

It is clear that Secretary Mayorkas has willfully and systematically refused to comply with U.S. immigration law. An average of 5,000 illegal immigrants are being released into the United States each day, which is a flagrant abuse of immigration laws passed by Congress governing the parole, detention, and removal of illegal immigrants.

For 3 years, Secretary Mayorkas has refused to enforce the laws passed by Congress. He has abused his authority as a Cabinet Secretary. He has misled Congress and the American people about the crisis and the role his actions and decisions have played in sparking and facilitating it.

As a result, we see record amounts of daily fentanyl flowing into our communities, rising crime across our country, and a massive strain on our localities, schools, and community services.

Since Secretary Mayorkas' tenure, over 300 individuals on the terrorist watch list trying to illegally enter the United States at the southern border between ports of entry have been apprehended by Border Patrol agents.

The SPEAKER pro tempore (Mrs. MILLER-MEEKS). The time of the gentleman has expired.

Mr. GREEN of Tennessee. Madam Speaker, I yield an additional 15 seconds to the gentleman from Virginia.

Mr. WITTMAN. Madam Speaker, cartels in Mexico are empowered to expand lucrative trafficking and smuggling operations across our porous southwest border.

The actions of Secretary Mayorkas have led to a complete humanitarian and national security catastrophe.

Congress must hold the executive branch accountable when they fail to uphold the oath of office.

Madam Speaker, I urge my colleagues to join me in voting in favor of H. Res. 863.

Mr. THOMPSON of Mississippi. Madam Speaker, Republicans ignore the fact that no administration has ever had the resources to detain all border crossers. President Trump released over 500,000 people without ever detaining any of them.

Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. NADLER), the ranking member on the Judiciary Committee.

Mr. NADLER. Madam Speaker, I rise in strong opposition to the sham impeachment of Secretary Mayorkas.

This resolution is filled with false and misleading statements that amount to nothing more than policy disagreements. Even if it were based in truth, however, policy disagreements are not a legitimate basis for impeachment.

Impeaching a Cabinet Secretary is serious. Unfortunately, House Republicans are not. This sham impeachment ran roughshod over due process and completely bypassed the Judiciary Committee, the committee of jurisdiction for impeachment.

This is not a serious effort, nor is it a serious resolution.

Republicans allege that Secretary Mayorkas should be impeached simply because he failed to meet the impossible standards set out in our laws, standards that no administration, not even President Trump's, has ever come close to meeting.

For example, they allege that Secretary Mayorkas failed to detain everyone that the law requires to be held in mandatory detention. To do so would require Congress to appropriate over \$35 billion a year, a number 10 times higher than President Trump ever requested for detention. That is why the Trump administration released over 500,000 people at the U.S.-Mexico border and released 1.1 million people from immigration detention into the United States.

Did we hear calls from the Republicans to impeach Secretaries Kelly, Duke, or Nielsen? Of course not.

The resolution also takes aim at the Secretary's use of his parole authority, but Republicans never complained when President Trump used his parole authority for tens of thousands of Cubans and military families.

So, what is different now? Could it be that it is an election year and Republicans have no record of accomplishments to run on?

With no ideas, no agenda, and no ability to govern, they are cheapening the serious and awesome power of impeachment to score a few cheap political points. That is shameful.

Our immigration system has been broken for decades. Impeaching a Cabinet Secretary because you do not like their policies will not repair it. Only bipartisan reform can do that.

Madam Speaker, I encourage my colleagues to vote "no" on this resolution.

Mr. GREEN of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from Texas (Ms. VAN DUYN).

Ms. VAN DUYN. Madam Speaker, I rise to support the impeachment of Secretary Mayorkas. His actions support lawbreaking and lawlessness and have inflicted a horrific toll on our country. The kind of damage he has done to our cities and families is something you would expect from a hostile foreign adversary looking to destabilize and destroy America.

Our cities are overrun, forcing vital services to be cut off or reduced, shutting down our schools to house illegal migrants, and turning community centers into refugee camps, all while ignoring the needs of our own citizens.

There are more than 110,000 dead Americans from fentanyl that is being smuggled by Mexican cartels. We see criminal illegal immigrants committing murder, rape, and beating our police in broad daylight.

This is far more than a policy difference. This is the death and destruction of our country and our people. I will not stand by and just politely ask the Biden administration to please stop the chaos and devastation.

In a functioning government, people need to be held accountable when they

have deliberately inflicted harm on our Nation, and that is exactly what we are doing today.

Mr. THOMPSON of Mississippi. Madam Speaker, if my Republican colleagues were worried about the impacts of migration on our local communities, they should support DHS' Shelter and Services Program. This is the only Federal program that can provide direct assistance to cities and organizations responding to arriving migrants. Instead, they are trying to gut this program and impeach Secretary Mayorkas, which would accomplish nothing.

Madam Speaker, I yield 1 minute to the gentleman from California (Mr. SWALWELL).

Mr. SWALWELL. Madam Speaker, this is not about Secretary Mayorkas. This is straight-up sabotage.

MAGA Republicans have never accepted President Biden as the President, from the day they led an insurrection into this Chamber to this day, where they are trying to sabotage solutions at the border.

Any shortcomings with Mayorkas are the Republicans' fault. The Republicans won't give him the authority that he needs to carry out more security at the border.

All we have heard for years is noun, verb, border. You get your border deal, led by the second most conservative in the Senate, and you are walking away from it. You are walking away from it because Trump says you can't have it.

This place with you all in charge is looking less and less like the House Chamber and more and more like Trump's echo chamber.

What we need right now are solutions, not chaos. With you all in charge, you are a party of followers. With President Biden's leadership, Democrats continue to show that we are a party of leaders.

The SPEAKER pro tempore. Members are reminded to direct their remarks to the Chair.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

Mr. GREEN of Tennessee. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. FALLON).

Mr. FALLON. Madam Speaker, how many Democrats or open border caucus members—I apologize for my redundancy there—are willing to house migrants in their own homes, Madam Speaker? None. Zero. Nada. They seem to all be for providing sanctuary, provided they don't have to provide it.

Alejandro Mayorkas, under oath, testified before Congress and claimed the border is no less secure than it was previously. Does anyone in this Chamber

actually believe that? Does anyone in this country believe that?

Let's compare the first 3 years of President Trump's and Biden's tenures: President Trump in his first 3 years, 1.6 million illegal crossings; Joe Biden, 8.3 million, a 519 percent increase. Terror watch list suspects apprehended under Trump were 8 in 3 years; under Joe Biden, 361. That is a 4,512 percent increase. Chinese nationals, men mostly of military age entering illegally, last year under President Trump it was 450, and under Joe Biden it is over 24,000. That is a 5,333 percent increase.

No less secure. Is that the new math? Opioid deaths have doubled. The Mexican drug cartels are enjoying record profits.

Alejandro Mayorkas fostered this mayhem, and he facilitated cataclysmic chaos. He is inept. He is weak. He is impotent. He has violated Federal law. He has perjured himself in front of Congress. He has lied to the American people. He has undermined his own Border Patrol agents.

Mayorkas has shown the world who he is. He is a sheep in sheep's clothing. The cartel wolves and our enemies across the world are circling.

This impeachment is richly deserved, and we must fire this bum, this second coming of Benedict Arnold, forthwith.

Mr. THOMPSON of Mississippi. Madam Speaker, let's look at the facts. Since May 12, 2023, when title 42 ended, DHS has removed more than 500,000 individuals. That is more people than Donald Trump removed in any given year. The border is not open.

Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. RASKIN), the ranking member of the Oversight and Accountability Committee.

Mr. RASKIN. Madam Speaker, we are here because the madcap wild goose chase to impeach Joe Biden has produced no wild geese. Even FOX News is lampooning the fact that their own expert witnesses repeatedly say that President Biden did nothing wrong and that there are no grounds for impeachment. More than a dozen GOP Members in Biden majority districts don't want to go anywhere near that fantasy production.

So, the Trump-Putin-MAGA faction, headed up by the distinguished gentlewoman from Georgia (Ms. GREENE), has been given this worthless trinket of a consolation prize—the opportunity to bring this slapstick impeachment drive against a Cabinet member of unimpeachable integrity who has obviously committed no treason, no bribery, no high crimes, no misdemeanors, nothing indictable or even “in-dict-able,” if you prefer.

What makes this farce a tragedy is that Secretary Mayorkas and the U.S. Senate have been working for months to achieve precisely the immigration and border compromise the GOP has been demanding. Miraculously, they got to a bipartisan immigration agreement for billions of dollars for more

Border Patrol officers, immigration judges, and fentanyl detection machines—a far tougher border.

It was good enough for Senator MITCH MCCONNELL and dozens of GOP Senators, and it was good enough for *The Wall Street Journal*, but the House MAGAs would not take “yes” for an answer. Why? Because Donald Trump doesn't want a border solution. He wants a border problem. Nothing else to run on.

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Vladimir Putin certainly doesn't want \$60 billion going to the heroic people of Ukraine defying his filthy imperialist invasion. All over the world, democracy and freedom are under siege today and all our colleagues can think to do is to sell out our democratic allies and sell out the cause of human rights, and then impeach a Cabinet Secretary working diligently to solve the immigration problem that they claim to care about.

Mr. GREEN of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. ROSE).

Mr. ROSE. Madam Speaker, Secretary Mayorkas swore an oath to defend the U.S. Constitution from all enemies, foreign and domestic. Unfortunately, it seems as though he hasn't defended it from a single one.

Since President Biden took office, there have been more than 7 million illegal encounters at our southern border and more than 1.7 million known got-aways. Not once has Secretary Mayorkas issued a statement, signed a policy, or taken action to discourage this from happening.

In fact, he has doubled down and encouraged the invasion by endorsing catch and release policies, ending title 42, and stopping remain in Mexico. This subversion of our Constitution, willful disregard of our country's laws, and unfettered dedication to exacerbating the self-inflicted crisis have left the House with no other option than to impeach Secretary Mayorkas.

Madam Speaker, I urge the House to join me in voting to impeach Secretary Mayorkas and I urge the Senate to remove him from his position.

Mr. THOMPSON of Mississippi. Madam Speaker, I remind my colleagues that they voted to terminate the COVID-19 national emergency and thus voted to end title 42. In addition, DHS has no role in ending this policy.

Madam Speaker, I now yield 1½ minutes to the gentleman from Rhode Island (Mr. MAGAZINER).

Mr. MAGAZINER. Madam Speaker, the American people want us to be working together to solve our challenges at the border. We could be working together to vote on President Biden's proposal for \$14 billion of funding that would add over 1,000 Border Patrol officers. We could be working with the Senate on real immigration reform that Republicans claimed they wanted until Donald Trump told them that they didn't, but instead we are

wasting time and energy on an impeachment with no legal basis just because it is what Donald Trump wants.

The facts are this: Congress has allocated funding for 34,000 beds at detention centers. The average daily census last year was 37,000. The centers are full, and so the Secretary, under the law, uses his legal discretion to decide who to detain and who to release—the same legal discretion that all of his predecessors have used.

In the last 2 years of the Trump administration, 52 percent of migrants were released, nearly a million people, and I did not hear my House Republican colleagues calling to impeach that Homeland Security Secretary.

No. This is about one thing—politics. There are no high crimes, no misdemeanors, no treason, no bribery. I would remind my colleagues, our oath is to the Constitution, not to Donald Trump.

Mr. GREEN of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BENTZ).

Mr. BENTZ. Madam Speaker, it has been said that Secretary Mayorkas is dishonest, duplicitous, and derelict in his duties, and I agree.

However, he has also willfully refused to comply with and enforce our Nation's immigration laws and explicitly instructed his employees to not enforce these laws.

Additionally, the Secretary has willfully obstructed inquiries of the Judiciary Committee regarding entry of illegal aliens into our country. The constitutional standard for impeachment of Secretary Mayorkas has been satisfied.

I commend Chair MARK GREEN for his excellent work in managing this important constitutional matter, and in following regular order while doing so.

Mr. THOMPSON of Mississippi. Madam Speaker, despite what Republicans want us to believe, the courts at the highest level have not found that Secretary Mayorkas is violating the law. Courts are where we go to determine whether a Cabinet Secretary is following the law Congress wrote, not a partisan impeachment.

Madam Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. ESCOBAR).

Ms. ESCOBAR. Madam Speaker, I rise today in strong opposition to the GOP's political stunt of the day: impeaching Secretary of Homeland Security Alejandro Mayorkas.

The real problem here is congressional inaction on immigration reform. My community of El Paso, Texas, on the U.S.-Mexico border has been on the front lines of this issue and living with the consequences of Congress' failure to act.

Our Federal personnel, local governments, and shelters are all overwhelmed, and Republicans continue to withhold vital funding that would help address this issue.

As a border legislator, I have never met a more committed, accessible Cabinet member than Secretary Mayorkas.

He is a great public servant doing everything he can with the limited resources Congress has given to him.

Madam Speaker, I invite my Republican colleagues who really want to solve this to join the bipartisan coalition supporting the Dignity Act. Stop playing games and do your job.

Mr. GREEN of Tennessee. Madam Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. GUEST).

Mr. GUEST. Madam Speaker, I rise today to express my support for impeaching Homeland Security Secretary Alejandro Mayorkas for reasons outlined in both Articles of Impeachment, but specifically for Article II, breach of public trust.

Secretary Mayorkas has repeatedly testified falsely, misleading Congress and the American people. He has done so by saying that the southwest border is secure and that his department has operational control of the border.

Secretary Mayorkas in his previous appearances before the Committee on Homeland Security has told me personally multiple times, testifying while under oath, that the border is secure.

Time and time again, Secretary Mayorkas has appeared before Congress, both the United States House of Representatives and the U.S. Senate and has repeated that the southwest border is secure.

These declarations, Madam Speaker, are patently untrue, and they contradict statements made by both his former Border Patrol Chief, Raul Ortiz, and by the President himself.

President Biden just recently said and admitted that the border was not secure, and he went on to say that the border has not been secure for almost a decade.

Madam Speaker, Secretary Mayorkas' dealings with Congress indicate a lack of transparency and an attempt to mislead the public on the true conditions that exist at the border, and we, as Congress, must now hold Secretary Mayorkas accountable.

This is a grave day in our history, a grave day for this Nation, and not one that we take lightly. However, in light of all the facts, I urge my colleagues to join me in voting to impeach Secretary Mayorkas.

Mr. THOMPSON of Mississippi. Madam Speaker, my Republican colleagues won't admit that this impeachment is a sham, but their favorite conservative legal experts will.

President Trump's impeachment attorney, Alan Dershowitz, accused Republicans of "distorting the Constitution;" and Republicans' favorite legal witness, Jonathan Turley, said that: "There is also no current evidence that [Mayorkas] is corrupt or committed an impeachable offense. . . ."

Madam Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Madam Speaker, I rise today to oppose the partisan sham impeachment proceedings against a dedicated and honorable public servant, Secretary Alejandro Mayorkas.

Secretary Mayorkas has done his job while operating within a broken immigration system that this Congress has refused to fix. Instead of working with House Democrats and the Biden administration on serious solutions, House Republicans are focused on one thing: appeasing former President Donald Trump.

This impeachment is an unconstitutional abuse of power. It is clear that policy differences are not grounds for impeachment. Even worse, in the partisan nature of these proceedings are the alleged facts that they are based on. To build their case, House Republicans work with and cite reports from groups such as the Center for Immigration Studies, a Southern Poverty Law Center designated hate group.

When I attempted to introduce an amendment to point this out, it was rejected by House Republicans twice in committee—once in Homeland and once in Rules.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. Madam Speaker, I yield an additional 30 seconds to the gentleman from New Jersey.

Mr. MENENDEZ. Madam Speaker, Republicans don't want Americans to know the baseless and completely unprecedented nature of this impeachment, and that is that antimigrant hate groups form the foundation of the case that we are listening to today.

I stand with my Democratic colleagues against this partisan impeachment, and I urge all of my colleagues on both sides of the aisle to vote "no."

Mr. GREEN of Tennessee. Madam Speaker, I yield 1 minute to the gentleman from Arizona (Mr. BIGGS).

Mr. BIGGS. Madam Speaker, James Iredell, one of the Founders from North Carolina, talking about this impeachment clause said: "The power of impeachment is given by this Constitution, to bring great offenders to punishment. It is calculated to bring them to punishment for crime which it is not easy to describe, but which everyone must be convinced is a high crime and misdemeanor against the government."

For instance, corruption. "Its exercise"—the impeachment—"will arise from acts of great injury to the community, and the objects of it may be such as cannot be easily reached by an ordinary tribunal."

That is why you have impeachment. It is necessary here because what you have is a Secretary who came into Judiciary, he was given the language from the Secure Fence Act of 2006. I said: Is the border under operational control? He says: Well, no. We have redefined it ourselves. We are comfortable with the new definition that we have made. That is a violation of the separation of powers.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GREEN of Tennessee. Madam Speaker, I yield an additional 30 seconds to the gentleman from Arizona.

Mr. BIGGS. Madam Speaker, this is the same Secretary who tells his ICE agents you cannot remove 1 million, 1.2 million people who have actually had due process through the courts and have active removal orders.

He is the same Secretary who said that we don't have to adhere to title 8.

That has resulted in great injury to our communities, and that is why he must be impeached—because he falls on the definitions that one of the Founders, James Iredell, said. He is right on the money, and I urge everyone to support this movement to impeach.

Mr. THOMPSON of Mississippi. Madam Speaker, the definition of "operational control" in the Secure Fence Act of 2006 has never been achieved under any administration, including the Trump administration. This is not grounds for impeachment.

Madam Speaker, I yield 1 minute to the gentleman from California (Mr. GARCIA).

Mr. ROBERT GARCIA of California. Madam Speaker, today, Republicans are engaging in yet another impeachment scam.

We are here today because the majority wants to attack President Biden and Secretary Mayorkas all to elect Donald Trump. The insane leader of their party claims that immigrants, like me, pollute the blood of this country.

Donald Trump's rhetoric is just like Hitler's, and he wants chaos. He thinks the border crisis helps him, so he wants it to continue.

In fact, Border Patrol apprehensions more than tripled in the last 8 months of the Trump Presidency, but let's remember the Donald Trump and MAGA vision for border security.

These are actually some of their ideas: Donald Trump wants to build alligator moats. He has proposed bombing Mexico. He has actually said we should shoot migrants in the legs and maybe even electrify the fence.

These are cruel and ridiculous ideas, but they are proposals of Donald Trump and the MAGA right. This extreme political stunt should fail.

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Mr. GREEN of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. HIGGINS).

Mr. HIGGINS of Louisiana. Mr. Speaker, I respect my colleagues across the aisle who have voiced their opposition. It is important that we clarify the legacy that some of us would condemn by impeaching the Secretary responsible for this legacy; and, by contrast, the legacy that my colleagues who oppose the impeachment of Secretary Mayorkas will support:

300,000 Americans dead from cartel drugs;

100,000 teenage girls and boys missing, lost by the Mayorkas system into the unspeakable horror of sex slavery networks across the filthiest corners of criminal organizations in our cities;

American sovereignty disintegrated, American soil lost to cartel human and drug trafficking bases;

Millions of single military-aged men from over 100 countries unvetted, released into our country, creeping into every corner of American society, every city, every town;

Our schools overrun by illegals granted free access to American education infrastructure in hundreds of reports with no room left for our children;

Hundreds of thousands of violent criminals released into our Nation, despite Federal law stating that DHS shall detain known criminals who enter America illegally;

A thousand or more known or suspected terrorists allowed to pass freely into the heart of our Nation, into my State, into yours.

This is the legacy of Alejandro Mayorkas. By our oath, we must impeach this man who has presented an arrogant, defiant tone of denial and lies to Congress for 3 years, seemingly content or even proud to destroy America day by day. So it is that on this day, it shall be written in the historical record of the people's House that Secretary of the Department of Homeland Security, Alejandro Mayorkas, has been impeached. So shall it be written, so shall it be done.

Mr. THOMPSON of Mississippi. Mr. Speaker, my Republican colleagues are starving DHS of necessary border security resources while accusing Secretary Mayorkas of not doing his job.

House Republicans refuse to consider the White House's \$13.6 billion border supplemental funding request that would pay for more border agents and officers and detention beds.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. JAYAPAL).

Ms. JAYAPAL. Mr. Speaker, I rise in strong opposition to this resolution to impeach Secretary Mayorkas.

This resolution is as ridiculous as it is dangerous. It has no evidence of high crimes and misdemeanors. Are we really debating impeaching a Cabinet Secretary because House Republicans don't like the policies that he advances under a democratically elected President?

Far from alleging true high crimes and misdemeanors, this resolution relies on the same tired and untrue Republican talking points that Democrats have demonstrated for months are not true. With this MARJORIE TAYLOR GREENE sham impeachment resolution, the majority is bending to the will of the most extreme members of their Conference simply because they don't like the policies that Secretary Mayorkas is pursuing.

Secretary Mayorkas is an excellent and dedicated public servant, working tirelessly to protect our national security and to address a broken immigration system.

This Republican Congress, the least productive Congress in the history of

the United States, having passed only 27 bills that have been signed into law, despite over 700 votes in this body, is simply trying to distract the American people from the fact that they are not doing a single thing to address the lives of ordinary Americans across this country.

I keep thinking that the House cannot debase itself further, Mr. Speaker, but it appears that we have not reached rock bottom yet. Vote "no" on this sham of an impeachment.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. CISCOMANI).

Mr. CISCOMANI. Mr. Speaker, let me start with this: The House is pursuing impeachment because there is no option left. Secretary Mayorkas has abandoned his job, and he has abandoned the American people.

As the charges describe, the Secretary has willfully and systemically refused to comply with the law, and he has put our communities and our country at risk by doing so.

This is not an action we take lightly. The last time a Cabinet Secretary was impeached was in 1876. This is a historic impeachment for someone with historic failures.

The time has run out for Secretary Alejandro Mayorkas to be able to do his job. In order to secure our communities, protect our homeland, and keep Americans safe, Secretary Mayorkas has got to go.

Mr. THOMPSON of Mississippi. Mr. Speaker, I include in the RECORD op-eds from frequent conservative legal commentators Jonathan Turley and Alan Dershowitz opposing the Mayorkas impeachment, despite their policy disagreements with the Biden administration; and a January 30, 2024, editorial by the conservative Wall Street Journal titled: "Impeaching Mayorkas Achieves Nothing."

[From the Daily Beast, Jan. 29, 2024]

HOMELAND SECURITY CHIEF ALEJANDRO MAYORKAS' FAILURES ARE NOT IMPEACHABLE
(By Jonathan Turley)

Secretary of Homeland Security Alejandro Mayorkas has been denounced as dishonest, duplicitous, and derelict by his critics. In my view, all of those things are manifestly true. It is also true, in my opinion, that none of those things amount to high crimes and misdemeanors warranting his impeachment.

The Republican push to impeach Mayorkas has been gaining steam as record numbers of undocumented migrants pour over our Southern border. Even many Democrats are now alarmed by the numbers and the threat that they pose to our national security and to our economy. Sanctuary cities from Chicago to New York are actively trying to prevent new migrants from seeking sanctuary within their own borders.

At the center of all of this is Mayorkas, who has long been viewed as an enabling figure for illegal migrations. He is also accused of implementing Biden policy changes that removed barriers to migrants, including rescinding the "Stay in Mexico" rule.

Some of us have also questioned his integrity, particularly in controversies like the false claims that border agents whipped migrants in Texas.

Mayorkas knew the allegations against his own personnel were debunked, but showed little concern or compassion for agents, particularly after President Joe Biden promised they would be punished before any investigation had even begun.

However, being a bad person is not impeachable—or many cabinets would be largely empty.

Moreover, being bad at your job is not an impeachable offense. Even really bad. Even Mayorkas' level of bad. If that were the case, he would be only the latest in a long line of cabinet officers frog-marched into Congress for constitutional termination.

In history, there has only been one cabinet member impeached. That was Secretary of War William Belknap in 1876. That alone should concentrate the mind of members. Despite decades of controversial cabinet members accused of flaunting the law or abusing their positions, Congress has only crossed this Rubicon once. There has existed a certain detente between the parties; an understanding that policy-based impeachments could open up endless tit-for-tat impeachment politics.

The charges against Belknap were serious, in that he had allegedly "disregarded his duty as Secretary of War, and basely prostituted his high office to his lust for private gain." The alleged bribes in contracts in the Indian territories would have constituted impeachable offenses, but Belknap had already left office. His case raised the question of retroactive impeachments for former federal officers.

The jurisdictional concerns made the difference for Belknap. The final vote on the closest article was 37 to 25 in favor of impeachment—four votes short of the number needed for conviction.

There is no jurisdictional question for Mayorkas, but there is also no current evidence that he is corrupt or committed an impeachable offense. He can be legitimately accused of effectuating an open border policy, but that is a disagreement on policy that is traced to the President.

In fairness to the GOP, they allege that Mayorkas is violating federal law in releasing what he now reportedly admits is over 85 percent of illegal migrants into the country as well as alleged false statements to Congress. Such releases, however, occurred in prior administrations and the merits of these claims are still being argued in court.

The courts have long recognized that presidents are allowed to establish priorities in the enforcement of federal laws, even when those priorities tend to lower enforcement for certain groups or areas. It is a matter of discretion.

Indeed, even under the Federal Tort Claims Act (FTCA) which holds the government liable for civil damages, there is a discretionary function exception codified under 28 U.S.C. § 2680 (a) for policy-based judgments.

Immigration has long been an area of intense policy disagreements. Trump policies were denounced by critics as draconian or even racist. Biden's policies have been denounced as fueling illegal crossings and frustrating efforts to curtail the flow, particularly by border states.

In my view, Biden has been dead wrong on immigration, but voters will soon have an opportunity to render a judgment on those policies in the election. Mayorkas has carried out those policies. What has not been shown is conduct by the secretary that could be viewed as criminal or impeachable.

If Mayorkas is violating federal law, he can be brought to court to enjoin his actions. A prior case seeking to prevent the termination of the "Stay in Mexico" policy resulted in a win for the Biden administration in *Biden v. Texas*, when the Supreme Court

ruled the president had the authority to revoke the Migrant Protection Protocols.

During the Constitutional Convention, there was a debate over the grounds for impeachment with George Mason arguing for a broad scope of offenses that could “subvert the Constitution.” His view was rejected. Most notably, there was a rejection of “maladministration” as a basis for impeachment.

An English trial of Warren Hastings weighed heavily on the forging of the impeachment standard. The former governor of India was charged with various offenses including “mismanagement and misgovernment...and mistreatment of various provinces.” While figures like Mason saw the need for the adoption of a similarly broad definition, his suggestion of maladministration was rejected as too broad.

What Mayorkas is guilty of is maladministration. He has failed to secure the Southern border and has long denied the gravity of this crisis, including refusing to call it a crisis even as daily and monthly crossings reached unprecedented levels.

None of this means that a cabinet member cannot be impeached. However, not like this. Not for maladministration.

I hold no brief for Alejandro Mayorkas. However, I hold the Constitution more dearly than I despise his tenure. Absent some new evidence, I cannot see the limiting principle that would allow the House to impeach Mayorkas without potentially making any policy disagreement with a cabinet member a high crime and misdemeanor. That is a slippery slope that we would be wise to avoid. Indeed, it is precisely the temptation that the Framers thought they had avoided by rejecting standards like maladministration.

That is why the case has not been made to impeach Alejandro Mayorkas.

[From The Hill, Jan. 30, 2024]

REPUBLICANS WHO VOTED AGAINST IMPEACHING TRUMP SHOULD NOT VOTE TO IMPEACH MAYORKAS

(By Alan Dershowitz)

When I represented then-President Donald Trump in his first impeachment case, many Republicans praised me for demonstrating that the Constitution permits impeachment only for “treason, bribery, and other high crimes or misdemeanors.” Trump had not been charged with any of those offenses, but rather with vague allegations of abuse of power and obstruction of Congress. The Senate voted to acquit Trump of the unconstitutional charges brought by Democrats. Republicans applauded that result.

Now many of the same Republicans are seeking to impeach Secretary of Homeland Security Alejandro Mayorkas on equally vague and unconstitutional grounds. Whatever else Mayorkas may or may not have done, he has not committed bribery, treason, or high crimes and misdemeanors. Testifying to his opinion that the borders are secure is a far cry from perjury. Nor is failure to enforce laws a crime. Indeed, most Republicans do not even claim that his actions or inactions meet these daunting constitutional standards, but they are prepared to apply a double standard based on partisan considerations.

Double standards are anathema to justice under our Constitution. There must be one Constitution for all, regardless of party affiliation. If Republicans want to amend the Constitution, let them try, but neither the Republicans nor the Democrats have the right to redefine constitutional standards on an ad hoc basis in order to serve their partisan interests.

So, let’s hear from some principled Republicans who may dislike what Mayorkas is doing but who understand that they have

previously voted for a standard that has not come close to being met.

The philosopher La Rochefoucauld said that “Hypocrisy is the tribute that vice pays to virtue.” It is also the currency of politics in present-day Washington. But it is wrong regardless of which side promotes it.

Congress has the power to issue a statement condemning Mayorkas, just as it had the power to issue a statement condemning Trump. But the extraordinary power of impeachment should be reserved for constitutionally impeachable offenses and not invoked simply because one party has the votes to do so.

In the Federalist Papers, Alexander Hamilton warned that the “greatest danger” regarding the power to impeach would be if it were “regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt.”

We experienced that danger when President Clinton was impeached by Republicans and when Trump was impeached by Democrats. Now we are seeing it play out once again with Republicans in control of the House of Representatives.

Hopefully there will be enough principled Republicans to prevent this abuse of the Constitution. But even if not, our system of checks and balances—which requires a two-thirds vote for conviction by the Senate—will prevent Mayorkas’s unconstitutional removal. Even if Mayorkas remains in office, a House vote to impeach him would add to the dangerous precedents established by previous partisan abuses of the impeachment provision.

The time has come, indeed it is overdue, for members of Congress who claim to be originalists when it comes to constitutional interpretation to recognize that the Framers explicitly refused to allow impeachment and removal for “maladministration” or other such vague abuses of duty. It is the voters who are allocated the power to vote against those who fail at governance.

Just because the Democrats were hypocritical when they impeached Trump on non-constitutional grounds does not give Republicans the right to do the same. Two wrongs make a fight, not a right. And the real losers are the American people, who count on Congress to uphold the Constitution, especially in areas of impeachment, where the courts have taken a hands-off view.

We live in an age in which partisanship too often trumps principle, and in which noble ends are thought to justify ignoble means. There is a reasonable dispute about how to achieve border security. I may agree with some Republicans who are critical of the current administration’s border policies and who place the blame on Mayorkas. But these criticisms—whether one agrees or disagrees with them—do not justify distorting the Constitution.

It is particularly essential in an age of partisan division that the nonpartisan principles of our Constitution be scrupulously obeyed. So I urge principled Republicans who care about the Constitution to oppose those in their party who are seeking to impeach and remove Mayorkas based on nonconstitutional accusations.

[From the Wall Street Journal, Jan. 30, 2024]

IMPEACHING MAYORKAS ACHIEVES NOTHING

(By The Editorial Board)

House Republicans are marking up articles of impeachment against Homeland Security Secretary Alejandro Mayorkas, and the question is why? As much as we share the frustration with the Biden border mess, impeaching Mr. Mayorkas won’t change enforcement policy and is a bad precedent that will open the gates to more cabinet impeachments by both parties.

The Homeland Security Committee on Tuesday began marking up two articles of impeachment against Mr. Mayorkas—one for breach of trust and the other for “willful and systemic refusal to comply with the law.” The articles say these are “high crimes and misdemeanors” that justify removal from office.

The 20-page political indictment certainly is a sorry list of policy failings on Mr. Mayorkas’s watch and their damaging consequences for American cities and states. These include the entry of migrants on the terrorism watch list, and an increase in average encounters at the border from 590,000 in fiscal years 2017–2020—to 1.4 million in 2021, 2.3 million in 2022 and 2.4 million in 2023.

These are failures of policy and execution, but are they impeachable offenses? That seems doubtful. The first article cites Mr. Mayorkas for refusing to implement a law that requires detention of aliens. It says his policy of “catch and release” is impeachable.

Yet the Supreme Court has not ruled that the Biden policies are illegal. The High Court in 2022 let the Biden Administration end Donald Trump’s Remain in Mexico policy, and last year it ruled 8–1 that states don’t necessarily have standing to challenge the federal government’s enforcement priorities.

As for catch and release, one problem is the statutory “credible fear” standard for claiming asylum in the U.S. The standard is too low, but it isn’t clear under the law that the Administration can legally deport people claiming asylum before they get a hearing. The U.S. lacks the facilities to hold asylum claimants, so they are released to await their hearing—and that can take years. But the problem is asylum law, as Republicans have long argued.

Article I also claims Mr. Mayorkas has violated the law by expanding humanitarian parole beyond Congress’s intent. That’s probably true, but the law puts no cap on parole numbers. Texas and other states challenged the President’s authority to use parole for large classes of migrants, but the Supreme Court ruled against them.

House Republicans dislike how the Administration is interpreting immigration law. But Congress has failed to reform asylum standards or humanitarian parole, or to otherwise tighten immigration rules. That’s why Senators are now negotiating over language to reform both the asylum standard and parole.

If Congress holds Mr. Mayorkas impeachable for policy failure, what’s the limiting principle? Are his deputies also guilty of “high crimes” for implementing the Biden immigration agenda? Career officials? How many GOP cabinet secretaries will the next Democratic House line up to impeach? Policy disputes are for the voting booth, not impeachment.

All the more so because the main architect of the border-security fiasco isn’t Mr. Mayorkas. It’s his boss, President Biden. “If you want to flee and you are fleeing oppression, you should come,” said Candidate Joe Biden in a 2019 debate. Mr. Mayorkas is following White House orders.

Impeaching Mr. Mayorkas won’t have any effect on policy, or even on the politics of border security. Most voters don’t know who Mr. Mayorkas is. Even if the House passes the articles, on a largely partisan vote, there is no chance the Democratic Senate will convict him. Impeaching Mr. Mayorkas would be the political equivalent of a no-confidence vote. This would continue Congress’s recent trend of defining impeachment down.

Grandstanding is easier than governing, and Republicans have to decide whether to accomplish anything other than impeaching Democrats. Mr. Mayorkas is an easy political target, but impeaching him accomplishes nothing beyond political symbolism.

A better idea is to strike a deal with Mr. Biden on serious border-security reforms that would restrict his discretion on parole, rewrite the asylum standard, and give the executive other tools to control the border. If Messrs. Mayorkas and Biden refuse to use them, the GOP will have an election issue. And the tools will be there for the next President to use.

Mr. THOMPSON of Mississippi. Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, this is so frustrating because today we are, in fact, impeaching upon. We are impeaching upon for the President. The Secretary is being impeached for what he did wrong. He is, in fact, guilty as alleged, but, in fact, he is just part of the high crimes and misdemeanors of the President of the United States.

It was the President's decision to, in fact, undo policies that were working, to reverse, to make a systemic change that in my district, with over 55 miles of Mexican border, my border agents are reduced to being Uber drivers for everyone coming over the border.

I am perfectly willing to listen to people say that this is a policy difference, but it is not. To faithfully execute the mission, you can have differences in how to do it. To thwart the very execution of that mission, which Secretary Mayorkas has done, is, in fact, an impeachable offense.

I have some sympathy for him because I believe he is just obeying the orders of his boss, but that has been said before. That excuse has been used. The fact is, he took an oath. He must faithfully execute that oath. If he cannot, because the President will not let him do it, then he needs to resign.

As we impeach the first Cabinet officer in well over 100 years, the fact is, he should have resigned rather than to do things which were adverse to the Constitution, adverse to his oath, but upon the orders and duty of the President.

The President can be wrong. The President can order high crimes and misdemeanors. The President can be guilty of them. This President is, in fact, guilty of that which we are impeaching the Secretary for today, but so is the Secretary, and for that reason, I urge a "yes" vote.

Mr. GREEN of Tennessee. Mr. Speaker, may I inquire how much time remains for each side.

The SPEAKER pro tempore (Mr. DESJARLAIS). The gentleman from Tennessee has 22½ minutes remaining.

The gentleman from Mississippi has 24 minutes remaining.

Mr. THOMPSON of Mississippi. Mr. Speaker, this baseless sham impeachment fails to articulate a single charge that rises to the level of high crimes and misdemeanors, the constitutional standard for impeachment. Mere policy differences do not amount to impeachable offenses.

Mr. Speaker, I include in the RECORD a letter by eminent constitutional

scholars opposed to this political stunt, as well as The Washington Post op-ed by Joshua Matz and Norman Eisen titled, "Why impeaching Mayorkas would violate the Constitution."

JANUARY 10, 2024.

Speaker MIKE JOHNSON,
The Capitol,
Washington, DC.

Chairman MARK GREEN,
Washington, DC.

CONSTITUTIONAL LAW EXPERTS ON THE IMPEACHMENT PROCEEDINGS AGAINST SECRETARY OF HOMELAND SECURITY ALEJANDRO MAYORKAS

Senior Republicans in the House of Representatives—including Speaker of the House Mike Johnson and Chairman Mark Green of the Committee on Homeland Security—have stated that they intend to pursue an impeachment of Homeland Security Secretary Alejandro Mayorkas. This proceeding will apparently occur in the Committee on Homeland Security on an accelerated timeframe. As scholars of the Constitution, considering the facts currently known and the charges publicly described, we hereby express our view that an impeachment of Secretary Mayorkas would be utterly unjustified as a matter of constitutional law.

Although House Republicans have offered various justifications for an impeachment, the underlying basis appears to be their view that Secretary Mayorkas's policy decisions have degraded border security and involved objectionable uses of enforcement discretion. House Republicans have also publicly asserted that Secretary Mayorkas testified falsely in stating that he is enforcing existing federal law and that the southern border is closed and secure.

When the Framers designed the Constitution's impeachment provisions, they made a conscious choice not to allow impeachment for mere "maladministration"—in other words, for incompetence, poor judgment, or bad policy. Instead, they provided that impeachment could be justified only by truly extraordinary misconduct: "Treason, Bribery, or other high Crimes and Misdemeanors." U.S. Const., art. II, §4. Thus, as Charles L. Black, Jr. noted in his influential handbook, impeachment is not permitted for "mere inefficient administration, or administration that [does] not accord with Congress's view of good policy." Simply put, the Constitution forbids impeachment based on policy disagreements between the House and the Executive Branch, no matter how intense or high stakes those differences of opinion.

Yet that is exactly what House Republicans appear poised to undertake. The charges they have publicly described come nowhere close to meeting the constitutional threshold for impeachment. Their proposed grounds for impeaching Secretary Mayorkas are the stuff of ordinary (albeit impassioned) policy disagreement in the field of immigration enforcement. If allegations like this were sufficient to justify impeachment, the separation of powers would be permanently destabilized. It is telling that there is absolutely no historical precedent for the impeachment charges that House Republicans have articulated. To the contrary, on the rare occasions that Members of the House have proposed impeaching executive officials for their handling of immigration matters, the House has properly retreated from that grave step.

We hold a wide range of views on the wisdom and success of Secretary Mayorkas's approach to immigration policy. But we are in agreement that impeaching him based on the charges set forth by House Republicans

would be a stark departure from the Constitution.

Of course, our institutional affiliations are listed for identification purposes only, and our signatures reflect our personal capacity, not any position on behalf of our employers. Sincerely,

Laurence H. Tribe, *Carl M. Loeb University Professor, Emeritus, Harvard University*; Joshua Matz, *Partner I Kaplan Hecker & Fink LLP, Adjunct Professor of Law | Georgetown Law School*; Donald Ayer, *Adjunct Professor of Law, Georgetown Law School*; Philip C. Bobbitt, *Herbert Wechsler Professor of Federal Jurisprudence, Columbia Law School*; Corey Brettschneider, *Professor of Political Science, Brown University*; Erwin Chemerinsky, *Dean and Jesse H. Choper Distinguished Professor of Law, Berkeley Law*; Gabriel J. Chin, *Edward L. Barrett Jr. Chair of Law, Martin Luther King Jr. Professor of Law, Director of Clinical Legal Education, UC Davis School of Law*; Rosalind Dixon, *Professor of Law, University of New South Wales*; Michael Dorf, *Robert S. Stevens Professor of Law, Cornell Law School*.

Amanda Frost, *John A. Ewald Jr. Research Professor of Law, University of Virginia School of Law*; Michael Gerhardt, *Burton Craige Distinguished Professor of Jurisprudence, UNC School of Law*; Stuart Gerson, *Trustee, Society for the Rule of Law*; Aziz Huq, *Frank and Bernice J. Greenberg Professor of Law, University of Chicago Law School*; Kevin R. Johnson, *Dean and Mabie-Apallas Professor of Public Interest Law and Chicana/o Studies, UC Davis School of Law*; Pamela S. Karlan, *Kenneth and Harle Montgomery Professor of Public Interest Law, Stanford Law School*; Jon D. Michaels, *Professor of Law, UCLA School of Law*; Timothy Naftali, *Senior Research Scholar, Columbia University School of International and Public Affairs*.

Victoria Nourse, *Ralph V. Whitworth Professor in Law, Georgetown Law School*; Deborah Pearlstein, *Director, Princeton Program on Law and Public Policy, Charles and Marie Robertson Visiting Professor of Law and Public Affairs, Princeton University*; Robert Post, *Sterling Professor of Law, Yale Law School*; Cristina Rodriguez, *Leighton Homer Surbeck Professor of Law, Yale Law School*; Jack Rakove, *William Robertson Coe Professor of History and American Studies, Professor of Political Science, Emeritus, Stanford University*; Kermit Roosevelt, *David Berger Professor for the Administration of Justice, Penn Carey Law School*; Peter Shane, *Professor and Jacob E. Davis and Jacob E. Davis II Chair in Law Emeritus, The Ohio State University Moritz College of Law*; David A. Strauss, *Gerald Ratner Distinguished Service Professor of Law, Faculty Director, Supreme Court and Appellate Clinic, University of Chicago Law School*.

[From the Washington Post, Jan. 9, 2024]

WHY IMPEACHING MAYORKAS WOULD VIOLATE THE CONSTITUTION

(By Joshua Matz and Norman Eisen)

House Republicans appear poised to rush through a partisan impeachment of Alejandro Mayorkas, the secretary of homeland security. They do not allege corrupt, abusive or criminal conduct; they accuse him merely of poor judgment, believing he could better use his legal authority and enforcement discretion to safeguard the southern border.

Whatever the wisdom of Mayorkas's policy decisions, the claim that he should be impeached is indefensible as a matter of constitutional law.

In designing the U.S. Constitution, the framers adapted the impeachment power from England but made several key changes. Parliament had historically impeached royal ministers for "maladministration"—for bad policy or poor performance in office. The

framers rejected that vision. For impeachments of “the President, Vice President and all civil Officers of the United States,” they instead required proof of egregious malfeasance: “Treason, Bribery, or other high Crimes and Misdemeanors.”

This decision was fundamental to the separation of powers. Congress has many tools it can use to shape public policy and express disagreement with the executive. Impeachment, however, is not one of them. To ensure that the president could govern—and that he could select a Cabinet to execute his vision—the framers forbade impeachment over policy disagreements, no matter how fierce or consequential.

That understanding has endured throughout American history. Despite centuries of heated policy disagreements between Congress and the executive, there has been only a single impeachment of a Cabinet official. In 1876, War Secretary William Belknap was impeached for a corrupt kickback scheme; although he resigned minutes before the House vote, that did not deter House members from impeaching him anyway.

Of course, not all executive branch officials are angels. But in practice, miscreant Cabinet officials are not corralled through congressional impeachment. They are fired by the president, or they simply resign.

No official who maintained the president's support has ever been impeached for carrying out policy in ways the House found objectionable. Impeaching Mayorkas on that basis would offend the Constitution and unbalance the separation of powers. Future Cabinet officials would be unduly chilled in doing their job, and presidents would fear that heated policy disputes might engulf their most senior officials in an impeachment quagmire.

This concern applies with full force in the homeland security setting. The rule that we do not impeach over policy disagreements has had its strongest expression in disputes over immigration enforcement. There are two illuminating precedents.

The first occurred in 1920, when the House considered impeaching Assistant Secretary of Labor Louis Post. Over the previous year, Attorney General A. Mitchell Palmer had carried out his infamous “Palmer Raids,” indiscriminately rounding up suspected radicals, anarchists and communists for deportation. When those deportation orders reached Post's desk (the Labor Department then oversaw immigration matters), he canceled more than 1,000 of them, citing the absence of evidence justifying removal.

The response was explosive. A New York Times editorial claimed that Post “let loose on the country these public enemies, some of them fugitives from justice.” Rep. Homer Hoch, a Republican from Kansas, put forward an impeachment resolution, which was referred to the House Rules Committee.

Post was outraged. He viewed an initial report accusing him of misconduct as “mental dullness at high tension.” As Post later wrote, “I had offended by deporting such aliens as were proved guilty and releasing the others, instead of pitching all of them out of the country indiscriminately.”

Post's ensuing testimony before the Rules Committee was electric. As one observer remarked, the committee “had very much the aspect of a group of gentlemen who had picked up a very hot poker and were looking for some place to cool it.” The drive to impeach collapsed.

A similar tale unfolded less than two decades later. In 1938, Martin Dies Jr., the chairman of the House Un-American Activities Committee, accused Labor Secretary Frances Perkins of wrongly failing to deport an accused communist. As Dies escalated his attacks against Perkins's immigration poli-

cies, she bitingly responded: “It is not usual for the legislative branch which has so many duties to attempt to usurp the functions and duties of the administrative branch.”

Undeterred, another member of Dies's committee introduced an impeachment resolution. Among other things, and reminiscent of the latest attacks against Mayorkas, it accused Perkins of “having failed, neglected, and refused to enforce the . . . immigration laws of the United States.”

Perkins was shaken. But she maintained support from President Franklin D. Roosevelt and vigorously defended her handling of immigration matters, including in closed-door testimony before the House Judiciary Committee.

Ultimately, the committee concluded that “sufficient facts have not been presented or adduced to warrant the interposition of the constitutional powers of impeachment by the House.” The decision was unanimous. With respect to Perkins's handling of a particularly controversial deportation decision, it found that her decision “involved a question of judgment, and there is no evidence that it was not exercised in good faith.”

As these cases confirm, disagreement over a Cabinet official's good-faith exercise of enforcement discretion is not a valid basis for impeachment. In launching an impeachment attack against Mayorkas, House Republicans not only violate the Constitution but also defy long-standing precedents. They should step back from the brink.

Mr. THOMPSON of Mississippi. Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oklahoma (Mrs. BICE).

Mrs. BICE. Mr. Speaker, earlier in this debate, the gentleman from Mississippi noted that there has been more fentanyl seized at our southern border than ever before, but what he did not recognize is that there are now more fentanyl deaths in this country than ever before, and that is a direct result of what is happening across our southern border.

I rise today in support of the impeachment of Secretary Alejandro Mayorkas. This is one of the most solemn and consequential actions the United States House of Representatives can take, and I do not take it lightly.

However, under the watch of Secretary Mayorkas, we have witnessed the degradation of our border security and the willful and consistent refusal to comply with and enforce Federal immigration laws.

Today, fentanyl is the leading cause of death for those aged 18 to 45, terrorists on the FBI watch list are being released into the interior of the country, and the cartels are a multibillion-dollar business.

The crisis we face today is a threat to every single American, causing our communities to be less safe, and it is a direct result of Secretary Mayorkas' actions. A clear message must be sent to the executive branch that they no longer get to break the law without consequences. Secretary Mayorkas must be held accountable.

Mr. THOMPSON of Mississippi. Mr. Speaker, today three bipartisan former Secretaries of Homeland Security wrote to Speaker JOHNSON voicing

their opposition to impeaching Secretary Mayorkas. They agree that impeachment for policy is not constitutionally permissible. They further warn that allowing impeachment of Cabinet officials over policy differences would jeopardize our national security.

Mr. Speaker, I include in the RECORD the letter from Secretaries Chertoff, Napolitano, and Johnson.

FEBRUARY 6, 2024.

Hon. MIKE JOHNSON,
Speaker of the House of Representatives,
Washington, DC.

DEAR SPEAKER JOHNSON: As former Secretaries of Homeland Security who served in Republican and Democratic Administrations, we write to oppose the House of Representatives' effort to impeach Secretary Alejandro Mayorkas.

We have differing views among us on the policies pursued by President Biden and implemented by Secretary Mayorkas. But we collectively agree that policy differences are not Constitutionally permissible impeachment offenses. Rather, they are issues to be resolved via legislation or elections.

During our respective terms, when members of Congress of both parties disagreed with the policy choices made by the Presidents we served, they would make their views known, often vociferously, bring us to the Capitol for hearings, and consider new laws. That is the way our political system is supposed to work.

To instead allow impeachments of cabinet officials over political disagreements would jeopardize our national security; make Cabinet-level positions more difficult to fill under future administrations; and undermine the ability of future officials to fulfill their vital missions.

And one cannot ignore that the Department of Homeland Security is responsible for much more than managing our immigration system. Impeaching Secretary Mayorkas could undermine the mission for which the Department was created—preventing terrorism—as well as our cybersecurity, aviation security, maritime security, our response to natural disasters, and the protection of our national leaders, among many other things.

If you want a solution to strengthen our border security—and a solution is badly needed—you would be well advised to work with the Senate on the bipartisan bill they have put forward. Impeaching Secretary Mayorkas solves nothing and leaves our outdated immigration system exactly where it is now—broken.

We urge you to set aside this groundless impeachment effort and get back to solving America's real problems.

Sincerely,

MICHAEL CHERTOFF,
Secretary of Homeland Security, 2005–2009.

JANET NAPOLITANO,
Secretary of Homeland Security, 2009–2013.

JEH CHARLES JOHNSON,
Secretary of Homeland Security, 2013–2017.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GOLDMAN).

Mr. GOLDMAN of New York. Mr. Speaker, I rise today to condemn this rushed, baseless sham impeachment of Secretary Mayorkas that will go down in history as one of Congress' darkest moments.

The Republican argument for impeachment boils down to their view

that Secretary Mayorkas has intentionally caused the influx of immigrants over our southern border. Never mind that, even if true, this is not a high crime or misdemeanor that has ever been used before in the history of our country. Never mind that, no court has found the Secretary or the Department of Homeland Security to have violated the law. In fact, the United States v. Texas case, which my friends on the other side of the aisle like to cite so frequently, actually reversed a district court ruling and held that there must be discretion given to the Secretary as there has been given to every single Department Secretary for 27 years.

Never mind that every one of those Department of Homeland Security Secretaries has interpreted the law the exact same way that Secretary Mayorkas has. Never mind that Republicans have sued him to stop him from implementing the policy changes that the administration has tried to put in effect to address the situation at the border. Never mind that House Republicans are impeaching him for failing to address the problems at the border while he has spent months negotiating a bipartisan bill in the Senate to do just that.

□ 1615

The reason for this partisan stunt is simple. Donald Trump and House Republicans want to use the border as an election year issue rather than actually solve the problems through necessary legislation.

Mr. Speaker, I urge my colleagues who care about the Constitution, the rule of law, and this institution to vote “no.” They will otherwise come to regret this.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BERGMAN).

Mr. BERGMAN. Mr. Speaker, the last Secretary of Homeland Security appointed by a Democratic President once described a border crisis as more than 1,000 Border Patrol encounters per day. In December last year, we averaged nearly 10 times that number.

Perhaps most worryingly, 2023 saw a record-setting 860,000, just a little bit shy of a million got-aways, border crossers who were detected but who were never apprehended. That is nearly a million potential felons, cartel members, terrorists, and drug traffickers freely allowed into our country and currently residing in our communities and our neighborhoods.

This crisis has been aided and abetted through the unprecedented dereliction of duty of Secretary Mayorkas. As the House Homeland Security Committee has uncovered, Mayorkas has repeatedly violated, subverted, and simply ignored multiple laws set forth by Congress that he swore an oath to uphold, all while ignoring court orders and lying to Congress and the American people.

The evidence of his wrongdoings is damning. His abuse of power goes well

beyond simple bureaucratic incompetence. His actions, which have put our Nation at extreme risk, cannot go unanswered.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. THOMPSON of Mississippi. Mr. Speaker, Republicans are exploiting impeachment power to distract from their inability to pass legislation.

Here is what Republican Representative CHIP ROY said in November: “I want my Republican colleagues to give me one thing—one—that I can go campaign on and say we did. One. . . . [E]xplain to me one material, meaningful, significant thing the Republican majority has done.”

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. JEFFRIES), the Democratic leader.

Mr. JEFFRIES. Mr. Speaker, let me first thank the distinguished gentleman from the great State of Mississippi for yielding, for his leadership, for his dignity, for his decency, for his continued defense of our democracy in the face of the extreme attacks coming from the other side of the aisle.

Mr. Speaker, I rise today in strong opposition to this political stunt, this reckless Republican effort to impeach Secretary Mayorkas.

Let’s be clear: Secretary Mayorkas is a good man, a patriotic man, and a hardworking man doing the best he can under very difficult circumstances. That is not an impeachable offense.

Extreme MAGA Republicans have produced no evidence that Secretary Mayorkas has engaged in a high crime or misdemeanor, no evidence that Secretary Mayorkas has engaged in an impeachable offense, and no evidence that Secretary Mayorkas has broken the law or violated the Constitution—not a shred of evidence, not a scintilla of evidence, nothing but extreme MAGA Republican chaos and confusion and the effort to avoid doing the hard work necessary to find common ground to actually address the challenges at the border.

What do these impeachment articles have to do with the issue of addressing our broken immigration system? Nothing.

What do these impeachment articles have to do with building a healthy economy for everyday Americans? Nothing.

What do these impeachment articles have to do with addressing the inflationary challenges and affordability issues that the American people are experiencing day after day as we work to continue to emerge from a once-in-a-century pandemic that shut down the economy? Absolutely nothing.

Extreme MAGA Republicans have spent this entire Congress not advancing any ideas, acting on any agenda, deciding to work together with us to solve problems for the American people.

You have brought Articles of Impeachment that are not anchored in reality. You have brought Articles of Im-

peachment for one simple reason: Because you really want to impeach Joe Biden.

That is what you were directed to do by the puppet master, the former President of the United States, Donald Trump.

You really want to impeach Joe Biden, but you realize that that is politically unpopular, so you have brilliantly come up with, in your minds, plan B. Let’s go after Secretary Mayorkas. No evidence that he engaged in wrongdoing, committed a crime, or violated the Constitution, but let’s go after Secretary Mayorkas.

Maybe that will satisfy the quest for revenge of the puppet master because when the puppet master, Donald Trump, says jump, extreme MAGA Republicans respond: How high? We just got evidence of that over the last few weeks because extreme MAGA Republicans have been lecturing America that we have to deal with the challenges at the border.

We agree. A bipartisan process has been underway in the Senate for months to try to fix our broken immigration system, but as soon as Donald Trump says no, we actually don’t want to do anything about the challenges at the border because, politically, that might not be good for us, you walked away from working together in a commonsense fashion to fix our broken immigration system. Instead, what you have to offer the American people is this sham impeachment, this political stunt, this waste of time.

You will not fool the American people. You will actually be held accountable for your inaction and your affirmative leaning into doing things that don’t advance progress in any way, shape, or form for the American people.

No reasonable American can conclude that you are making life better for them with this sham impeachment, but you will live with this like a scarlet letter.

It may succeed. It may not. Secretary Mayorkas should wear this like a badge of honor because it is worthless. It means nothing.

It is fake. It is fraudulent. It is foolish.

Mr. Speaker, I urge everybody to vote “no,” so we can get back to doing the real business of the American people.

The SPEAKER pro tempore. Members are reminded to direct their remarks to the Chair.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Speaker, I thank the gentleman from Tennessee for yielding and for his great work on this impeachment resolution.

Mr. Speaker, Secretary Mayorkas’ political career is on the chopping block, where it rightfully belongs. He has failed to apply the laws that would stop this invasion at the southern border.

To those who claim that this impeachment is for purely political purposes, you are dead wrong. This is about upholding the rule of law that governs our Republic, the same rule of law that Secretary Mayorkas has ignored and forsaken every day.

Secretary Mayorkas has had innumerable opportunities to enforce the laws that are already on the books but has chosen not to. He has earned his own impeachment.

Let's be clear: Our entire constitutional system is predicated on the idea that Congress creates laws, and the executive branch enforces those laws.

Allowing this abuse of our constitutional system to go unchecked could spell the beginning of the end for our Republic.

I am proud to serve as a cosponsor of these impeachment articles. The rule of law must be restored at the border immediately.

Mr. THOMPSON of Mississippi. Mr. Speaker, Republicans use the language of invasion and great replacement theory, but invasion in the Constitution means invasion during an act of war by a foreign nation or insurrection from within.

I direct my Republican colleagues to Federalist Papers Nos. 4 and 43 if they want to learn why the entry of migrants escaping crisis for a better life is not invasion.

Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARRINGTON).

Mr. ARRINGTON. Mr. Speaker, I thank our fearless leader and the good gentleman from Tennessee for yielding time.

Just a comment about this not being an invasion: No honest or objective American, from sea to shining sea, could characterize what is happening at our southern border in any way other than an invasion, and it is destroying our country.

It is because of willful neglect. It is because of dereliction of duty. It is because of the faithlessness to this Constitution and its first job: to provide a common defense.

I thank Chairman GREEN for restoring the dignity and integrity of the impeachment process. I think it is important that we are careful and that we make the fullness of due process an important feature, restoring what has happened over the last two impeachments.

This is a yearlong process, and I appreciate his fidelity to the Constitution and the integrity of this institution.

The bottom line, Mr. Speaker: I believe that the Impeachment Clause in the Constitution, according to our Founders, was to give remedy for this very circumstance, to remove someone who had violated their public trust in a way that resulted in serious and systemic injury to society.

I thank Chairman GREEN, again, for his leadership. I stand with him. This

is the right and responsible thing to do in faithfulness to the Constitution, in the protection of the American people, and in defense of the sovereignty of the greatest Nation in human history.

Mr. THOMPSON of Mississippi. Mr. Speaker, the extreme MAGA Republican stunt to impeach Secretary Mayorkas is baseless.

The Democratic staff of the Committee on Homeland Security thoroughly documented the many failures of fact and law in the Articles of Impeachment contained in H. Res. 863.

Mr. Speaker, I include in the RECORD the key findings and introduction of the Democratic staff report, which can be found online at: <https://democrats-homeland.house.gov/download/homelanddemimpeachmentreportfinal>.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

□ 1630

Ms. JACKSON LEE. Mr. Speaker, I thank the distinguished gentleman for yielding.

In the time that we have had to debate one of the most sacred and deliberative responsibilities of the United States Congress—that is, impeachment proceedings—there has not been one iota of truth and/or facts that would suggest that Secretary Mayorkas is, in fact, guilty of the Articles of Impeachment against him: One, the willful violation of the law, and the benefit to himself from anything that he might have done or that he did not do.

What it has done is given to this Nation, a Nation of laws and a Nation of immigrants, the sense that you cannot flee Nazism, you cannot flee Cuba, and come to this country to serve your beloved adopted country for more than two decades, that you cannot be the Justice Department U.S. attorney, you cannot be a Deputy Secretary and now the Secretary of Homeland Security without those who find it strange to have you, with your diversity, to be able to lead in this way.

This is a question of stunts over solutions, and the Constitution was created to create a more perfect order, and that is that, under that Constitution, precious rights fall under the Fifth Amendment and the 14th Amendment, due process.

Let me say, Mr. Speaker, that this Secretary of Homeland Security was not allowed to bring his own witnesses. The majority did not allow the minority to have its day of witnesses. There were no constitutional scholars who pointed to the fact in large numbers, as they would have, that this is, in fact, a fraud, and it is fraught with misrepresentations.

Operational control is zero people crossing the border. That means they are not crossing for entertainment, they are not crossing for business, they are just there.

This is wrong. This is wrongheaded. This is a stunt, and this does not bequeath or equal to the Constitution,

which is to create a more perfect Union.

Mr. Speaker, I urge my colleagues to vote against these Articles of Impeachment.

Mr. THOMPSON of Mississippi. Mr. Speaker, I reserve the balance of my time.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. ZINKE).

Mr. ZINKE. Mr. Speaker, I rise in strong support of H. Res. 863, the impeachment of Secretary Mayorkas.

Mr. Speaker, Montana is about the same size as from here to Chicago plus 2 miles. It is a long, long border. The few border people we have generally are deployed down south.

My friend and the gentleman from New York said: What evidence do we offer? What evidence of negligence? What evidence of wrongdoing? I would say it is pretty easy to find. It is found in every street, every city, every county, every State across this Nation.

The evidence is found in every fentanyl pill and death. The evidence is found in every woman that is raped along our border. The evidence is found in every child-trafficking case that is in every city, to include Billings, Missoula, Chicago, and Washington, D.C. It is found in every evidence of children being sex trafficked, and I could go on.

The evidence of negligence is the willful blindness to the horror that we have on our southern border.

Our northern border, while not discussed a lot, is wide open, because this country doesn't have a border. In Montana, this administration can't even prevent a balloon. So the evidence is clear, compelling, and not in dispute. The lack of action, willful blindness, and willingness to do nothing is deserving of no less than impeachment.

Mr. THOMPSON of Mississippi. Mr. Speaker, Secretary Mayorkas is doing his job with the resources allotted by this Congress. Not only has no administration detained all border crossers, but Congress has never appropriated sufficient resources to detain all individuals who should be detained under the Republicans' reading of the law.

I yield 3 minutes to the gentleman from Texas (Mr. CASTRO).

Mr. CASTRO of Texas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this impeachment against Secretary Mayorkas is a sham. The process was a sham. The charges are a sham.

You might wonder, if that is the case, then why go through all of this trouble?

Well, last November, a colleague of mine from the State of Texas stood up in this Chamber and asked for one meaningful accomplishment that the Republican Congress has accomplished this session.

The answer was nothing. That colleague was not a Democrat on this side of the aisle, but a Republican—a Republican, who asked the question whether somebody could name one meaningful accomplishment.

Therefore, the answer to my question: Why does this happen? When you have no record of accomplishment to run on—nothing on education, nothing on healthcare, nothing about creating jobs, nothing on the environment, nothing about keeping people safe—this is what you do. You put on a circus, and that is why we are here today.

If we need an example, let's look to the last few days. For years, Republicans have used immigrants as political scarecrows. They are using them like scarecrows to put up in the face of Americans and scare Americans that every single one of these people, including the 6-year-old children, are coming to harm you and hurt you.

Since my Republican colleagues have no positive policy solutions, they sell that really hard. You hear it on every radio interview, every television interview. You hear it from the people in here. You hear it on television on FOX News. Every single place, these people are used to scare Americans. That is how Republicans want to win.

That is why we are here, because there is nothing else—nothing else left.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Texas.

Mr. CASTRO of Texas. My colleagues on the other side of the aisle have claimed that we need to secure the border. Even when President Biden made the comment that he would be willing to shut down the border because it is overwhelmed, the Republican Speaker says that proposal—which would allow for what Republicans have been asking for, supposedly for years—is dead on arrival. The Republicans are not going to do it.

Mr. Speaker, this is a show trial. It is a sham.

Mr. GREEN of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. EZELL).

Mr. EZELL. Mr. Speaker, before coming to Congress, I spent 8 years as a sheriff in my home county and 42 years as a law enforcement officer. If I hadn't done my job as a sheriff, I would have been fired and removed from office.

Mr. Speaker, Secretary Mayorkas has not done his job. He has willfully ignored immigration laws passed by Congress and allowed our southern border to turn into utter chaos.

His breach of public trust cannot go unanswered. I voted to hold him accountable in committee last week, and I will do so today on the floor.

Mr. Speaker, I urge my colleagues to vote in favor of this impeachment and hold Secretary Mayorkas accountable for his actions.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 2 minutes to the gentleman from California (Ms. BARRAGÁN).

Ms. BARRAGÁN. Mr. Speaker, I thank the gentleman for yielding.

I rise to oppose this baseless, politically driven impeachment of Secretary

Mayorkas by extreme MAGA Republicans.

House Republicans have failed to meet the constitutional standard for impeachment and have failed to provide evidence for high crimes and misdemeanors because no evidence exists.

Republicans rant about the challenges at the southern border, and their only solution is to remove the person who has been in the room trying to work on a bipartisan basis to get tough on border policies that I don't even agree with. Republicans are not serious about border security. This is all about politics for my colleagues on the other side of the aisle.

House Republicans have consistently opposed legislation to increase funding for more Border Patrol agents at the southern border, more Customs and Border Protection, more money to combat fentanyl from coming across the southern border, something Republicans love to talk about, but they want to give no resources to make sure that it is not coming over.

Of course, they have even said no to a billion dollars in ICE detention beds. This is a Republican talking point, and they have said no to this, too.

So why are we wasting floor time on political games with a fact-free impeachment resolution instead of legislation to improve the lives of Americans?

It is because House Republicans can't govern. They want to distract from their weekly embarrassments. Their own Members admit they have not accomplished anything.

Mr. Speaker, this sham impeachment is not an accomplishment. It is just another embarrassment because they are a do-nothing Congress.

Mr. GREEN of Tennessee. Mr. Speaker, may I inquire as to how much time is remaining.

The SPEAKER pro tempore. The gentleman from Tennessee has 12½ minutes remaining. The gentleman from Mississippi has 12 minutes remaining.

Mr. GREEN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

I will address some of the, at a minimum, misinformation that has been provided by my colleagues on the other side of the aisle. This notion that Republicans have somehow cut Border Patrol is absolutely false.

In fact, it has been the administration that has brought decreasing budget requests, for example, for ICE detention beds every single year, and we wound up giving them more than they asked for.

Our bill, H.R. 2, actually would provide 3,000 new Border Patrol agents, and the supplemental request by the President asks for approximately 1,400. You can't say we are resourcing less when we are actually providing numbers for more. That is just disinformation. It is false.

This notion that seizures are up, if you pour more water through a small pipe, there is more volume coming at

the fence. They are going to seize more. I get that. However, tell me why the price for a hit of fentanyl on the street in Tennessee went from \$95 a hit when this President took office to \$28 a hit.

It is because of the supply and demand of fentanyl. It is the supply and demand curve. That is because it is pouring across our southern border. It is pouring across our southern border because the cartels are jamming folks through the crossing sites. The Border Patrol agents are having to move off the border to cover that, and we have a wide-open southern border.

We have shown this in our five-phases investigation, videos of camouflage-wearing, carpet-shoe-wearing people with backpacks full of drugs coming through the remote parts of the country or the border. To suggest that just because seizures are up somebody is doing their job, that is meaningless.

I want to make a point here, because several people have said, if we were concerned about border protection, we would bring up the Senate negotiated bill. Well, I thought the Senate had to pass it before we could bring it up. I haven't heard that the bill has even passed the Senate. Therefore, this accusation that we somehow aren't for Border Patrol because we haven't taken up this bill is false because it hasn't even passed the Senate yet.

I heard someone say Mr. Mayorkas has done his job. The last poll I saw indicated approximately 85 percent of Americans think the Secretary is failing, but, yes, keep singing that song.

Rushed? We have been at this for almost a year.

One gentleman said: No court has actually ruled that Mr. Mayorkas is breaking the law.

The Fifth Circuit court absolutely ruled it. Then the gentleman who mentioned that actually said that the Supreme Court overturned that.

No, they didn't. They decided they weren't going to decide. They said: We don't have standing here, or you don't have standing here, so their case technically wasn't even heard. They said: You don't have standing. Have a nice day.

To suggest that that was overturned, the Fifth Circuit court's ruling on the lawlessness of this Secretary, is just wrong. It is wrong.

Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. GUEST).

Mr. GUEST. Mr. Speaker, I want to push back.

What is happening here is not political theater, as my friends on the other side of the aisle wish to make this.

The Democrats have sought to blame Republicans, saying that our inaction has helped cause this border crisis, but I will tell you that nothing is farther from the truth. Almost a year ago, this body passed H.R. 2, a border security bill, a border security bill that would find a record number of Customs and

Border Patrol agents, a bill which would give raises to those men and women who were there on the front lines trying to secure our border, a bill which would invest in technology to stop the flow of illegal drugs coming across our border, a bill which would have restarted wall construction.

That bill, for almost a year, has sat in the other Chamber, has sat in the Senate, and Mr. SCHUMER has refused to bring that bill to the floor.

□ 1645

This body also passed the Homeland Security appropriations bill, giving the Department of Homeland Security more money than that Department has ever received. We funded those additional agents. We funded those pay raises. We funded additional detention beds. What has happened to that appropriations bill? It also sits in the Senate waiting for the Senate to take action.

Today, my friends across the aisle seek to hide behind this Senate bill that was crafted behind closed doors, in the cover of darkness, a bill that did not include any input from the House of Representatives, did not include Homeland Security Chair MARK GREEN or Ranking Member BENNIE THOMPSON from Mississippi. Three Senators out of 100 got behind closed doors for weeks, and they sat down and crafted a bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GREEN of Tennessee. Mr. Speaker, I yield an additional 1 minute to the gentleman from Mississippi.

Mr. GUEST. Mr. Speaker, with no input on behalf of the House of Representatives, we are now supposed to adopt that bill before it even passes the Senate.

I want to give you a number, Mr. Speaker. That number is 370,000. That is the number of immigrants who came into our country last month alone. That is not a year; that is not 6 months; that is a single month, 370,000 people, yet our Homeland Security Secretary continues to maintain that the border is secure.

My friends across the aisle seek to blame Republicans for this crisis. I will tell you that their blame is misplaced. If they want to blame someone for what is happening on the southwest border, they need to look in the mirror. They need to look at what their Secretary has done, and they need to look at what their President has done. They can no longer blame Republicans for their failures.

I will close with this, Mr. Speaker. If we are unable to hold Secretary Mayorkas accountable for his failures, for his failure to enforce the law, we can hold no one accountable. Secretary Mayorkas must be impeached.

Mr. THOMPSON of Mississippi. Mr. Speaker, the administration is enforcing the law. ICE is currently detaining over 38,000 people. This is 4,000 more than Congress has provided funding for. If Republicans want DHS to detain more people, they should provide the

funds the administration has asked for in the supplemental request.

Under former President Trump, Republicans cheered the doubling of drug seizures. Now, they view it as a problem. This is hypocrisy at its finest.

Under Secretary Mayorkas' leadership, DHS has seized more fentanyl and arrested more criminals for fentanyl-related crimes in the last 2 years than in the previous 5 years. This impeachment has been a preplanned political stunt from the beginning.

Mr. Speaker, I include in the RECORD a New York Times article detailing how Homeland Security Committee Chairman MARK GREEN promised donors that the House would impeach Secretary Mayorkas prior to launching any type of inquiry. He said: "Get the popcorn."

[From the New York Times, Apr. 18, 2023]

KEY REPUBLICAN TELLS DONORS HE WILL PURSUE IMPEACHMENT OF MAYORKAS

(By Karoun Demirjian)

WASHINGTON.—The Republican chairman of the House Homeland Security Committee promised donors this month that he would produce an impeachment case against the Biden administration's homeland security chief, Alejandro N. Mayorkas, saying that the secretary's appearance before the panel this week would be the beginning of his demise.

Representative Mark E. Green told an enthusiastic crowd in his home state of Tennessee last week that his committee would expose Mr. Mayorkas's "dereliction of duty and his intentional destruction of our country through the open southern border." He said the panel would deliver charges to the House Judiciary Committee, which handles impeachment proceedings, according to an audio recording of a House Freedom Caucus fund-raiser obtained by The New York Times.

He said he had a "five-phase plan" for doing so and that the Homeland Security Committee would "put together a packet, and we will hand it to Jim Jordan and let Jim do what Jim does best."

Mr. Green apparently was referring to Representative Jim Jordan, the Ohio Republican who leads the Judiciary panel. His comments made clear that G.O.P. leaders are serious about their threats to impeach Mr. Mayorkas. He said the plan would start with an appearance by the secretary before his committee on Wednesday.

On April 19, next week, get the popcorn—Alejandro Mayorkas comes before our committee, and it's going to be fun," Mr. Green told the room, adding: "That'll really be just the beginning for him."

A spokeswoman for Mr. Green did not respond to requests for comment.

Mr. Green and other Republican leaders have made no secret of their desire to pursue impeachment charges against Mr. Mayorkas. Speaker Kevin McCarthy began threatening to impeach him months before Mr. McCarthy won his gavel. But their ambitions have been limited thus far by the political realities of the House; not every Republican wants to demonize Mr. Mayorkas as solely responsible for the country's immigration problems, and with a slim majority, party leaders do not yet have the votes to impeach him.

As a result, Mr. Green and other House Republicans in positions of authority have been careful to avoid promising publicly that they would find evidence against Mr. Mayorkas worthy of prosecution. Behind closed doors with core supporters, however, Mr. Green

was less cautious, using the issue to whip up the crowd.

During a public session on Capitol Hill on Tuesday before the Homeland Security and Government Affairs Committee, Republicans hammered Mr. Mayorkas both for the border situation and for recent revelations, documented in an investigation by The New York Times, that unaccompanied migrant children have been exploited as laborers. Both Senators Ron Johnson of Wisconsin and Josh Hawley of Missouri demanded that the secretary resign.

Mr. Mayorkas pushed back, saying his department was not responsible for the child labor crisis.

"You are incorrectly attributing it to our policies," he told Mr. Hawley. He also disputed the idea that he could be held personally responsible for the problems at the border, telling senators: "Our asylum system is broken, our entire immigration system is broken, and in desperate need of reform—and it's been so for years and years."

The Department of Homeland Security has dismissed calls for Mr. Mayorkas to step down as "baseless" and "reckless," and Mr. Mayorkas has suggested in past interviews that the efforts to impeach him were simply a way of turbocharging policy disputes with the administration.

Mr. Green made his comments at an event billed as a "V.I.P. Reception and Conversation with Conservative Heroes," where he appeared behind closed doors alongside Mr. Jordan and other hard-right Republicans. He pointed to recent testimony before his panel by Raul L. Ortiz, the Border Patrol chief, who detailed "an increase in flow" in five of the nine sectors along the U.S.-Mexico border and said it had "caused a considerable strain on our resources."

He also recalled Mr. Ortiz's testimony that the United States does not have "operational control" of the southern border, which Republicans seized on to accuse Mr. Mayorkas, who had testified that the border is secure, of dishonesty. Mr. Mayorkas addressed the apparent discrepancy during a separate hearing last month, telling senators that he was using a different definition of "operational security," and that the two statements were not in conflict.

Mr. Green nonetheless trumpeted Mr. Ortiz's words as a kill shot against Mr. Mayorkas, telling the donors that "he'll see that video a couple of times" during the upcoming hearing before the Homeland Security panel.

The secretary's appearances on Capitol Hill this week come as the Republican House is barreling ahead with what Mr. Green told donors would be "the most conservative border security bill that this Congress has ever seen, or any Congress has ever seen." The panel is expected to debate that bill next week.

On Wednesday, while Mr. Mayorkas is testifying before the Homeland Security panel, the Judiciary Committee is scheduled to debate a second border security bill aimed at restricting migrant inflows, including by restricting access to asylum and requiring all employers to adopt an electronic system that screens prospective employees' eligibility to work.

Mr. GREEN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that most of my colleagues here and a lot of people back home certainly know that I had the unbelievable privilege to interview Saddam Hussein on the night of his capture.

As I was sitting there talking to Saddam Hussein, I asked him why he invaded Kuwait. He gave me all these

justifications about who owned which oil field. Then he held up the palm of his hand and he pointed to the palm of his hand and said: All human civilization is from the Tigris and Euphrates Rivers. Every person on the planet is an Iraqi, and I am the President of Iraq.

What Saddam Hussein was saying was he was the king of the world. The thought struck me: How does a person get there? Well, the old adage came to mind that absolute power corrupts absolutely. When you concentrate power into the hands of fewer and fewer people, you get tyranny every time. In this case, one man.

Our Founders were brilliant. They were following the philosophies of Montesquieu, and they decided they would divide power out; they would separate three branch of government. Then with the 10th Amendment, they would separate power between the Federal Government, the States, and the local governments. They did develop three equal and separate branches of government, with the legislative branch writing the laws and the executive branch executing the laws.

Interestingly enough, in the Iran-Contra hearing, the Democrats said in their report: You can't pick and choose which law you want to enforce. It is also fascinating that here we are and they say it is about policy. This is about a systemic, planned mechanism to undo the immigration laws passed before, just because the current Secretary doesn't think that is what they ought to be.

This Secretary is supposed to execute those laws, but he has chosen not to. It says, shall detain criminal felons, and he has directed his DHS employees not to do that, violating the laws passed by this body, telling this separate but equal branch of government: I don't care what you say or have passed as law. I don't care that you represent the voice of the American people. I am the guy who knows the best way to do it, and I am going to do it my way. That is the road to tyranny, that is power in one man's hands, and that is not what our Constitution says it is supposed to be.

He took an oath to that Constitution to defend that Constitution that says this branch writes, that branch executes. He has violated his oath of office. He has subverted the laws that this body has passed and, thus, basically said: I don't care about the Congress. That is unacceptable. Whether he were a Republican or a Democrat standing that way, I would be here today doing everything I could to remove him from office.

When I was 17, I took an oath to that Constitution for the first time and served for 24 years, willing to take a bullet for that Constitution and the people of this country. I will not stand idly by while he throws it in the garbage.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself the balance of my time for closing.

Even some House Republicans have acknowledged that there is no constitutional basis for impeachment. Representative MCCLINTOCK called this effort an unconstitutional abuse of power and reckless, partisan, and unserious. Representative BUCK said: It is not an impeachable offense. This is a policy difference.

Mr. Speaker, besides failing to articulate a single cognizable charge that would meet the constitutional impeachment standard of high crimes and misdemeanors, this sham impeachment has been marred by procedural failures.

Mr. Speaker, I include in the RECORD documentation of those procedural failures.

COMMITTEE ON HOMELAND SECURITY,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 2024.

Hon. MARK E. GREEN,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Your ill-advised decision to rush to a markup of an impeachment resolution of Secretary Alejandro Mayorkas without any form of due process or Democrats' properly requested minority-day hearing is disappointing yet expected.

Nothing about this sham impeachment has abided by House precedent, but all of it has been done to reach the predetermined outcome you promised your donors last year.

1. This impeachment inquiry was not authorized by the full House. Until this Congress, Republicans have railed against pursuing impeachment without formal authorization by the full House. The last time a Cabinet official was impeached—the 1876 case of Secretary of War William W. Belknap—the full House authorized several committees to investigate well-publicized cases of fraud in the Federal Government. In this case, however, the full House was not permitted to debate the merits (or lack thereof) of impeaching Secretary Mayorkas or consider the proper procedures for any such investigation.

2. Secretary Mayorkas was not afforded any rights in the absence of an authorized impeachment inquiry. Authorizing resolutions not only imbue investigative committees with additional authority and legitimacy, but they also afford subjects of such investigations the ability to respond to the investigation. When the House authorized its impeachment inquiry into former President Donald Trump during the 116th Congress, for example, House Resolution 660 authorized the Committee on the Judiciary to adopt rules allowing for the participation of the President and his counsel. In the Belknap impeachment, the committee of primary jurisdiction “gave [Belknap] opportunity to explain, present witnesses, and cross-examine witnesses.” No such rights were afforded to Secretary Mayorkas.

3. Secretary Mayorkas was not afforded the opportunity to testify before the Committee despite his willingness to do so. Secretary Mayorkas has testified at congressional hearings 27 times during his tenure—more than any other Cabinet secretary. The Secretary said he would “make himself available” to testify before the House Homeland Security Committee, but you refused to accommodate his request and find a mutually agreeable date. Instead, on January 18, 2024, you offered the Secretary the opportunity to include written testimony for the record of that day's hearing. The window to

submit such testimony will still be open by the time the Committee proceeds to markup a resolution impeaching him on Tuesday, January 30, 2024.

4. Democrats' properly entered minority-day hearing request will not be acted upon prior to the markup of an impeachment resolution. At the January 18, 2024 Committee hearing, I furnished you with a timely demand for a minority-day hearing, signed by all Democratic Members of the Committee, pursuant to clause 2(j)(1) of rule XI of the Rules of the U.S. House of Representatives. The rule is clear: “[T]he minority members of the committee shall be entitled . . . to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.” When presented with that demand, however, you erroneously said, “So as I understand the rules, the request is only in order when you don't have a witness present and today, you have a witness present, so this not [in] order.”

Nothing in the text of the rule supports that assertion. Indeed, as I pointed out during our exchange, the rule states the precise opposite: “Although a majority of the minority members of a committee are entitled to call witnesses selected by the minority for at least one day of hearings, no rule of the House requires the calling of witnesses on opposing sides of an issue.” The Chair is required to schedule a minority-day hearing. Having a witness selected by the Minority at a hearing does not preclude the request for a minority-day hearing under rule XI.

Democrats intended to call additional Constitutional and legal experts to continue to inform the Committee of the lack of any grounds to proceed with the impeachment of Secretary Mayorkas. Indeed, even frequent Republican impeachment expert Jonathan Turley thinks that Secretary Mayorkas has not committed an impeachable offense. The impeachment resolution will proceed to markup without this hearing required under House rules and the benefit of such testimony.

5. The Committee was used as a platform for Members to campaign for other office. In blatant disregard for the House Code of Official Conduct (House rule XXIII) and chapter 4 of the House Ethics Manual, a Republican Member referenced his campaign for State attorney general during his questioning of hearing witnesses on January 10, 2024. As I pointed out to you at the time, “I just ask that if [the Member is] going to run just go run, just don't run when the committee is in session.” This violation of ethical standards underscores the political nature of this entire impeachment farce: it bears no relationship to the Constitution or whether Secretary Mayorkas has committed an impeachable offense.

Despite these obvious defects and departures from precedent, the Committee will regrettably proceed to a markup of an impeachment resolution next week.

This unserious impeachment is a testament to partisan politics over rules and reason. Just two legal experts testified before the Committee, and both participated at the invitation of Democrats. Both of these distinguished scholars plainly stated that the Constitution did not support the impeachment of Secretary Mayorkas. Given the grave importance of impeachment—which you once described as “probably the most extreme remedy that our constitution affords for taking someone out of office”—this Committee should do better. At the very least, it should follow the rules and practices established over more than two centuries of congressional history.

In 1788, Alexander Hamilton wrote: “In many cases [impeachment] will connect

itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest on one side or on the other; and in such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."

In the inept and inappropriate ways you have handled the Committee during this partisan sham, you have proven Hamilton correct.

Sincerely,

BENNIE G. THOMPSON,
Ranking Member.

COMMITTEE ON HOMELAND SECURITY,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 18, 2024.

DEAR MR. CHAIRMAN: Pursuant to clause 2(j)(1) of rule XI, the Democratic Members of the Committee on Homeland Security request a hearing to call witnesses selected by the minority to testify with respect to the impeachment of Secretary Alejandro N. Mayorkas, currently before the Committee.

Sincerely,

BENNIE G. THOMPSON,
Ranking Member.

SHEILA JACKSON LEE,
ERIC SWALWELL,
DONALD M. PAYNE, JR.,
J. LUIS CORREA,
TROY A. CARTER, Sr.,
SETH MAGAZINER,
DAN GOLDMAN,
DELIA C. RAMIREZ,
DINA TITUS,
SHRI THANEDAR,
GLENN IVEY,
ROBERT GARCIA,
YVETTE D. CLARKE,
ROBERT J. MENENDEZ,
Members of Congress.

Mr. THOMPSON of Mississippi. Mr. Speaker, the statements from the other side this afternoon have misrepresented the facts and the laws of this baseless, sham impeachment.

This extreme MAGA Republican majority is more about stunts rather than solutions. This political stunt is about placating extreme elements within the Republican Conference rather than doing what is right for America, because it is clear that Republicans have failed to make the case for impeachment. They have failed to articulate a single high crime and misdemeanor. The other side of the aisle wreaks of desperation.

Sadly, many Republicans appear willing to undermine the Constitution they claim to hold dear to score cheap political points. I am holding out hope that some of my colleagues across the aisle will do the right thing, that they will join us in upholding the oath we all swore to the Constitution.

Mr. Speaker, I urge my colleagues to reject H. Res. 863. Vote "no" on this sham impeachment.

Mr. Speaker, the Department of Homeland Security has issued a detailed rebuttal of this sham impeachment in a letter to the House Rules Committee. I include in the RECORD an extract of the legal analysis of the Department. The full letter can be found at https://democrats-homeland.house.gov/imo/media/doc/dhs_letter_to_rules.pdf.

OFFICE OF THE GENERAL COUNSEL,
U.S. DEPARTMENT OF HOMELAND
SECURITY,
Washington, DC, February 5, 2024.

Chairman TOM COLE,
Ranking Member JIM MCGOVERN,
House Committee on Rules,
Washington, DC.

DEAR CHAIRMAN COLE AND RANKING MEMBER MCGOVERN: We write in connection with House Resolution 863 (the "Resolution"), which was introduced by Representative Marjorie Taylor Greene and approved along partisan lines by the Committee on Homeland Security (the "Committee"). The Resolution contains two articles impeaching Secretary Mayorkas.

Passage of this Resolution by the House of Representatives would be unconstitutional. The effort to impeach Secretary Mayorkas represents a dramatic departure from over two centuries of established understanding and precedent about the meaning of the Impeachment Clause of the Constitution and the proper exercise of that extraordinary tool. In addition to lacking any basis in the Constitution, the impeachment articles reflect a basic misrepresentation of key statutes governing immigration law. Contrary to the Resolution's charges, the Department of Homeland Security ("DHS" or the "Department") under Secretary Mayorkas's leadership has always followed the law in good faith, and any suggestion otherwise is false.

I. INTRODUCTION AND SUMMARY

This letter explains why the proposed impeachment of Secretary Mayorkas is illegitimate, invalid, and dangerous. It proceeds in three parts. Part I describes the broad and overwhelming consensus that the constitutional standard for impeachment—"Treason, Bribery, or other high Crimes and Misdemeanors"—does not encompass mere disagreements with policy decisions made in good faith or the lawful exercise of enforcement discretion. Both the Constitution's text and the Framers' explicit intent make clear that impeachment is not a lawful remedy for partisan disputes, nor is it a permissible means for Congress to voice its disapproval of how a Cabinet Secretary is furthering the Administration's policies. Indeed, Congress has twice rejected proposals to impeach Executive Branch officials based on partisan disagreement with their immigration enforcement decisions.

Part II explains why the effort to impeach the Secretary lacks any basis in law and consists only of a thinly-veiled dispute about border security and immigration policy. While the Resolution has charged the Secretary in Article I with "willful and systemic refusal to comply with the law," there is no legal or factual basis for that allegation. At its core, the Article is nothing more than a simple list of criticisms of the policies of the current Administration. These assertions do not meet the Constitutional standard for impeachment. The Secretary has followed the law in good faith in each and every action that the Resolution cites as a purported ground for impeachment, whether related to asylum, detention, removals, parole processes, or any others. All of those decisions find ample support in existing provisions of the Immigration and Nationality Act ("INA"). To the extent Congress wants to change the Administration's policies, the Constitution prescribes a different path: passing legislation. In fact, the Secretary has worked for months with Members of Congress from both parties to seek bipartisan legislation—the draft of which was released yesterday—to help solve the challenges faced at the border. There has been no "refusal to comply with the law," much less the kind of deliberate malfeasance or personal corrup-

tion that the Constitution requires for the extraordinary remedy of impeachment.

Finally, Part III addresses the hodgepodge of claims under Resolution Article II, entitled "Breach of Public Trust." That Article claims that the Secretary made false statements about "operational control" or border security, that he inappropriately reversed Trump-era immigration policies, and that he failed to comply with unidentified Congressional subpoenas. These conclusory assertions are false, and the Resolution provides no support for them. As detailed below, the Secretary has not made false statements about conditions at the border but rather transparently provided his opinions about border security. His reversal of certain earlier immigration policies is the result of a change of Administrations, not a breach of the public's trust. And he has not failed to comply with subpoenas or other oversight; under his leadership, DHS has been extraordinarily cooperative with Congress. It is the Committee, not the Secretary, that has departed from regular order by abandoning established standards and procedures that have characterized every relevant impeachment effort in this Nation's history.

Impeachment in these circumstances, and on this record, would represent a radical and dangerous step in violation of the Constitution. Taken to its logical conclusion, it would alter the balance between the Legislative and Executive Branches and would disrupt the relationship between a President and his or her Cabinet. The House of Representatives should reject the proposed Articles of Impeachment.

IMPEACHMENT BASED ON PARTISAN POLICY DIS-
PUTES IS UNCONSTITUTIONAL AND UNPRECE-
DENTED

Under the Constitution, impeachment is an extraordinary measure limited to "Treason, Bribery, or other high Crimes and Misdemeanors." Although the Resolution alleges a "Willful and Systemic Refusal to Comply with the Law" and "Breach of Public Trust," there is no basis to support either Article. To the contrary, the entire Resolution reduces to an expression of disagreement with and disapproval of the Secretary's good-faith policy decisions, judgments, and opinions about how best to pursue the Administration's policy choices on border security and immigration enforcement within legal bounds. Disagreement with an Administration's policy positions and opinions is not a valid basis to impeach a Cabinet Secretary, whose job is to execute those policies. Constitutional text, historical precedent, and the overwhelming body of scholarship—including every Constitutional scholar who testified before the Committee and dozens of others who have commented publicly on these proceedings—confirm that impeachment of the Secretary in these circumstances would be unconstitutional, unprecedented, and destabilizing.

THE FRAMERS ESTABLISHED A HIGH BAR FOR IM-
PEACHMENT THAT DOES NOT ENCOMPASS POL-
ICY DISAGREEMENTS

The Framers carefully erected a high bar for impeachment, deliberately rejecting the more liberal use of that tool that had characterized British Parliamentary practice. The Framers specifically limited impeachment to a narrow set of intentional and grave crimes against the public that could undermine the constitutional order. In adopting the phrase "high Crimes and Misdemeanors" as grounds for impeachment, the Framers first considered, and squarely rejected, a lower standard that would have encompassed less severe offenses such as "malpractice," "neglect of duty," and "maladministration." The Framers thereby sought to prevent impeachment from becoming a mere partisan weapon that could be

used to supplant the President's policies for those favored by the legislature. As the Constitution's text, the Founding debates, and overwhelming weight of expert opinion make clear, impeachment is not an appropriate means for Congress to express disagreement with an official's exercise of his duties or the policies he pursues. Rather, the Framers determined that impeachable conduct would consist only of the most serious intentional wrongdoing that regular elections could not adequately remedy.

THE CONSTITUTION'S TEXT MAKES CLEAR THAT POLICY AND ENFORCEMENT DECISIONS ARE NOT "HIGH CRIMES AND MISDEMEANORS"

Article II, Section 4 of the Constitution limits Congress's power to impeach the President, Vice President and, as relevant here, officer of the United States to: "Treason, Bribery, or other high Crimes and Misdemeanors." Because Secretary Mayorkas has not been accused of either treason or bribery, any article of impeachment against him must establish that he committed "high Crimes and Misdemeanors." The Framers of the Constitution intended that this term of art encompass a narrow set of "great" and "dangerous" crimes against the public characterized by serious and intentional "abuses of official power." That was the kind of "breach of the public trust," in which the office-holder pursued some illegitimate interest over his duty to country, that the Framers deemed worthy of impeachment.

The Framers recognized treason and bribery as the most serious offenses one could commit against the constitutional system of government. The use of the word "other" before "high Crimes and Misdemeanors" signaled that this category comprises only those offenses that are similar to "treason" and "bribery" both in kind and degree. Any impeachable "high Crimes and Misdemeanors" must involve an act of deliberate malfeasance as serious and damaging to the constitutional order as betraying the Nation in exchange for personal gain, "not merely a mistake in judgment or policy or partisan differences."

THE FRAMERS REJECTED "MALADMINISTRATION" AND GOOD-FAITH POLICY DISPUTES AS A BASIS FOR IMPEACHMENT

While American impeachment practice has roots in the British Parliamentary system, the Framers intentionally rejected the lower impeachment standard that system applied. Consistent with the separation of powers established in the Constitution, the Framers rejected "maladministration" as grounds for impeachment, instead requiring deliberate and egregious misconduct. The Framers thereby sought to prevent Congress from employing impeachment as a mere political tool that could subordinate the Executive to the will of Congress.

The Framers adapted the concept of impeachment from the British Parliament, which first employed impeachment procedures in the fourteenth century as a legislative check against disfavored royal ministers. Because the hereditary monarchy wielded absolute power that insulated it from direct criticism, Parliaments dissatisfied with a monarch's policies devised a method for removing ministers charged with carrying out royal policies by alleging that the ministers were incompetent or malicious in the execution of their duties. In practice, this broad standard meant royal ministers served at the pleasure of Parliament. Parliament's impeachment power was limited to instances typically involving an abuse of power exercised either through corruption or maladministration. Because there was no formal codification of the term, however, British officials were impeached for a wide variety of misdeeds, ranging from personal

corruption and the commission of crimes to neglect of duty and even providing bad advice.

Against this historical backdrop, the Framers debated whether to adopt the British use of "high crimes and misdemeanors" but decided to narrow it to willful and egregious abuses of power. Under the resulting American formulation, good-faith policy decisions or the exercise of discretion do not constitute impeachable conduct.

Initially, some delegates to the Constitutional Convention proposed that the Constitution provide for impeachment in cases of "mal-practice or neglect of duty." That language was rejected in favor of the phrase "treason, bribery, or corruption," a revision that "seemed to exclude mere mismanagement or incompetence." George Mason then proposed adding "maladministration" as a basis for impeachment. The delegates also rejected that formulation, believing "[a]n election of every four years will prevent maladministration." James Madison added that if the Constitution made "maladministration" impeachable, "[s]o vague a term will be equivalent to a tenure during pleasure of the Senate" rather than allowing officials to serve out their terms and execute the policies that they were elected to pursue. In other words, "maladministration" would create an impeachment standard more analogous to the British Parliamentary system. It would thereby subject the Executive Branch to the will of Congress and allow for the removal of the President or other Executive Branch officials for a wide range of common transgressions, including "inefficient administration, or administration that did not accord with Congress's view of good policy." Having created a government executive power that, unlike the monarch in Britain, was answerable to the voters, they concluded the impeachment power should and need not be available for mere policy differences or failure to perform the job adequately. The Framers thus established that "high Crimes and Misdemeanors" would not encompass mere "maladministration."

Additional historical records indicate that impeachment is reserved for conduct characterized by intentional or purposeful wrongdoing. For example, during the Virginia Ratifying Convention, Edmund Randolph remarked that even in England, "[n]o man ever thought of impeaching a man for an opinion."

Scholars across the ideological spectrum agree that the "Framers' rejection of 'maladministration' as a basis for impeachment was, in effect, a rejection of a standard" that lacked prerequisites such as bad faith or corrupt intent. As Professor Charles Black explained in his seminal treatment of impeachment, "certainly the phrase 'high Crimes and Misdemeanors,' whatever its vagueness at the edges, seems absolutely to forbid the removal of a president on the grounds that Congress does not on the whole think his administration of public affairs is good." Thus, "whatever may be the grounds for impeachment and removal, dislike of a president's policy is definitely not one of them, and ought to play no part in the decision on impeachment." Likewise, impeachment scholar Professor Michael Gerhardt observed, following a comprehensive review of historical impeachment precedent, that the Senate has "concluded that impeachable offenses do not include errors of judgment or policy differences." Professor Keith Whittington similarly concluded that the adoption of the phrase "high crimes and misdemeanors" "seemed to capture the range of potential dangers that concerned Madison and others, without leaving the president vulnerable to impeachment over routine political and policy disagreements."

Mr. THOMPSON of Mississippi. Mr. Speaker, Homeland Security Committee Chairman MARK GREEN denied Secretary Mayorkas the ability to testify during the committee's sham impeachment "investigation." Secretary Mayorkas, however, wrote the Chairman to set the record straight. I include in the RECORD the Secretary's January 30, 2024, letter to Chairman GREEN.

U.S. DEPARTMENT OF

HOMELAND SECURITY,

Washington, DC, January 30, 2024.

Hon. MARK E. GREEN,

Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN GREEN: On January 5, 2024, you sent a letter to me requesting that I again appear before the House Homeland Security Committee to provide testimony. I have testified before this Committee seven times. I agreed to testify again and asked to work with your staff to identify a mutually agreeable date. You did not respond to my request, changed course, and instead invited me to submit written testimony. Two days later, you issued a statement representing that every member of the Committee's majority already had rendered their decision. I respectfully submit this letter in response.

The problems with our broken and outdated immigration system are not new. I assumed office in February 2021. Immigration cases concluded that year reportedly had been languishing in court for an average of 1,319 days. In 2010, that average was 347 days. The Department of Justice's Executive Office for Immigration Review reports that at the end of Fiscal Year 2020, there were 1,261,144 cases in the immigration court backlog. In 2017 that number was 656,383. The DHS Office of Immigration Statistics reported that there were approximately 11.4 million undocumented individuals present in the United States in 2018. Our immigration laws last received an overhaul in 1996. Our immigration laws were simply not built for 21st century migration patterns.

In 2019, prior to the onset of COVID and as country conditions in Latin America were on the decline, the number of migrants encountered at our Southwest Border increased almost 100 percent over the prior year. In this post-COVID period, the challenges at our border have again intensified as the world experiences the greatest displacement of people since World War II and our entire hemisphere is gripped with mass migration brought on by violence, food insecurity, severe poverty, corruption, authoritarian regimes, and the destruction of homes and communities by extreme weather events. These movements are facilitated by human smuggling organizations that exploit migrants as part of a billion-dollar criminal enterprise. The depth of suffering that migrants are willing to endure speaks to the desperation they feel about their prospects at home.

We need a legislative solution and only Congress can provide it. I have been privileged to join a bipartisan group of United States Senators these past several months to provide technical and operational expertise in support of their efforts to strengthen our country's border security. These efforts would yield significant new enforcement tools and make a substantial difference at our border.

Our law enforcement personnel need additional resources to execute our border security and enforcement strategy, which is why the Administration requested supplemental funding in August and then again in October 2023. That request included the hiring of an additional 1,300 Border Patrol Agents, 1,000 law enforcement officers and the purchase and deployment of over 100 cutting-edge

Non-Intrusive Inspection (NII) systems to prevent cartels from moving fentanyl into the country, and 1,600 additional asylum officers to rapidly adjudicate claims for asylum and facilitate timely decisions so that those who are ineligible can be quickly removed and those with valid claims can receive prompt resolution.

Instead, you claim that we have failed to enforce our immigration laws. That is false. We have provided Congress and your Committee hours of testimony, thousands of documents, hundreds of briefings, and much more information that demonstrates quite clearly how we are enforcing the law. The extensive material we have provided informed you that, for example:

This Administration has removed, returned, or expelled more migrants in three years than the prior Administration did in four years.

Since May 12, 2023, DHS has removed or returned more than 500,000 individuals, the vast majority of whom crossed the Southwest Border.

Total removals and returns since mid-May 2023 exceed removals and returns in every full fiscal year since 2015.

Daily removals and returns are nearly double what they were compared to the pre-pandemic average from 2014 to 2019. The majority of individuals encountered at the Southwest Border throughout this Administration have been removed, returned, or expelled.

We have significantly increased the number of removal flights within the Western Hemisphere since the end of Title 42, sending over 20 flights per week of individuals who have been rapidly processed and determined to be removable. We continue to repatriate individuals to more than 150 countries.

Before 2013, the majority of individuals attempting to cross the border entered without being caught. Under this Administration, the estimated annual apprehension rate has averaged 78 percent, the same average rate of apprehension as in the prior Administration.

We developed and implemented a regulation that created a presumption of ineligibility for asylum if an individual who crossed the Southwest Border without authorization traveled through another country and failed to meet defined criteria, including the use of lawful pathways made available to them.

We have been executing an unprecedented and high-impact campaign to disrupt and dismantle the smuggling organizations. More than 14,000 smugglers throughout the region have been arrested and thousands have been prosecuted under federal law.

We have worked with Mexico to conduct mirrored patrols along the Southwest Border, and we have worked with Mexico and other countries to increase interdictions along the migratory routes, increase repatriation flights, and execute the removal of third-country nationals.

Last year we secured funding to hire 300 more Border Patrol Agents, the first increase in more than a decade. Last year I was honored to promote Jason Owens, a career Border Patrol Agent, as the new Chief of the United States Border Patrol.

Undoubtedly, we have policy disagreements on the historically divisive issue of immigration. That has been the case between Administrations and Members of Congress for much longer than the past 38 years since the last overhaul of our immigration system. I think it is unconscionable to separate children from their parents as a tool of deterrence. I believe that law enforcement at the border can be tough and humane. It is our responsibility to the American people to work through our differences and try to reach solutions together. The bipartisan group of United States Senators is currently doing just that.

The trafficking and use of illegal drugs are also not new problems for our country. We have been fighting the war against drugs for decades. When I was working to convict drug dealers and traffickers as a federal prosecutor throughout the 1990s—including the prosecution of the largest cocaine money laundering operation in the country at the time—I saw up close the loss and damage wreaked by black tar heroin, methamphetamine, crack cocaine, and other illegal drugs. I was dedicated then, as I am now, to defeating this scourge upon our country.

What I saw for twelve years as a federal prosecutor does not compare to what our country has experienced and what we have been fighting for more than the past seven years. The addictiveness and fatality of synthetic opioids have cost hundreds of thousands of lives and have ravaged communities. The Centers for Disease Control and Prevention (CDC) reports that overdose deaths involving synthetic opioids—primarily fentanyl—began to climb in 2014 and have accelerated since. Provisional data from the CDC reflects 28,659 overdose deaths involving synthetic opioids in 2017, escalating to 56,894 in 2020; 71,143 in 2021; and 74,789 in 2022. Every death from drug overdoses and poisoning is a tragedy.

The battle against fentanyl presents unique challenges because fentanyl is cheap to make, easily concealed, and made with precursor chemicals and materials that have legal uses. We have intensified our efforts against the cartels and developed new strategies in response. In Fiscal Year 2023 our targeted operations seized more than 43,000 pounds of fentanyl, 3,600 pill presses, and \$16 million in currency. We work closely with partners in other countries. Homeland Security Investigations has established 16 Transnational Criminal Investigative Units (TCIUs) that are successfully supporting investigations and prosecutions abroad. In Fiscal Year 2023, efforts by the Mexico TCIU resulted in more than 59 criminal arrests and the seizure of 64,138 pounds of precursor chemicals.

To better detect smuggling, we are dramatically expanding the use of NII technology at ports of entry, through which more than 90 percent of fentanyl is smuggled into the United States. We are adding new state-of-the-art NII systems to complement those currently in use across Southwest Border ports of entry, with 72 construction projects underway at 15 ports.

Our strategy has evolved to target not just fentanyl, but also the tools and materials the transnational criminal organizations use to make it. We are interdicting and seizing precursor chemicals, pill press machines, die molds, and pill press parts used in the manufacturing process. We are targeting Chinese pill press and precursor supply chains, Mexican pill press brokers, the Mexican transnational criminal organizations and the domestic traffickers who are producing and moving fentanyl, and the money launderers who help facilitate this illicit trade. Our efforts over the past year have resulted in the seizure of nearly 1 million pounds of fentanyl and methamphetamine precursor chemicals.

Our Department is helping partners in the Western Hemisphere and Asia build their own capacity to combat the smuggling of illicit fentanyl. We recently established a working group for ongoing communication and law enforcement coordination with the People's Republic of China to increase cooperation and information sharing.

We are innovating with the responsible use of artificial intelligence at our ports of entry. This year alone, machine learning models that help CBP Officers determine which suspicious vehicles and passengers to refer to secondary screening have led to 240

seizures, which included thousands of pounds of cocaine, heroin, methamphetamine, and fentanyl. More details about our efforts to combat fentanyl can be found in this recent DHS fact sheet.

There is much more to do in the fight against fentanyl and other synthetic opioids. We must reduce both supply and demand. To accomplish this, we must work together to tackle what we all agree is a horrific problem that poses grave danger to our citizens, our communities, and our nation.

The Chairman and Members of the Committee's majority have harshly criticized the Department's responsiveness to oversight. The allegations are baseless and inaccurate.

I take very seriously my responsibility to cooperate in good faith with Congress's oversight function. I have devoted significant Departmental resources and personal time to this effort. I have testified publicly in 27 Congressional hearings since I became DHS Secretary. Twelve of those hearings were in the House of Representatives, including seven before the House Homeland Security Committee. I have testified more than any other member of the Cabinet.

In every House hearing, I was asked and I answered many questions about immigration and the border. In all but one of those hearings, I was asked and I answered questions about our counter-fentanyl work. The Department has produced thousands of pages of documents, provided countless briefings, and sent dozens of witnesses to appear in hearings and transcribed interviews. We have produced more than 13,000 pages of documents and data in response to this Committee's requests alone. Further information evidencing the Department's response to Congressional oversight is attached.

Whatever proceedings you initiate, however baseless, my responsiveness to oversight requests will not waiver. The Department has been committed to responding and will continue to respond in good faith to Congressional oversight requests.

I will defer a discussion of the Constitutionality of your current effort to the many respected scholars and experts across the political spectrum who already have opined that it is contrary to law. What I will not defer to others is a response to the politically motivated accusations and personal attacks you have made against me.

I have been privileged to serve our country for most of my professional life. I have adhered scrupulously and fervently to the Oath of Office I have taken six times in my public service career.

My reverence for law enforcement was instilled in me by my parents, who brought me to this country to escape the Communist takeover of Cuba and allow me the freedoms and opportunity that our democracy provides. My parents experienced such loss at the fisted hands of authoritarianism that the American law enforcement officer stood as a tangible symbol of safety and the rule of law in our new home. When I was a boy, my mother would have me jump out of the back seat of our family's station wagon, approach a police officer in uniform, extend my hand, and say thank you.

It was because of everything America meant and gave to my family that I was motivated to enter public service. It was because of my admiration and respect for the men and women who wore a badge that I wanted to work with them to enforce our country's laws. In 1989, I was privileged to take the Oath of Office and be sworn-in as an Assistant United States Attorney for the Central District of California.

For the next nearly nine years, I worked with federal, state, and local law enforcement agents and officers in the investigation and prosecution of federal crimes. We seized

and forfeited property purchased with proceeds of drug deals, and successfully prosecuted bank robbers; counterfeiters; members of the MS-13, 18th Street, Crips, Bloods, and other street gangs; cocaine, heroin, methamphetamine, and marijuana traffickers; migrant smugglers; illegal border crossers (most often criminals with multiple felonies, deportations, and reentries); fraudulent document manufacturers; illegal telemarketers; and many others. In 1996 I became the Chief of our General Crimes Section, where I trained all new Assistant United States Attorneys in the investigation and prosecution of federal criminal cases and how to try them before a jury. I have represented the United States in a federal courtroom in hundreds of hard-fought criminal cases.

In 1998 I was confirmed to serve as the United States Attorney for the Central District of California. I was the first federal prosecutor in our office's history to be promoted from within to the top leadership position. To have my father at my side as I took the Oath to assume that role was one of the proudest moments of my life.

Over the next three years, I prosecuted cases of national and international significance, enforcing a wide breadth of criminal statutes. I pursued the death penalty against members of the Mexican mafia, brought RICO charges against a Los Angeles street gang, and successfully prosecuted federal cases of money laundering, public corruption, human trafficking, foreign corrupt practices, drug trafficking, securities fraud, violent crime, immigration fraud, organized crime, and much more. A partial list of the recognition I received for my work as an Assistant United States Attorney and as the United States Attorney is attached.

I returned to public service in August 2009, upon my confirmation as the Director of U.S. Citizenship and Immigration Services. I vividly remember taking the Oath and getting to work on a top-to-bottom review of the agency and leading a subsequent realignment to best serve its mission. As a result of that review, I created a new Directorate within the agency—the Fraud Detection and National Security Directorate—to prioritize and more effectively fulfill the fundamental responsibilities of safeguarding our homeland and protecting the integrity of our legal immigration system.

I served as the Director of U.S. Citizenship and Immigration Services for four years, until I was nominated and confirmed by the United States Senate to serve as the Deputy Secretary of Homeland Security. My responsibilities as the Deputy Secretary covered the entire expanse of the Department's work, from going after the drug cartels, building the Department's cybersecurity capabilities, combating illegal immigration, and strengthening the Department's partnerships with state and local law enforcement, to negotiating security agreements with foreign countries, implementing new trade and travel protocols, and advancing our interests in the Arctic.

For my service as the Deputy Secretary of Homeland Security, I was awarded the Distinguished Service Award, the Department's highest civilian honor; the Distinguished Public Service Award, the United States Coast Guard's highest civilian honor; and recognition and awards from law enforcement agencies across the Department and the federal government.

On February 2, 2021, I took the Oath for the sixth time in my public service career and was sworn-in as the Secretary of Homeland Security. I am now in my 22nd year of service to our country. I no longer introduce and argue evidence in a federal courtroom to persuade the jury to convict a dangerous crimi-

nal, but the mission to which I remain devoted is the same: to safeguard the American people.

I assure you that your false accusations do not rattle me and do not divert me from the law enforcement and broader public service mission to which I have devoted most of my career and to which I remain devoted. The privilege of working alongside the 260,000 men and women who serve in the Department of Homeland Security—the privilege of working with incredibly talented and dedicated people on behalf of the United States of America—is the greatest thing one can do.

Secretary,

ALEJANDRO N. MAYORKAS,
Secretary.

Mr. THOMPSON of Mississippi. Mr. Speaker, former Department of Homeland Security officials recognize that this impeachment is baseless and has the potential to distract from the “actual business of legislating.” A divisive impeachment is far from a constructive solution. I include in the RECORD a letter by former senior homeland security officials who are opposed to this political stunt.

JANUARY 17, 2024.

Representative MARK E. GREEN, MD,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*
Representative BENNIE G. THOMPSON,
*Ranking Member, Committee on Homeland Security,
House of Representatives, Wash-
ington, DC.*

OPPOSITION TO THE IMPEACHMENT OF
SECRETARY MAYORKAS SIGN-ON LETTER

As former senior homeland security officials who served in administrations of both parties, we are compelled to express our deep concern regarding the potential impeachment of Secretary Alejandro Mayorkas.

Impeaching Secretary Mayorkas over longstanding political differences on immigration and border policies would be a grave mistake with far-reaching consequences for our national security and economic prosperity. The U.S. southern border is undeniably facing challenges, but assigning blame solely based on political and partisan grounds will do little to address the complex issues at hand.

It is imperative to consider the historical context; Congress has not impeached a Cabinet Secretary in over a century. Impeachment is a tool to remove officers of the government for treason, bribery, and high crimes and misdemeanors. The Founders never intended it to be used as a tool for mitigating policy disagreements.

Initiating such proceedings not only threatens to undermine national security but sets a perilous precedent that could have dire implications for the stability of our government. Impeaching Secretary Mayorkas would only serve to distract from the pressing need to implement effective policy solutions to rectify our immigration system and fortify America's national security.

The bipartisan struggle to assert control over the southern border has persisted for more than two decades, transcending administrations of both Democratic and Republican orientations. Resorting to a partisan impeachment would be counterproductive, exacerbating the existing polarization around this critical issue without addressing its root causes.

Furthermore, the Department of Homeland Security (DHS) has grappled with challenges in attracting and confirming senior officials, a situation detrimental to its overall functionality. Impeaching a Senate-confirmed Secretary would only contribute to the chaotic leadership structure, hindering the crucial mission of DHS in ensuring the security and economic success of our nation.

The significance of DHS's mission cannot be overstated, ranging from processing legal travelers at air and seaports to confronting drug-related threats at the border to securing aviation and other critical infrastructure to cybersecurity and many other missions. The performance of DHS directly impacts the lives of everyday Americans, and it is incumbent upon us to navigate the current challenges with a focus on constructive solutions rather than divisive measures.

We urge both Republicans and Democrats to set aside political differences and collaborate to develop genuine and meaningful changes to address the situation at the border. Ongoing negotiations around border security and funding present a potential opportunity for constructive development. We advocate for legislative solutions, including adequate funding, to replace the outdated policies that currently characterize our immigration system. It is crucial that Congress prioritizes solutions that strengthen our borders, treat migrants with dignity, and reduce backlogs that delay decisions on asylum claims, legal immigration petitions, and other cases and applications.

To be clear, the signatories to this letter do not all agree with the wisdom or effectiveness of all the immigration and border policies Secretary Mayorkas oversees, just as we often disagreed with policies his predecessors implemented. However, escalating these policy disagreements into an impeachment proceeding is a dangerous distraction from the actual business of legislating, where Congress' focus should lie.

We urge the House of Representatives not to initiate or conclude impeachment proceedings against Secretary Mayorkas. If the House completes such an impeachment, we urge the Senate to reject the proposal.

Thank you,

Jayson Ahern, Former Commissioner (A), U.S. Customs and Border Protection; Ross Ashley, Former Assistant Administrator, Federal Emergency Management Agency; Thomas Atkin, Former Special Assistant to the President and Senior Director for Border and Transportation Security Policy; Douglas Baker, Former Special Assistant to the President for Homeland Security and Senior Director for Border and Transportation Security Policy; Alan Bersin, Former Assistant Secretary for Policy and International Affairs, U.S. Department of Homeland Security; William Booher, Former Public Affairs Director, Federal Emergency Management Agency; Ed Cash, Former Director, Intergovernmental Affairs, U.S. Department of Homeland Security; Gus Coldebella, Former Deputy and Acting General Counsel, U.S. Department of Homeland Security; Gil Kerlikowske, Former Commissioner, U.S. Customs and Border Protection.

Prakash Khatri, Former Citizenship and Immigration Services Ombudsman, U.S. Department of Homeland Security; Admiral James M. Loy, Former Deputy Secretary, U.S. Department of Homeland Security; David A. Martin, Former Deputy and Acting General Counsel, U.S. Department of Homeland Security; Lynden Melmed, Former Chief Counsel, U.S. Citizenship and Immigration Services; Robert Moczynski, Former Senior Executive, U.S. Department of Homeland Security; Michael Neifach, Former Principal Legal Advisor, U.S. Immigration and Customs Enforcement; Elizabeth Neumann, Former Assistant Secretary for Threat Prevention and Security Policy, U.S. Department of Homeland Security; Leon Rodriguez, Former Director, U.S. Citizenship and Immigration Services.

W. Price Roe, Former Counselor to the Secretary, U.S. Department of Homeland Security; Paul Rosenzweig, Former Deputy Assistant Secretary for Policy, U.S. Department of Homeland Security; Seth Stodder,

Former Assistant Secretary for Borders, Immigration & Trade Policy, U.S. Department of Homeland Security; C. Stewart Verdery, Jr. Former Assistant Secretary for Borders and Transportation Security Policy and Planning, U.S. Department of Homeland Security; Dave West, Former Advisor, International Affairs, U.S. Department of Homeland Security; Jim Williams, Former Director, US-VISIT, U.S. Department of Homeland Security; Julie Myers Wood, Former Assistant Secretary, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; James Ziglar, Former Commissioner, Immigration and Naturalization Service.

Mr. THOMPSON of Mississippi. Mr. Speaker, former Secretary of Homeland Security Michael Chertoff, who was appointed by Republican President George W. Bush, wrote an op-ed for the conservative Wall Street Journal opposed to the baseless impeachment of Secretary Mayorkas. Former Secretary Chertoff wrote that House Republicans have, quote “failed to put forth evidence that meets the bar” for an impeachable offense. I include in the RECORD the Chertoff op-ed.

[From the Wall Street Journal, Jan. 28, 2024]

DON'T IMPEACH ALEJANDRO MAYORKAS
(By Michael Chertoff)

Political and policy disagreements aren't impeachable offenses. The Constitution gives Congress the power to impeach federal officials for treason, bribery and “other high Crimes and Misdemeanors.” That's a high bar. In the history of our republic, only one cabinet secretary has been impeached (for receiving corrupt kickback payments).

The House Homeland Security Committee is moving toward a Jan. 30 vote on articles of impeachment against Homeland Security Secretary Alejandro Mayorkas, with a possible vote by the full House on Feb. 5. As homeland security secretary under President George W. Bush—and as a former federal judge, U.S. attorney and assistant attorney general—I can say with confidence that, for all the investigating that the House Committee on Homeland Security has done, they have failed to put forth evidence that meets the bar.

This is why Republicans aren't seeking to hold Mr. Mayorkas to the Constitution's “high crimes and misdemeanors” standard for impeachment. They make the unsupported argument that he is derelict in his duty.

Since Mr. Mayorkas took office, the majority of migrants encountered at the Southwest border have been removed, returned or expelled. In fact, since the pandemic-era Title 42 policy was ended last May, DHS removed, returned or expelled more noncitizens than in any five-month period in the past 10 years. The truth is that our national immigration system is outdated, and DHS leaders under both parties have done their best to manage our immigration system without adequate congressional support.

I don't agree with every policy decision the Biden administration has made. There are aspects of immigration strategy that are worthy of debate. But House Republicans are ducking difficult policy work and hard-fought compromise. Impeachment is a diversion from fixing our broken immigration laws and giving DHS the resources needed to secure the border.

Our nation is at its best when our leaders work together to confront the seemingly intractable. The situation at our border and our national security, demand such bipartisan collaboration.

Despite our different parties, I know Mr. Mayorkas to be fair and honest—dedicated to

the safety and security of the U.S. He has represented DHS to the country and to both parties in Congress with integrity. Republicans in the House should drop this impeachment charade and work with Mr. Mayorkas to deliver for the American people.

Mr. THOMPSON of Mississippi. Mr. Speaker, it comes as no surprise that the Biden administration is opposed to this sham impeachment. The Biden administration has done everything in its power to uphold the law and have an orderly, humane approach to border security. I include in the RECORD a Statement of Administration Policy opposing the baseless impeachment of Secretary Mayorkas.

STATEMENT OF ADMINISTRATION POLICY

H. RES. 863—RESOLUTION IMPEACHING SECRETARY OF HOMELAND SECURITY ALEJANDRO MAYORKAS—REP. GREENE, R-GA

The Administration strongly opposes H. Res. 863, a House resolution introduced by Rep. Marjorie Taylor Greene to impeach Secretary of Homeland Security Alejandro N. Mayorkas.

Secretary Mayorkas, a Cuban immigrant who came to the United States with his family as political refugees, has spent more than two decades serving his country with honor and integrity in a decorated career in law enforcement and public service. From his time in the Justice Department as a U.S. Attorney to his service as Deputy Secretary and now Secretary of Homeland Security, he has upheld the rule of law faithfully and has demonstrated a deep commitment to the values that make our Nation great. Impeaching Secretary Mayorkas would be an unprecedented and unconstitutional act of political retribution that would do nothing to solve the challenges our Nation faces in securing the border.

This impeachment effort clearly fails to meet the Constitution's threshold for impeachable offenses. The Constitution permits impeachment only for “Treason, Bribery, or other high Crimes and Misdemeanors.” The impeachment power was never intended as a device for members of an opposing political party to harass Executive Branch officials over policy disputes. Legal scholars across the ideological spectrum, including every scholar who testified to Congress about the Resolution and conservatives who have previously sided with Congressional Republicans on matters of impeachment, agree that impeaching Secretary Mayorkas would be an “abuse of the Constitution” and that there is no “cognizable basis” for it.”

The Resolution's purported grounds for impeachment have no basis in law or fact. The Resolution does not demonstrate a failure to follow the law in any respect, let alone a “willful” one. Nor does it demonstrate that Secretary Mayorkas has “breached the public trust.” To the contrary, the Secretary has scrupulously followed the law, faithfully implemented policies to address the significant and longstanding challenges at the border, and engaged with Congress and the public in a manner that is truthful and transparent.

Impeaching Secretary Mayorkas would trivialize this solemn constitutional power and invite more partisan abuse of this authority in the future. It would do nothing to solve the challenges we face in securing our Nation's borders, nor would it provide the funding the President has repeatedly requested for more Border Patrol agents, immigration judges, and cutting-edge tools to detect and stop fentanyl at the border.

If the House of Representatives wishes to address these challenges, the Constitution provides an obvious means: passing legislation. The Administration will continue to

engage with Congress to enact bipartisan solutions for securing our border and strengthening our immigration system and strongly urges the House of Representatives to join us, instead of supporting this baseless impeachment.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield back the balance of my time.

Mr. GREEN of Tennessee. Mr. Speaker, I yield myself the balance of my time.

As you have heard, the evidence against Secretary Mayorkas is compelling, but so too is the constitutional justification for impeachment. The constitutional history and the Framers' intent are clear. We, the people's Representatives, have no option but to exercise this duty when executive branch officials blatantly refuse to comply with the laws we have passed, threaten the separation of powers, imperil the constitutional order, and expose Americans to untold suffering and death.

This historical record is unambiguous. From Madison to Hamilton, the Framers uniformly believed that executive branch officials who fail to defend the Constitution and enforce the law should no longer hold office.

We know that Secretary Mayorkas has refused to comply with the law. We know that he lied to Congress and breached the public trust. We all witnessed the horrific consequences.

In closing, my question to my colleagues is this: If Secretary Mayorkas' brazen, blatant disregard for the laws we have passed is not enough to warrant action, why are we even here? What is the point of passing laws if we allow the executive branch to violate those laws with impunity?

Do we care so little for our constitutional role and responsibilities that we would allow an official of either party to openly defy laws passed by this House, the people's House? I truly hope not. That would be a dangerous precedent and a serious abdication of our duty.

Willfully violating the law to open America's borders to millions of unvetted migrants and breaching the public trust are grave offenses against our country, our Constitution, and our constituents. It is, therefore, incumbent upon us, on this solemn day, to fulfill our oaths to the Constitution and exercise the power to impeach.

Mr. Speaker, I urge my colleagues to join me, and I yield back the balance of my time.

Ms. MCCOLLUM. Mr. Speaker, I rise in opposition to H. Res. 863, Republicans' sham effort to impeach Department of Homeland Security Secretary Alejandro Mayorkas.

House Republicans are choosing to pursue an impeachment that has no basis in wrongdoing by Secretary Mayorkas. Their cynical ploy has everything to do with weaponizing a constitutional process in an attempt to divert attention from their inability to provide viable solutions to the border crisis. Secretary Mayorkas has not violated the law, let alone committed “high crimes and misdemeanors,”

which is the constitutional standard for impeachment.

Rather than working toward bipartisan solutions, House Republicans are doing the bidding of former President Donald Trump in a pointless attempt to reinstate the Trump administration's failed and inhumane border policies. They know these policies will not become law. They are actively blocking real solutions for the complex issues that impact border communities and migrants.

House Republicans should stop wasting time and taxpayer resources by pushing lies and to score cheap political points with their MAGA base and instead work together with Democrats to solve problems for the American people.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 996, the previous question is ordered on the resolution, as amended.

Pursuant to clause 1(c) of rule XIX, further consideration of H. Res. 863 is postponed.

□ 1700

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or votes objected to under clause 6 of rule XX.

The House will resume proceedings on postponed questions at a later time.

ISRAEL SECURITY SUPPLEMENTAL APPROPRIATIONS ACT, 2024

Mr. CALVERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7217) making emergency supplemental appropriations to respond to the attacks in Israel for the fiscal year ending September 30, 2024, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 7217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2024, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", \$15,221,000, to remain available until September 30, 2024, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", \$31,934,000, to remain available until September 30, 2024, to respond to the attacks in Israel: *Provided*, That such

amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", \$203,683,000, to remain available until December 31, 2024, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", \$507,994,000, to remain available until December 31, 2024, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", \$11,094,000, to remain available until December 31, 2024, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", \$81,030,000, to remain available until December 31, 2024, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION AND MAINTENANCE, DEFENSE-WIDE (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Defense-Wide", \$5,035,750,000, to remain available until September 30, 2024, to respond to the attacks in Israel: *Provided*, That of the total amount provided under this heading in this Act, \$4,400,000,000, to remain available until September 30, 2025, may be transferred to accounts under the headings "Operation and Maintenance" and "Procurement" for replacement of defense articles from the stocks of the Department of Defense, and for reimbursement for defense services of the Department of Defense and military education and training, provided to Israel or identified and notified to Congress for provision to Israel: *Provided further*, That funds transferred pursuant to the previous proviso shall be merged with and available for the same purposes and for the same time period as the appropriations to which the funds are transferred: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees of the details of such transfers not less than 15 days before any such transfer: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided under this heading, such amounts may be transferred back and merged with this appropriation: *Provided further*, That any transfer authority provided under this heading is in addition to any other transfer authority provided by law: *Provided further*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile Procurement, Army", \$191,000,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of Ammunition, Army", \$901,400,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", \$283,800,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons Procurement, Navy", \$10,000,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OTHER PROCUREMENT, NAVY

For an additional amount for "Other Procurement, Navy", \$163,000,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", \$31,000,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile Procurement, Air Force", \$39,524,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for "Procurement of Ammunition, Air Force", \$655,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", \$4,500,000, to remain available until September 30, 2026, to respond to the attacks in Israel: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.