



UNITED STATES SENATE

January 17, 2021

The Honorable Charles Schumer
Democratic Leader
United States Senate
Washington DC, 20510

Democratic Leader Schumer:

As you said, the January 6, 2021, attack on the United States Capitol will live in infamy in United States history. Those who were complicit in this attack will be held accountable. And the Congress can be proud that it returned to business that same day to fulfill its constitutional duty and certify Joe Biden as the 46th President of the United States.

Vice President Pence stood in the breach against unconstitutional calls for him to overturn the 2020 election and violate his oath to defend the Constitution. Mitch McConnell, the Senate's Majority Leader, likewise rejected those same calls. Virtually all of us rejected further challenges to the 2020 election.

But now, in your first act as Majority Leader, rather than begin the national healing that the country so desperately yearns for, you seek vengeance and political retaliation instead. While the Vice President and Senate Republicans rejected unconstitutional actions, you seek to force upon the Senate, what would itself be but one more unconstitutional action in this disgraceful saga—the impeachment trial of a former president.

Both the plain text and the evident purpose of Congress' constitutional impeachment power make manifestly clear that the Congress is without the constitutional power to impeach a president, once he has left office.

The impeachment power exists to protect the Nation from the harm that an incumbent president might inflict upon the Nation were he to remain in office, not to vindicate political grievances after a president has left office.

Article II, Section 4 of the Constitution reads, "The President, Vice President and all civil officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Article I, Section 3 similarly reads "Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States." The two remedies for impeachment—removal and disqualification—are only remedies for an impeachment that is constitutional, which a trial of the former President would not be. They are not separate remedies for two different constitutional impeachments, the one for a president who is incumbent in office and the other for a president who is no longer incumbent in