

House specifically excludes coffee shops, bars, restaurants, residences, hotels, libraries, recreational facilities, and a whole litany of similar establishments.

It would not, as some critics have maintained, allow the U.S. Government to compel, for example, a janitor working in an office building in Northern Virginia to somehow spy for the intelligence community. Nor would it allow, as some have absurdly claimed, States to use 702 to target women seeking abortions.

First of all, State and local authorities don't even have access to all 702 data. Secondly, the law is and remains crystal clear on this point: 702 cannot be used to target U.S. persons domestically—period, full stop, no exceptions.

The amendment, the ECSP amendment, was required because, as I pointed out earlier, the world of telecom changed dramatically since the law was first put in place 16 years ago. Keep in mind, back in 2008, when section 702 was first passed, we had pay phones on most corners, and the cloud was actually something that might cause rain rather than be a place where communication is often stored.

In short, what happens here is that the government served a 702 directive. And this is why this came about. And that American company said: We think your old definition of a service provider doesn't apply to us. And you know what? In litigation, that claim won, and the FISA Court specifically said we need to make sure that we update the definition. The House added that updated definition. I don't believe we should roll that back.

This is not, as some have claimed, some broad expansion of 702 powers of jurisdictions. Again, I could get into the complexities of how there are some data centers, as has been reported in the press, that at certain times activity will take place in the data center that don't fall into the old definition of 2008. Do we really want that data to pass through the data center to be allowed to be lawfully collected? I think we do.

Let me be the first to say that the House bill is not perfect. I think we should have gone for a 5-year reauthorization. The House-passed was a 2-year reauthorization. I accept that. I think the reforms that were put in place will further protect. I go back to the earlier comments I made. We have gone from a 30-percent noncompliance of the FBI to less than 1 percent.

(Ms. CORTEZ MASTO assumed the Chair.)

Madam President, in terms of the warrant requirement, you are never going to get a probable cause warrant if the individual who is being queried is actually the victim of a crime. We sure as heck are not going to be able to get a warrant requirement met if you capture a terrorist—I will go from the 303 area code to, I think, Las Vegas is 702. If you have to show, based upon that number alone, you have probable

cause, you don't know who or what that number is until you do the query.

And as I mentioned these last couple of moments, this new definition, this technical definition the House adopted—again, with an overwhelming bipartisan majority—is not an expansion that simply brings up the terminology around telecom providers up to 2024, which was different than 2008. The notion that we would allow this incredibly—in a sense, the crown jewel of our intelligence collection abilities to go dark as we simultaneously try to debate aid for Ukraine and Israel and humanitarian relief to Palestinians and Gaza, the idea we would suddenly go dark at this moment in time would be the height of irresponsibility.

I know we have to get through this afternoon's proceedings, but I would strongly urge Members to join me in voting to pass H.R. 7888, without amendment, to make sure that we don't have a lapse.

I know we made documents and individuals available in the SCIF, but if Members have questions, if Members have concerns, if Members here come to the floor and make other charges, please talk to me, talk to Senator RUBIO, talk to anybody in law enforcement or the intelligence community. So many of the claims being made here just are not accurate in terms of what this bill is doing.

I think this is a strong reform bill. I think it needs to get passed, and we need to not let this critical authority lapse.

QUORUM CALL

Mr. WARNER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 4]

Baldwin	Gillibrand	Ossoff
Barrasso	Graham	Padilla
Bennet	Grassley	Paul
Blackburn	Hagerty	Peters
Blumenthal	Hassan	Reed
Booker	Hawley	Ricketts
Boozman	Heinrich	Risch
Braun	Hickenlooper	Romney
Britt	Hirono	Rosen
Brown	Hoeven	Rounds
Budd	Hyde-Smith	Rubio
Butler	Johnson	Sanders
Cantwell	Kaine	Schatz
Capito	Kelly	Schmitt
Cardin	Kennedy	Schumer
Carper	King	Scott (FL)
Casey	Klobuchar	Scott (SC)
Cassidy	Lankford	Shaheen
Collins	Lee	Sinema
Coons	Lujan	Smith
Cornyn	Lummis	Stabenow
Cortez Masto	Manchin	Sullivan
Cotton	Markey	Tester
Cramer	Marshall	Thune
Crapo	McConnell	Tillis
Cruz	Menendez	Tuberville
Daines	Merkley	Van Hollen
Duckworth	Moran	Vance
Durbin	Mullin	Warner
Ernst	Murkowski	Warnock
Fetterman	Murphy	
Fischer	Murray	

Warren	Whitehouse	Wyden
Welch	Wicker	Young

The PRESIDENT pro tempore. A quorum is present.

TRIAL OF ALEJANDRO NICHOLAS MAYORKAS, SECRETARY OF HOMELAND SECURITY

The PRESIDENT pro tempore. Pursuant to rule III of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials, the hour of 1 p.m. having arrived and a quorum having been established, the Senate will proceed to the consideration of the Articles of Impeachment against Alejandro N. Mayorkas, Secretary of Homeland Security.

The majority leader is recognized.

Mr. SCHUMER. Madam President, at this time, pursuant to rule III of the Senate rules on impeachment and the United States Constitution, the President pro tempore emeritus, the Senator from Iowa, will now administer the oath to the President pro tempore, PATTY MURRAY:

Mr. GRASSLEY: Will you place your left hand on the Bible and raise your right hand.

Do you solemnly swear that, in all things appertaining to the trial of the impeachment of Alejandro N. Mayorkas, Secretary of Homeland Security, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

Mrs. MURRAY. I do.

At this time, I will administer the oath to all Senators in the Chamber in conformance with article I, section 3, clause 6 of the Constitution and the Senate's impeachment rules.

Will all Senators now stand and raise their right hands.

Do you solemnly swear that in all things appertaining to the trial of the impeachment of Alejandro N. Mayorkas, Secretary of Homeland Security, now pending, you will do impartial justice according to the Constitution and laws, so help you God?

SENATORS. I do.

The PRESIDENT pro tempore. The clerk will now call the names in groups of four. The Senators will present themselves at the desk to sign the Oath Book.

The legislative clerk called the roll, and the Senators present answered "I do" and signed the Official Oath Book.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. SCHUMER. Madam President, any Senator who was not in the Senate Chamber at the time the oath was administered to the other Senators will make that fact known to the Chair so that the oath may be administered as soon as possible to the Senator.

The PRESIDENT pro tempore. The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, Karen Gibson, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, under pain of

imprisonment, while the Senate of the United States is convened as a Court of Impeachment to consider the Articles of Impeachment against Alejandro N. Mayorkas, Secretary of Homeland Security.

The PRESIDENT pro tempore. The majority leader is recognized.

UNANIMOUS CONSENT REQUESTS

Mr. SCHUMER. Madam President, in a moment, I will ask unanimous consent to allow for debate time, to allow for Republicans to offer and have votes on trial resolutions, and allow for Republicans to offer and have votes on points of order.

So I ask unanimous consent that Senator LEE be recognized to offer a resolution that is the text of S. Res. 624, the full Senate trial; that Senator CRUZ be recognized to offer a resolution that is the text of S. Res. 622, the trial committee; that there then be up to 60 minutes of debate on the resolutions, concurrently and equally divided between the two leaders or their designees; and following the use or yielding back of that time, the Senate vote on, or in relation to, the resolutions in the order listed, with no amendments to the resolutions in order; further, that following the disposition of the trial resolutions, if they are not agreed to, Senator SCHUMER, or his designee, be recognized to make a motion to dismiss the first Article of Impeachment; that the motion be subject to only seven points of order; that there be up to 60 minutes for debate, concurrently and equally divided, on the motion to dismiss and the points of order; and that following the use or yielding back of that time, the Senate vote in relation to the points of order in the order raised and the motion to dismiss; further, that if Senator SCHUMER, or his designee, makes a motion to dismiss the second Article of Impeachment, that the motion be subject to only one point of order; that there be up to 60 minutes for debate, concurrently and equally divided, on the motion to dismiss and the points of order; and that following the use or yielding back of that time, the Senate vote in relation to the points of order in the order raised and the motion to dismiss; further, that following disposition of article II, the Senate vote on the motion to adjourn the Court of Impeachment sine die; finally, that there be up to 4 minutes for debate, equally divided between the two leaders or their designees, prior to each rollcall vote, all without intervening action or debate.

The PRESIDENT pro tempore. Is there objection?

The Senator from Missouri.

Mr. SCHMITT. Madam President, reserving my right to object, to dismiss or table the Articles of Impeachment against Secretary Mayorkas without trial here today or in committee is an unprecedented move by Senator SCHUMER. Never before in the history of our Republic has the Senate dismissed or tabled Articles of Impeachment when the impeached individual was alive and had not resigned.

As Senator SCHUMER said in 2020:

A fair trial has witnesses. A fair trial has relevant documents, as part of the record. A fair trial seeks the truth. [Nothing] more, [nothing] less.

I will not assist Senator SCHUMER in setting our Constitution ablaze and bulldozing 200 years of precedent. Therefore, I object.

The PRESIDENT pro tempore. Objection is heard.

The majority leader.

POINT OF ORDER

Mr. SCHUMER. Madam President, I raise a point of order that impeachment article I does not allege conduct that rises to the level of a high crime or misdemeanor, as required under article II, section 4 of the U.S. Constitution and is, therefore, unconstitutional.

The PRESIDENT pro tempore. Under the precedents and practices of the Senate, the Chair has no power or authority to pass on such a point of order. The Chair, therefore, under the precedents of the Senate, submits the question to the Senate: Is the point of order well-taken?

The Republican leader is recognized.

QUORUM CALL

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5]

Baldwin	Graham	Paul
Barrasso	Grassley	Peters
Bennet	Hagerty	Ricketts
Blackburn	Hassan	Romney
Blumenthal	Hawley	Rosen
Booker	Heinrich	Rounds
Boozman	Hickenlooper	Rubio
Braun	Hirono	Sanders
Britt	Hoeven	Schatz
Budd	Johnson	Schmitt
Butler	Kaine	Schumer
Cantwell	Kennedy	Scott (FL)
Capito	Klobuchar	Scott (SC)
Cardin	Lankford	Shaheen
Casey	Lee	Smith
Cassidy	Lujan	Stabenow
Collins	Lummis	Sullivan
Coons	Marshall	Tester
Cortez Masto	McConnell	Thune
Cotton	Menendez	Tillis
Crapo	Merkley	Vance
Cruz	Moran	Warner
Daines	Mullin	Warnock
Duckworth	Murkowski	Warren
Durbin	Murphy	Welch
Ernst	Murray	Whitehouse
Fischer	Ossoff	Wicker
Gillibrand	Padilla	Young

The PRESIDENT pro tempore. A quorum is present.

The Senate is considering the point of order presented by the majority leader.

The Senator from Texas.

MOTION FOR CLOSED SESSION

Mr. CRUZ. Madam President, I rise to make a motion. The majority leader has argued that Secretary Mayorkas's defiance of Federal immigration law, an act in aiding and abetting of the worst criminal invasion in our Nation's history, does not constitute a high crime or misdemeanor.

He has presented no argument on that question. He has presented no briefing on that question. And the position is directly contrary to the Constitution, to the original understanding of the Constitution at the time it was ratified, and to the explicit position of the Biden Department of Justice as argued before the Supreme Court of the United States.

The majority leader's position is asking Members of the Senate to vote on political expediency to avoid listening to arguments. The only rational way to resolve this question is actually to debate it, to consider the Constitution, and consider the law.

The PRESIDENT pro tempore. The Senator will recognize that the Senate is in a nondebateable position. The Senator has a right to offer his motion, but we are in a nondebateable position.

Mr. CRUZ. And my motion is to change that so that we can actually debate the law, as Senators care what the Constitution and law says.

I therefore move that the Senate proceed to closed session to allow for deliberation on the question as required by impeachment rule XXIV.

The PRESIDENT pro tempore. The majority leader.

Mr. SCHUMER. Madam President, in our previous consent request, we gave your side a chance for debate in public, where it should be, and your side objected. We are moving forward.

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. CRUZ. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 129 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Fetterman	Merkley
Bennet	Gillibrand	Murphy
Blumenthal	Hassan	Murray
Booker	Heinrich	Ossoff
Brown	Hickenlooper	Padilla
Butler	Hirono	Peters
Cantwell	Kaine	Reed
Cardin	Kelly	Rosen
Carper	King	Sanders
Casey	Klobuchar	Schatz
Coons	Lujan	Schumer
Cortez Masto	Manchin	Shaheen
Duckworth	Markey	Sinema
Durbin	Menendez	Smith

Stabenow	Warner	Welch
Tester	Warnock	Whitehouse
Van Hollen	Warren	Wyden

The motion was rejected.

The PRESIDENT pro tempore. The pending order is the motion made by the majority leader on a point of order.

The Senator from Louisiana.

MOTION TO ADJOURN

Mr. KENNEDY. Madam President, I have a motion. I think my motion takes precedent.

The PRESIDENT pro tempore. Will the Senator offer his motion, please.

Mr. KENNEDY. Having heard Senator SCHUMER's serious allegations—which, in my judgment, are specious—about the constitutionality of these impeachment proceedings, we find ourselves in the awkward position, because we are in impeachment proceedings, of being unable to discuss in public the merits of Senator SCHUMER's claim, and at the same time, my Democratic friends have refused to go into closed session so we can discuss it.

The PRESIDENT pro tempore. Will the Senator—

Mr. KENNEDY. For that reason, I move we adjourn this Court of Impeachment immediately until 12 o'clock noon on Tuesday, April 30, and I ask for the yeas and nays.

VOTE ON MOTION TO ADJOURN

The PRESIDENT pro tempore. The question is on the motion to adjourn? Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 130 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

The motion was rejected.

The PRESIDENT pro tempore. The Republican leader is recognized.

MOTION TO TABLE

Mr. MCCONNELL. The Senate just swore an oath to do impartial justice according to the Constitution and the laws of our country. We swore to discharge a duty that is quite different from our normal work. As a Court of Impeachment, we are called not to speak, not to debate, but to listen both to the case against the accused and to his defense.

At this point in any trial in the country, the prosecution presents the evidence of the case, counsel for the defense does the same, and the jury remains silent as it listens. This is what our rules require of us as well.

But the Senate has not had the opportunity to perform this duty. The Senate will not hear the House managers present the details of their case against Secretary Mayorkas; that he willingly neglected the duties of his office and that he lied to Congress about the extent of that failure. Likewise, we will not hear the Secretary's representatives present the vigorous defense to which he is entitled.

Our colleagues know that we are obligated to take these proceedings seriously. This is what our oath prescribes; it is what the history and precedent require; and I would urge each of our colleagues to consider that this is what the Framers actually envisioned.

The power of impeachment is one of the most delicate balances our constitutional system strikes with a portion of the American people's sovereign electoral authority. It purchases a safeguard against malpractice, and it gives the Senate the power and the duty to decide. This process must not be abused. It must not be short-circuited. History will not judge this moment well.

VOTE ON MOTION

Therefore, I move to table the point of order and ask for the yeas and nays.

The PRESIDENT pro tempore. The question is on the motion.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior legislative clerk called the roll.

The yeas and nays resulted—yeas 49, nays 51, as follows:

[Rollcall Vote No. 131 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Blumenthal	Brown
Bennet	Booker	Butler

Cantwell	Kelly	Sanders
Cardin	King	Schatz
Carper	Klobuchar	Schumer
Casey	Lujan	Shaheen
Coons	Manchin	Sinema
Cortez Masto	Markey	Smith
Duckworth	Menendez	Stabenow
Durbin	Merkley	Tester
Fetterman	Murphy	Van Hollen
Gillibrand	Murray	Warner
Hassan	Ossoff	Warnock
Heinrich	Padilla	Warren
Hickenlooper	Peters	Welch
Hirono	Reed	Whitehouse
Kaine	Rosen	Wyden

The PRESIDENT pro tempore. The yeas are 49, the nays are 51.

The motion to table is not agreed to. The motion was rejected.

VOTE ON SCHUMER CONSTITUTIONAL POINT OF ORDER AGAINST ARTICLE I

The PRESIDENT pro tempore. The motion before the Senate is a point of order.

The question is on agreeing if the point of order is well-taken.

Mr. THUNE. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 132 Imp.]

YEAS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

NAYS—48

Barrasso	Fischer	Paul
Blackburn	Graham	Ricketts
Boozman	Grassley	Risch
Braun	Hagerty	Romney
Britt	Hawley	Rounds
Budd	Hoeven	Rubio
Capito	Hyde-Smith	Schmitt
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Tillis
Crapo	Marshall	Tuberville
Cruz	McConnell	Vance
Daines	Moran	Wicker
Ernst	Mullin	Young

ANSWERED "PRESENT"—1

Murkowski

The PRESIDENT pro tempore. On this vote, the yeas are 51, the nays are 48, 1 Senator responding present.

The point of order is well-taken, and the article falls.

The majority leader is recognized.

POINT OF ORDER

Mr. SCHUMER. Madam President, I raise a point of order that impeachment article II does not allege conduct that rises to the level of a high crime

or misdemeanor as required under article II, section 4 of the U.S. Constitution, and it is, therefore, unconstitutional.

The PRESIDENT pro tempore. Under the precedents and practices of the Senate, the Chair has no power or authority to pass on such a point of order. The Chair, therefore, under the precedents of the Senate, submits the question to the Senate.

Is the point of order well-taken?

The Senator from Utah.

Mr. LEE. Madam President, as wrong as the majority leader was moments ago in making this particular point of order as to article I, the impeachment article—article I, remember, refers to the willful defiance by Secretary Mayorkas of the law. As wrong as he was in making that as to article I—and he was very wrong for the reasons articulated moments ago by the Senator from Texas—he is even more wrong, far more so, with respect to article II, because article II accuses him of knowingly making false statements. This is a violation of 18 U.S.C., section 1001—a felony offense.

If this is not a high crime and misdemeanor, what is? If this is not impeachable, what is? What precedent will be set? We need to address this, and to discuss it, we need to discuss it in closed session.

MOTION FOR CLOSED SESSION

For that reason, Madam President, I move that the Senate proceed to closed session to allow for the deliberation on this very consequential point of order that he has just made that violates hundreds of years of Anglo-American legal precedent and understanding on the question required by impeachment, rule XXIV, and I call for the yeas and nays.

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on agreeing to the motion.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 133 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Cantwell	Duckworth
Bennet	Cardin	Durbin
Blumenthal	Carper	Fetterman
Booker	Casey	Gillibrand
Brown	Coons	Hassan
Butler	Cortez Masto	Heinrich

Hickenlooper	Murphy	Sinema
Hirono	Murray	Smith
Kaine	Ossoff	Stabenow
Kelly	Padilla	Tester
King	Peters	Van Hollen
Klobuchar	Reed	Warner
Lujan	Rosen	Warnock
Manchin	Sanders	Warren
Markey	Schatz	Welch
Menendez	Schumer	Whitehouse
Merkley	Shaheen	Wyden

The motion was rejected.

The PRESIDENT pro tempore. The pending business is the point of order raised by the majority leader.

The Senator from Florida.

MOTION TO ADJOURN

Mr. SCOTT of Florida. Madam President, as jurors, we have not had the time to review whether this point of order is contrary to the Constitution. Therefore, I move to adjourn the Court of Impeachment until 12 noon on Tuesday, April 30, 2024, and I ask for the yeas and nays.

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on the motion.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 134 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

The motion was rejected.

Mr. WICKER. Madam President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. WICKER. I appreciate that my friend from New York is eager to get this done with, but are we about to set a precedent that the allegation of a felony is not a high crime and misdemeanor?

The PRESIDENT pro tempore. That is not an appropriate parliamentary inquiry.

Mr. WICKER. Madam President, there are other ways for the majority to move this off the floor of the Senate, but I would urge my colleagues to—

The PRESIDENT pro tempore. Does the Senator have a motion that he wishes to make?

Mr. WICKER.—understand what we are doing.

The PRESIDENT pro tempore. The question is on the point of order raised by the majority leader.

The Senator from Louisiana.

MOTION TO ADJOURN

Mr. KENNEDY. Madam President, I have a motion, and it takes precedence.

The PRESIDENT pro tempore. State your motion.

Mr. KENNEDY. As I appreciate the majority leader's allegation, lying to the United States Congress is not a high crime and misdemeanor. You don't have to be Mensa material to know that it is not always—

The PRESIDENT pro tempore. The Senator will state his motion.

Mr. KENNEDY.—a high crime and misdemeanor; it is a felony.

The PRESIDENT pro tempore. Would the Senator please state his motion.

Mr. KENNEDY. I will.

Since we are not allowed to talk among ourselves about the absurdity of this and my Democratic colleagues will not allow us to go into closed session to talk about the absurdity of this—

The PRESIDENT pro tempore. The Senate is in a nondebatable—

Mr. KENNEDY.—I move that we adjourn until 12 noon on May 1, 2004, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

Will the Senator modify his motion? I would ask the Senator to modify his motion.

Mr. KENNEDY. Madam President, 2004 would probably be preferable, but I will accept a friendly amendment that we make it 2024.

(Chorus of Hear! Hear!)

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on agreeing to the motion.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 135 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

The motion was rejected.

The PRESIDENT pro tempore. The pending motion is the point of order offered by the Senate majority leader.

The Senator from Kansas.

MOTION TO ADJOURN

Mr. MARSHALL. Madam President, I have a motion, and it takes precedence.

Before this body disrespects the Constitution any further, before we endanger our Republic any more, before we harm the reputation of this body any more, I move to adjourn until 7 a.m. on November 6, 2024, so the American people can at least have a vote on this impeachment trial.

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. MARSHALL. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 136 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

The motion was rejected.

The PRESIDENT pro tempore. The pending motion is the point of order raised by the majority leader.

The Senator from Alaska.

PARLIAMENTARY INQUIRY

Mr. SULLIVAN. Madam President, we seem to be in unprecedented territory here. So I have a parliamentary inquiry.

The PRESIDENT pro tempore. State your inquiry, please.

Mr. SULLIVAN. Madam President, has there been a successfully invoked point of order to dispose of an Article of Impeachment prior to opening arguments by the House managers?

The PRESIDENT pro tempore. The Chair is not aware of any such occurrence.

Mr. SULLIVAN. Thank you, Madam President.

Unprecedented territory.

The PRESIDENT pro tempore. The pending business is the point of order raised by the majority leader.

The Senator from Louisiana.

Mr. KENNEDY. Madam President, I have a motion, and it takes precedence.

The PRESIDENT pro tempore. State your motion, please.

EXECUTIVE SESSION—MOTION TO PROCEED

Mr. KENNEDY. Madam President, before we establish a precedent that lying to the U.S. Congress is not a felony—

The PRESIDENT pro tempore. The Senator from Louisiana will state his motion.

Mr. KENNEDY. And before we add a new chapter to the movie “Pulp Fiction,” I move that we go into executive session to at least allow us to talk about the breathtaking precedent we are about to establish here.

Could you turn me back on here?

And I ask for the yeas and nays.

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on agreeing to the motion to proceed to executive session.

The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 137 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Butler	Coons
Bennet	Cantwell	Cortez Masto
Blumenthal	Cardin	Duckworth
Booker	Carper	Durbin
Brown	Casey	Fetterman

Gillibrand	Menendez	Shaheen
Hassan	Merkley	Sinema
Heinrich	Murphy	Smith
Hickenlooper	Murray	Stabenow
Hirono	Ossoff	Tester
Kaine	Padilla	Van Hollen
Kelly	Peters	Warner
King	Reed	Warnock
Klobuchar	Rosen	Warren
Lujan	Sanders	Welch
Manchin	Schatz	Whitehouse
Markey	Schumer	Wyden

The motion was rejected.

The PRESIDENT pro tempore. The pending motion is the point of order raised by the majority leader.

The Republican whip.

Mr. THUNE. Madam President, I think it goes without saying that the Mayorkas-Biden policies have led to the worst border crisis in American history: 7.6 million people apprehended; 1.8 million “got-aways”; who knows how many unknown “got-aways”——

The ACTING PRESIDENT pro tempore. The Senator is reminded that we are in a nondebatability position in the Senate.

Mr. THUNE. The one thing we know is that 357 people who are on the Terrorist Watchlist were apprehended coming into this country.

MOTION TO TABLE THE SCHUMER POINT OF ORDER

We have a responsibility to hear these Articles of Impeachment, and therefore I move to table the Schumer point of order.

I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 138 Imp.]

YEAS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

NAYS—51

Baldwin	Gillibrand	Murray
Bennet	Hassan	Ossoff
Blumenthal	Heinrich	Padilla
Booker	Hickenlooper	Peters
Brown	Hirono	Reed
Butler	Kaine	Rosen
Cantwell	Kelly	Sanders
Cardin	King	Schatz
Carper	Klobuchar	Schumer
Casey	Lujan	Shaheen
Coons	Manchin	Sinema
Cortez Masto	Markey	Smith
Duckworth	Menendez	Stabenow
Durbin	Merkley	Tester
Fetterman	Murphy	Van Hollen

Warner
Warnock

Warren
Welch

Whitehouse
Wyden

The motion was rejected.

The ACTING PRESIDENT pro tempore. The pending business is the point of order offered by the Senate majority leader.

PARLIAMENTARY INQUIRY

Mr. CORNYN. Madam President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. CORNYN. Madam President, I inquire whether the actions we take today are creating a precedent on impeachments that would apply to all future impeachment actions in the Senate, including an impeachment of the President of the United States.

The ACTING PRESIDENT pro tempore. Impeachment precedents would apply in future impeachment hearings.

VOTE ON SCHUMER POINT OF ORDER

The question is on the point of order.

Mr. THUNE. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 139 Imp.]

YEAS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

NAYS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

The motion was agreed to.

The PRESIDENT pro tempore. On this vote, the yeas are 51, the nays are 49.

The point of order is well-taken; article II falls.

The majority leader is recognized.

MOTION TO ADJOURN THE COURT OF IMPEACHMENT SINE DIE

Mr. SCHUMER. Madam President, I move to adjourn the impeachment trial of Alejandro N. Mayorkas sine die, and I ask for the yeas and nays.

VOTE ON MOTION

The PRESIDENT pro tempore. The question is on the motion.

Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 140 Imp.]

YEAS—51

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Booker	Kaine	Schatz
Brown	Kelly	Schumer
Butler	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Lujan	Smith
Carper	Manchin	Stabenow
Casey	Markey	Tester
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warnock
Durbin	Murray	Warren
Fetterman	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden

NAYS—49

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Britt	Hoeven	Rubio
Budd	Hyde-Smith	Schmitt
Capito	Johnson	Scott (FL)
Cassidy	Kennedy	Scott (SC)
Collins	Lankford	Sullivan
Cornyn	Lee	Thune
Cotton	Lummis	Tillis
Cramer	Marshall	Tuberville
Crapo	McConnell	Vance
Cruz	Moran	Wicker
Daines	Mullin	Young
Ernst	Murkowski	
Fischer	Paul	

The PRESIDENT pro tempore. On this vote, the yeas are 51, the nays are 49.

The motion is agreed to.

ADJOURNMENT SINE DIE OF THE COURT OF IMPEACHMENT

The PRESIDENT pro tempore. The Senate, sitting as a Court of Impeachment, stands adjourned sine die.

Thereupon, at 4:26 p.m., the Senate, sitting as a Court of Impeachment, adjourned sine die.

LEGISLATIVE SESSION

REFORMING INTELLIGENCE AND SECURING AMERICA ACT—Motion to Proceed—Continued

The PRESIDENT pro tempore. The majority leader.

Mr. SCHUMER. For the information of Members, there are no further votes today. I remind all Members that we have very serious business ahead of us in the next few days, and we will keep you informed as to schedule as things can get scheduled.

The PRESIDENT pro tempore. The Republican leader is recognized.

MAYORKAS IMPEACHMENT

Mr. MCCONNELL. Madam President, we set a very unfortunate precedent

here. This means the Senate can ignore, in effect, the House's impeachment. It doesn't make any difference whether our friends on the other side thought he should have been impeached or not. He was.

And by doing what we just did, we have, in effect, ignored the directions of the House, which were to have a trial. We had no evidence, no procedure.

This is a day that is not a proud day in the history of the Senate.

(Applause.)

The PRESIDENT pro tempore. The Senator from Utah.

Mr. LEE. Madam President, I ask unanimous consent to enter into a colloquy with my Republican colleagues.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEE. Madam President, what we witnessed today is truly historic. This has never occurred. Nothing like this has ever occurred.

Under article I, section 3, clause 6, we have been given a duty. We have been given the sole exclusive power to try all impeachments—try all impeachments—not some of them, not just those with which we happen to agree, not just those we are happy that the House of Representatives undertook to prosecute, but all.

The word "try" is also significant. It refers to the word "trial." It is the same word. It is a proceeding in which the law and the facts are presented to finders of fact—in front of judges—in order to reach an ultimate disposition. In a criminal proceeding, it would be an ultimate disposition culminating in a verdict of guilty or not guilty.

We were precluded from doing that job today. We were precluded from doing so in a way that is not only ahistoric and unprecedented but counterconstitutional. Nothing could be further from the plain structure, text, and history of the Constitution than that.

Let's look at the arguments that we would have heard, that we could have heard, that we should have heard today had things unfolded as they were supposed to, had things unfolded in a manner consistent with the oath that we took first when we were sworn in as U.S. Senators. We were all required to take the same oath to the Constitution when we did that.

(Ms. BUTLER assumed the Chair.)

But also the oath that we took just a few hours ago in this very Chamber in this very case to decide this case impartially.

What would we have heard? Well, first and foremost, regardless of what you think about what a trial consists of or how different people might cleverly define the term, a trial will always, at a minimum, involve lawyers, involve lawyers. Unless the person is proceeding pro se, you will always have lawyers there. At least one side will always be represented by lawyers in 99.9 percent of all cases. Both sides will. You will hear from lawyers.