

Donald Trump's lies as they broke down doors and ransacked offices and the Senate floor. The story that my friend Senator MURRAY has told of being trapped in her office with her husband. The mob pounding on the door while he tried to hold it shut with his foot. The absolute terror she must have felt hoping that the door was locked and that help would come quickly. They were inches away. The rest of us there that day were at least feet away. I am sure that we all called, texted, and thought of loved ones. Trying to reassure them but not actually knowing if that was true. Feeling from far away their helpless anguish for us and the utter terror and disbelief that something like this could happen in our country. To the U.S. Capitol, of all places.

The U.S. Capitol is the heart of our democratic system of government. While we may disagree vociferously, debate passionately, and represent people and communities with deeply divergent views, Congress exists to find common ground without resorting to violence. This simple fact—that as a country we solve our problems through democratic institutions and debate—is a source of our strength and global leadership. I have strong disagreements with a number of my colleagues. I know many of them disagree with me. But each day we come to the Senate floor and voice those disagreements without fear for our safety. On January 6, that basic level of understanding—the very thing that separates our country from so many others—was shattered by the assault on the Capitol. And worst of all, that insurrection was incited by a sitting President of the United States.

In some respects, it is difficult to know how best to move forward from that awful day. We came back. We did our jobs. And we are still here doing what our constituents sent us here to do. The Capitol may have been changed indelibly for many of us.

Again, to turn to the words of my friend Senator MURRAY the bipartisan actions shown in Congress in the wake of the September 11 attacks helped to restore some semblance of safety and security. That common response is absent today.

To begin to heal, we need accountability. We need to live up to our constitutional oaths and the sacred duty our constituents bestowed on us when we were elected: to uphold the law, to stand for their values, and, when necessary, to stand for our own. We can only start to heal when we have accountability and justice for what happened. To achieve this, we need those who are in leadership positions to lead.

Republicans failed to lead last year when they voted to acquit Donald Trump for his corrupt actions in dealing with Ukraine by conditioning military assistance on receiving political dirt on Joe Biden. Their failure to lead, to hold Trump accountable, and frankly to constrain his mania, emboldened

him to push the boundaries of our political discourse further.

Republicans have another chance to stand up for our democracy and against authoritarianism. They have a chance to accept the reality that has been clearly outlined for them in video, audio, and their own experiences. They can make a strong statement that political violence is unacceptable in the United States. They can—and should—vote to convict Donald Trump and bar him from ever holding office again. This is the real first, meaningful step that we can take to achieve the unity that we all claim to want.

I will vote to convict. I hope that this time, more than one of them will be brave enough to lead by standing up and doing what is right.

Ms. WARREN. Mr. President, I would like to enter a statement into the record.

The President swears an oath to faithfully execute the Office of the Presidency and to “preserve, protect, and defend the Constitution of the United States.” At the very core of that oath is a commitment to democracy, to government of the people, for the people, and by the people.

President Trump tested that commitment. Americans endured a pandemic while casting their votes in the November 2020 election. Following that election, the outgoing President baselessly sowed doubt about its legitimacy and refused to commit to a peaceful transition of power. In the days leading up to January 6, 2021, President Trump agitated his most dangerous supporters, who had already shown a propensity for violence, and called on them to interfere with Congress’ duty to formally count the votes of the electoral college. Donald Trump wanted a riot to take place on January 6. We know because he said so. And when police officers defending the Capitol were overrun by his mob, he did nothing. Democracy is at its most fragile at the moment of transition, and that fragility is exactly what the former President sought to exploit.

During President Trump’s second impeachment trial, his defense tried to paint for Americans a picture of a President who called for peaceful protest and who bears no responsibility for the January 6 assault on the People’s House. But the President’s actions took place before our eyes. His conduct before, during, and immediately after the assault on the Capitol is well known to the American public. He is uniquely responsible for the events of January 6.

Americans spoke clearly and forcefully in November when they elected a new President. Donald Trump’s attempt to cling to power through lies and violence is just what the Framers of our Constitution feared. But part of the brilliance of our Constitution’s separation of powers is that we, the Congress, have the power and obligation to defend against such gross misconduct through impeachment.

I voted to convict and disqualify former President Donald Trump because he violated his oath of office and because our future leaders must know that such abuses of power will not be tolerated in a free and democratic society. I will continue to call out these abuses and to keep those in power accountable.

Mr. MARKEY. Mr. President, the essence of any American President’s job is set forth in the oath he or she swears—an oath that the Founders considered so fundamental that they put it in the Constitution. And that job is to preserve, protect, and defend the Constitution of the United States.

A President who violates that oath has committed an impeachable offense. That is a truth. There can be no reasonable dispute that a President who fails at this basic responsibility is unfit to remain in office and cannot and should not be permitted to hold that office again.

Not only did Donald Trump fail to uphold his oath, he took steps intended to violate it. It wasn’t mere negligence. It wasn’t even recklessness. Donald Trump engaged in an active, willful, intentional attack on our Constitution and our democracy.

Donald Trump incited to violence and riot a mob that attacked the U.S. Capitol and our government. That is a high crime and misdemeanor. We all saw and heard the evidence during the trial. The video. The audio. The tweets. The statements. The affidavits.

Months before the election, Donald Trump laid the groundwork for this insurrection, arguing he would only lose the election if there were fraud. After he lost, he repeated over and over again the “Big Lie” that the election was stolen. He agitated his supporters who falsely and wrongly believed that the election was rigged.

Trump beckoned a mob to Washington for a rally when he knew the Congress would be counting the electoral ballots. Trump’s people knew from law enforcement bulletins and intelligence that the mob was armed and dangerous. Yet, he riled them up and then sent them up Pennsylvania Avenue to the Capitol. That rally became an orgy of violence and hate. Mayhem and destruction ensued, all in Donald Trump’s pursuit of staying in office beyond his term. Of ignoring our Constitution. Of preventing a peaceful transfer of power. Of promulgating the Big Lie. Donald Trump did not express horror or outrage at the scenes playing out live on television. He did not quickly and decisively urge his supporters to stop. He did not immediately call out the National Guard. He did not show any concern for the law enforcement officers being beaten, maimed, and even killed at the Capitol. He reportedly delighted in what was happening, unable to comprehend why others were not excited about it like he was. And he has never shown any remorse or an ounce of contrition or taken any responsibility. Instead, he



has maintained that he acted perfectly appropriately.

The Senate of the United States sat as an Impeachment Court, with Democrats and Republicans serving as jurors. But the vast majority of those Republicans were more interested in fealty to Donald Trump than loyalty to our country. They were more concerned about Trump's base than basic justice. They were willing to ignore the truth to embrace the Big Lie.

I had hoped the House managers would call witnesses. Clearly, there were individuals with direct knowledge of Trump's state of mind during the insurrection, the danger at the Capitol as it unfolded, and his support of it. But even before we debated potential witnesses, Republicans had made up their minds. They were unmoving in their fealty to Trump. Republicans were willfully blind to the truth and the facts of the case.

The rioters wanted to kill Vice President Pence and House Speaker PELOSI. They told us so. We know that the west side of the Capitol was breached around 2 p.m. and that the rioters had overrun the Capitol. We know that the mob was approaching the Senate floor when our session was abruptly recessed at 2:13 p.m. We know that Vice President PENCE was whisked off the Senate floor and that he was in mortal danger, as were all Members of Congress in their Chambers doing their constitutional duty. We know that all this was playing out in real time on television and that Donald Trump had to know it was happening. And yet, about 10 minutes later, at 2:24 p.m., knowing all this, Donald Trump tweeted an attack at his own Vice President. "Mike Pence did not have the courage to do what should have been done to protect our Country and our Constitution." And we know that around 2:26 p.m., Donald Trump called Senator TUBERVILLE not to ascertain what was happening, not ask how the Vice President was or to offer aid and assistance against the insurrection. No, Trump called to ask Senator TUBERVILLE to delay the certification. It is clear whose side Donald Trump was on.

There is no First Amendment defense to what Donald Trump did. The First Amendment has no application in an impeachment proceeding, which does not seek to punish unlawful speech, but to protect the Nation from a President who has violated his oath of office.

But even if the First Amendment applied, even if we bought Trump's lawyers' bogus claims that the First Amendment can be a defense, the argument utterly fails. Trump's lawyers relied on the Supreme Court's decision in *Brandenburg v. Ohio*, but *Brandenburg* explained that the First Amendment protects advocacy, "except where such advocacy is directed to inciting imminent lawless action and is likely to incite or produce such action." Once the Capitol was breached, the lawless action was no longer imminent, it was actual. And Donald Trump was still

tweeting words of encouragement to the rioters. There was a siege actually happening in the Capitol. There was no longer rhetorical fighting; there was actual fighting. On television. Live for everyone to see.

The House managers proved their case with facts and evidence. Donald Trump incited and relished in an effort to violently overthrow our government. He invited. He incited. He delighted.

Anyone who is opposed to abolishing the filibuster need only look at the vote to acquit and see how Republicans willfully blinded themselves to truth and facts in fealty to Trump and their party. Their votes to acquit once again show our hurdles to progress: Republican political calculations and their dereliction to truth and justice.

The final tally on the vote to acquit does nothing to reassure me that Republicans are willing to work together and transcend party politics. Republicans had the opportunity to recognize that faith in the Constitution is a faith that we all share. Instead, they ignored the Constitution for a Big Lie. How can we expect them to work in good faith with Democrats to respond to the big challenges facing our Nation when they refuse to accept undeniable facts?

The only reasonable conclusion based on the evidence presented at the trial was that Donald Trump committed an impeachable offense, should have been convicted, and should have been barred from holding future office. Republicans refused to accept or acknowledge that. I fear that with their votes to acquit, they have sown the seeds of another violent attack on our Constitution and our democracy.

Mr. SULLIVAN. Mr. President, the impeachment trial of former President Donald Trump marked the third time in 1 year that the Senate has had to confront significant constitutional and institutional questions with consequences that will undoubtedly reverberate into the future. As always, I am guided by the Constitution, historical precedent, and "a deep responsibility to future times," as stated by Supreme Court Justice Joseph Story, our Nation's first great constitutional scholar, two centuries ago. This is what has informed me during last year's impeachment, the electoral college certification in January, and now another impeachment.

This has been a disheartening episode for a divided America. Make no mistake: I condemn the horrific violence that engulfed the Capitol on January 6. All those who undertook violence on that day should be prosecuted to the fullest extent of the law. I also condemn former President Trump's poor judgment in calling a rally on that day, and his actions and inactions when it turned into a riot. His blatant disregard for his own Vice President, Mike Pence, who was fulfilling his constitutional duty at the Capitol, infuriates me. I will never forget the brave men and women of law enforcement—

some of whom lost their lives and were seriously injured—who carried out their patriotic duty to protect members of Congress that day.

However horrible the violence was—and how angry I have been about it—I believe that it is imperative, for the future of our democracy, to examine closely the totality of the precedents, impeachment proceedings, and evidence, and to be as dispassionate and impartial as possible in this case.

That is why I cast my vote, on February 13, 2021, to acquit former President Trump on the single Article of Impeachment, "incitement of insurrection."

The primary purpose of impeachment in our constitutional system is to remove an official from office—to, according to Justice Story, divest an official "of his political capacity." The House's single Article of Impeachment emphasized this need to remove President Trump from office. Regarding this case before the Senate, President Donald Trump had already been removed from office by a vote of the American people this past November. Thus, pursuing impeachment in this case creates a troubling precedent in which former officials—private citizens—can face impeachment and conviction.

Therefore, the fundamental issue in this impeachment trial is not removal from office but whether the Senate has or should accept jurisdiction to try, convict, and disqualify Donald Trump, a private citizen, from any future elected office based on the House's single article of impeachment—incitement of insurrection.

The House and Senate have never before claimed or exercised such impeachment jurisdiction over a former President. I do not believe that the Constitution empowers the Senate to have such impeachment jurisdiction. In his renowned "Commentaries on the Constitution," Justice Story comes to the same conclusion, although to be fair, there are others who do not. I believe that the precedents set in claiming that the Senate can try former Presidents who are private citizens have the very real potential to do significant long-term damage to our constitutional order, individual liberties, and the proper functioning of our Republic in a way that we will come to regret as a nation.

Additionally in this case, the House undertook a "snap impeachment" in 48 hours with no hearings, no witnesses, no record, and no defenses presented. When asked about this during the Senate trial, the House managers stated that constitutional due process protections for a defendant in an impeachment are "discretionary" or, in other words, not required. This troubling declaration is now a precedent in the House. Combining this "no Due Process/snap impeachment" precedent with the additional power of the Senate to try former officials, who are now private citizens, amounts to a massive expansion of Congress' impeachment