On Friday morning (February 15), President Donald Trump in a Rose Garden ceremony announced that he was declaring a national emergency. This followed Trump’s displeasure with votes cast Thursday evening in the Senate and House substantially reducing and restricting his proposal for the allocation of over five billion dollars on border security.

This move by the President constitutes an unprecedented and unorthodox response to congressional legislation.

The declaration of a national emergency already has been challenged by sixteen states in the courts—and no one can say with certainty the outcome of that litigation. However, in view of all of the confusion about this issue perpetuated by Trump, the media and political pundits, allow me to offer a few political and rhetorical observations.

First, polling data consistently documents that two-thirds of Americans oppose President Trump invoking a national emergency to obtain funding for his wall that Congress refuses to provide.

Second, a number of Republican senators—including John Cornyn (Texas), Susan Collins (Maine), Thom Tillis (North Carolina), Ron Johnson (Wisconsin) and Mike Rounds (South
Dakota)—already are on record saying the declaration is problematic, leading to a legal battle, preventing full funding of the wall, undermining congressional appropriation authority and establishing a troublesome political precedent that would empower future Democrat presidents to use the national emergency option as a way to obtain resources for their pet projects. Even Senate Majority Leader Mitch McConnell (R-Ky.) has warned about this.

Ironically, Mr. McConnell also made clear Thursday that he would stand behind Mr. Trump’s national emergency strategy.

I hope Speaker Nancy Pelosi and the House of Representatives immediately will pass a resolution objecting to the national emergency — something they are empowered to do and should.

Why is this legislative gambit important? Because a House resolution objecting to the national emergency declaration would mandate the Senate, regardless of what Republicans desire and unlike previous intentional inaction by McConnell, to take up the matter and vote. And, if Republican senators fall in line with President Trump, as is their penchant, they then would be on record voting for something they already strenuously object to.

I suspect these senators’ constituents will see the obvious hypocrisy and will not forget it, just as was the case for many House Republicans who were voted out of office in 2018 because of their failure to stand up to the President.

But there is an even more important point to be made.

Regardless of one’s political views about the wall and the alleged national security threat, the legislature, the branch of government empowered to appropriate money, officially spoke. Of note is the fact that most Republican members of Congress voted Thursday not to authorize the amount of money requested by President Trump to “build the wall.”

So any of those Republicans who now refuses to block Trump’s national emergency declaration (which is tantamount to circumventing and undermining the vote by redistributing specifically allocated money) explicitly will abdicate their most important Constitutional authority and responsibility: budgetary appropriation. There would be no reason, therefore, for them to remain in Congress—something that might cost their reelection in 2020.

Beyond a political calculation, however, there is a more weighty principle of governance at stake. No representative or senator—Democrat or Republican—should relinquish the power of the purse. After all, a fundamental tenet anchoring our Constitutional system of checks and balances is preventing the President from becoming too powerful. Our founding fathers rejected the unitary executive premise; they did not want a self-appointed King.

In short, the wall issue and Trump’s decision to declare a national emergency may represent an important inflection point for his presidency. While none of us can predict what else he might
do, I hope this moment will result in Republican members of Congress—and perhaps Republican voters—rethinking their commitment to Trump.

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