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Congress of the United States
House of Representatives

December 11, 2020

Speaker Nancy Pelosi
United States House of Representatives
H-232, The Capitol
Washington, D.C. 20510

Chairwoman Zoe Lofgren
Committee on House Administration
United States House of Representatives
1309 Longworth House Office Building
Washington, D.C. 20515

Dear Speaker Pelosi and Chairwoman Lofgren:

On November 3, 2020, former Vice President Joe Biden was elected to be the 46th President of the United States by overwhelming margins in the popular vote and the Electoral College. Despite his decisive victory, Donald Trump and other prominent Republicans have commenced a daily assault on the legitimacy of the election that includes filing dozens of frivolous lawsuits seeking to have the results invalidated. Tragically, Members of our House of Representatives are supporting and amplifying these attacks on democracy, now culminating in 126 House Republicans joining¹ a malignant lawsuit filed by the state of Texas against the states of Georgia, Michigan, Pennsylvania and Wisconsin. This suit demands the will of the voters of these states be overturned and the Electoral College votes be stolen and awarded to Donald Trump.

As you know, Article I, Section 5 of the United States Constitution gives each chamber of Congress ultimate authority to decide its membership, positing that “[e]ach House shall be the Judge of the Elections, Returns and Qualifications of its own Members.” This is a responsibility the Congress has always exercised with the utmost care and probity. The parameters for membership are broad, requiring only that “[n]o Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.”

The courageous Reconstruction Congress implanted into our governing document safeguards to cleanse from our government ranks any traitors and others who would seek to destroy the Union. To that end, Section 3 of the Fourteenth Amendment stipulates that:

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https://www.supremecourt.gov/DocketPDF/22/22O155/163403/20201210153048641_Texas%20v.%20Pennsylvania%20Amicus%20Brief%20of%20106%20Representatives.pdf

“No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, *shall have engaged in insurrection or rebellion against the same*, or given aid or comfort to the enemies thereof...”²

Stated simply, men and women who would act to tear the United States government apart cannot serve as Members of the Congress. These lawsuits seeking to obliterate public confidence in our democratic system by invalidating the clear results of the 2020 presidential election attack the text and spirit of the Constitution, which each Member swears to support and defend,³ as well as violate the Rules of our House of Representatives, which explicitly forbid Members from committing unbecoming acts that reflect poorly on our chamber.⁴

Consequently, I call on you to exercise the power of your offices to evaluate steps you can take to address these constitutional violations this Congress and, if possible, refuse to seat in the 117th Congress any Members-elect seeking to make Donald Trump an unelected dictator.⁵

Just as the American people’s clear vote in support of President-elect Biden must be respected, so too must votes cast in favor of our Members-elect. But the actions of any of our colleagues to demolish democracy, regardless of party affiliation, must be repudiated in the strongest possible terms. Rising from the embers of the Civil War, the Fourteenth Amendment was written to prevent the destruction of the United States from without and within. The moment we face now may be without parallel since 1860. The fate of our democracy depends on us meeting that moment.

Sincerely,



Bill Pascrell, Jr.
Member of Congress

² <https://www.law.cornell.edu/constitution/amendmentxix> (italics added).

³ Members-Elect Oath of Office mandated by Article VI of the Constitution, text set by statute (5 U.S.C. 3331)

⁴ Rule XXIII(1) posits that “[a] Member, Delegate, Resident Commissioner, officer, or employee of the House *shall behave at all times in a manner that shall reflect creditably on the House*,” and XXIII(2) stipulates that “[a] Member, Delegate, Resident Commissioner, officer, or employee of the House *shall adhere to the spirit and the letter of the Rules of the House* and to the rules of duly constituted committees thereof. <https://rules.house.gov/sites/democrats.rules.gov/files/documents/116-House-Rules-Clerk.pdf>. (italics added).

⁵ The Supreme Court in *Powell v. McCormack* acknowledged Congress “may exclude a Member-elect with a simple majority.” See <https://fas.org/sgp/crs/misc/R45078.pdf>; (The Court found restrictions on Congress’s exclusionary power, but had restrictions existed in 1861, the seating of treasonous members-elect in the 37th Congress would have spelled the end of the nation. 395 U.S. 486, 547-48 (1969). The ruling also does not assess Amendment 14, Section 3 (which was enshrined to exclude seditious Members-elect), as petitioner Powell was not excluded on those constitutional grounds.).