a convincingly dispositive case that both Trump and Trumpism pose an existential threat to America and to the ideas that animate it.”

In late November, Washington Post columnist Robert Kagan supplied a lengthy and perfervid contribution to the genre of dictatorship-is-nigh jeremiad. “A Trump dictatorship is increasingly inevitable. We should stop pretending” explained that absent a “miracle,” Trump will win the GOP nomination by April. As the Republican Party rallies around him, the media will obsessively cover “Trump’s every word and action,” particularly his criminal trial in D.C. Trump will exploit the coverage “to boost his candidacy and discredit the American justice system as corrupt – and the media outlets, serving their own interests, will help him do it.”

Trump has a good chance to prevail in the general election, Kagan stressed. He “enjoys the usual advantage of non-incumbency, namely: the lack of any responsibility.” His presidency witnessed “no full-scale invasion of Ukraine, no major attack on Israel, no runaway inflation, no disastrous retreat from Afghanistan.” And like Hitler in Weimar, Germany, Trump will benefit from “bipartisan disgust with the political system in general.”

Once elected, Kagan suspected, Trump will prove unstoppable. Ensnared in the White House, he will exact revenge. Trump will install loyalists in key positions throughout the federal bureaucracy; like “Hitler’s local gauleiters,” they “will not need explicit instruction.”

Controlled by his appointees, the Justice Department will ramp up prosecutions of the honorable and innocent. Trump will defy the Supreme Court with impunity. A craven Republican Congress will do nothing to stop the Trump administration, which “will have many avenues to persecute its enemies, real and perceived.” If Congress seeks to remove him from office, it will again suffer defeat. And Trump voters will back their man as he consolidates dictatorial rule.

State-level Democrats will oppose Trump in vain, asserted Kagan. Blue-state governors will cower in fear of Trump supporters taking to the streets and of Trump employing federal power to crush the opposition. By 2026, Trump’s sweeping control of government will ensure that Republicans win the midterm elections. The republic will be lost.

To Kagan’s dismay, his fellow citizens fail to recognize the looming disaster: “If we thought there was a 50 percent chance of an asteroid crashing into North America a year from now, would we be content to hope that it wouldn’t?” he asks. “Or would we be taking every conceivable measure to try to stop it, including many things that might not work but that,

given the magnitude of the crisis, must be tried anyway?” Yet, Kagan lamented, instead of “taking every conceivable measure” to save liberal democracy in America, citizens proceed as if 2024 represented an ordinary presidential election.

Kagan’s prophesy of apocalypse contains pertinent warnings about Trump’s wretched judgment and conduct on Jan. 6 and the excesses to which Trump and his base have been prone. But the excesses of Kagan’s argument render his vision of a tyrannical Trump presidency implausible while themselves fostering substantial dangers to democracy in America.

First, history provides scarce evidence of democracies deteriorating into dictatorships without the cooperation of the military, government bureaucracy, business world, media, and universities. Despite Kagan’s lurid speculations, America’s military, well-educated in the laws of war, is unlikely to carry out unlawful presidential orders. Meanwhile, the massive federal bureaucracy is overwhelmingly progressive. The corporate world and Silicon Valley oppose Trump. The mainstream media (on a good night approximately 1% of the nation watches Fox News), Hollywood, and the universities despise him.

Second, Kagan offers not a word about the political forces that provoked voters to back Trump in 2015 and gave his candidacy new life in 2023. Trump tapped into festering resentments of progressive policy on trade, immigration, crime, and war, and progressive superciliousness on cultural issues. His supporters viewed Special Counsel Robert Mueller’s Russia collusion investigation and the two Trump impeachments as elite weaponizations of federal law enforcement. The four criminal indictments brought against Trump – all between April 4 and Aug. 10, 2023, more than two years after he left office and just as the 2024 campaign ramped up – have reinforced his voters’ belief that progressive elites have ridden roughshod over the law to bring him down. The reckless decision by the Colorado Supreme Court last week to remove Trump from the state’s Republican primary ballot on the grounds that he violated the 14th Amendment’s prohibition on those who have “engaged in insurrection” serving as president – despite his having never been charged with insurrection – adds fuel to the fire.

Third, as if to confirm Trump voters’ convictions, Kagan himself provides chilling justification for effectively setting aside the rule of law:

It is hard to fault those who have taken Trump to court. He certainly committed at least one of the crimes he is charged with; we don’t need a trial to tell us he tried to overturn the 2020 election. Nor can you blame those who have hoped thereby to obstruct his path back to the Oval Office. When a marauder is crashing through your house, you throw everything you can at him – pots, pans, candlesticks – in the hope of slowing him down and tripping him up. But that doesn’t mean it works.

Contrary to Kagan, it is hard *not* to fault those who have treated the laws of the land as if they were makeshift weapons to hurl at a house-invading marauder. Kagan rightly argues that we do not need a trial to know that Trump tried to overturn the 2020 election. However, we do need a trial to determine whether his conduct was unlawful, since challenging election results and attempting to reverse them are not in themselves criminal. Indeed, the United States protects speech and provides procedures for contesting elections.

We also need plausible charges to justify a trial. Yet to speak only of the federal case on overturning the 2020 election, Special Counsel Jack Smith has contrived a novel theory of obstruction – a crucial component of which the Supreme Court has agreed to review – to waylay Trump. This suggests that the Biden Justice Department has adopted Kagan's view: The threat Trump poses to freedom and democracy in America justifies abusing the law to banish him from the political arena.

To insist that Donald Trump's return to the White House is bound to bring dictatorship to America encourages the use of all means necessary to thwart his bid for the presidency. Flight 93 Election anti-Trumpers thereby facilitate the unraveling of the rule of law that they seek to avert.

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