

the entire Commonwealth under a state of emergency to mobilize resources where they are needed most. Many families are evacuating toward safety. Approximately 2,400 people in eastern and southern Kentucky are still without power. Mudslides have closed roads. Bridges are flooded, and emergency personnel have been deployed to rescue stranded drivers and others in danger.

I want to express my gratitude to the first responders working around the clock to keep their communities safe. It may be a difficult road to recovery, but Kentuckians are already pitching in to help their neighbors in need.

My staff and I are ready to work with emergency management officials and will continue to monitor the situation closely.

BUSINESS BEFORE THE SENATE

Mr. McCONNELL. Mr. President, on an entirely different matter, this week the Senate will resume our work in the personnel business by considering yet another of President Trump's qualified judicial nominees.

Eric Miller has been chosen to sit on the Ninth Circuit Court of Appeals, and one look at his legal career to this point says he is well prepared to do so.

Mr. Miller is a graduate of Harvard and the University of Chicago, where he served on the Law Review editorial staff. He has held prominent clerkships on both the DC Circuit Court of Appeals and the U.S. Supreme Court. His record of public service at the Justice Department and in private practice reflects a legal mind of the highest caliber.

I hope each of my colleagues will join me in voting to advance the first circuit court nominee of this new Congress. That will be 31 since President Trump took office. But first, in just a few hours, the Senate will vote on advancing a straightforward piece of legislation to protect newborn babies. This legislation is simple. It would simply require that medical professionals give the same standard of care and medical treatment to newborn babies who have survived an attempted abortion as any other newborn baby would receive in any other circumstance. It isn't about new restrictions on abortion. It isn't about changing the options available to women. It is just about recognizing that a newborn baby is a newborn baby, period.

This bill would make clear that in the year 2019, in the United States of America, medical professionals on hand when a baby is born alive need to maintain their basic ethical and professional responsibilities to that newborn. It would make sure our laws reflect the fact that the human rights of newborn boys and girls are innate; they don't come and go based on the circumstances of birth. Whatever the circumstances, if that medical professional comes face-to-face with a baby who has been born alive, they are look-

ing at a human being with human rights, period.

To be frank, it makes me uneasy that such a basic statement seems to be generating actual disagreement. Can the extreme, far-left politics surrounding abortion really have come this far? Are we really supposed to think that it is normal that there are now two sides debating whether newborn, living babies deserve medical attention?

We already know that many of our Democratic colleagues want the United States to remain one of seven nations in the world that permit elective abortions after 20 weeks—seven countries, including North Korea, China, and the United States of America. But now it seems the far left wants to push the envelope even further. Apart from the entire abortion debate, they now seem to be suggesting that newborn babies' right to life may be contingent—contingent—on the circumstances surrounding their birth. Well, evidently, the far left is no longer convinced that all babies are created equal, but the rest of us are still pretty fond of that principle.

My colleagues across the aisle need to decide where they will take their cues on these moral questions. On the one hand, there are a few extreme voices who have decided that some newborn lives are more disposable than others. On the other side is the entire rest of the country.

I would urge my colleagues: Let's listen to the voices of the American people. Let's reaffirm that when we say every life is created equal, we actually mean it. Let's vote to advance the Born-Alive Abortion Survivors Protection Act later today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. ERNST). Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

DECLARATION OF NATIONAL EMERGENCY

Mr. SCHUMER. Madam President, before Congress went out of session 2 weeks ago, President Trump announced that he was declaring a national emergency to redirect funds to the construction of a border wall. It was a lawless act, a gross abuse of power, and an attempt by the President to distract from the fact that he broke his core promise to have Mexico pay for the wall.

Let me give a few reasons why the President's emergency is so wrong.

First, there is no evidence of an emergency at the border. Illegal border crossings have been declining for 20 years. Just this morning, a group of 58 former senior national security figures, including Chuck Hagel and Madeleine Albright, released a statement saying: "Under no plausible assessment of the evidence is there a national emergency today that entitles the president to tap into funds appropriated for other purposes to build a wall at the southern border."

I ask unanimous consent that the full statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT DECLARATION OF FORMER UNITED STATES GOVERNMENT OFFICIALS

We, the undersigned, declare as follows:

1. We are former officials in the U.S. government who have worked on national security and homeland security issues from the White House as well as agencies across the Executive Branch. We have served in senior leadership roles in administrations of both major political parties, and collectively we have devoted a great many decades to protecting the security interests of the United States. We have held the highest security clearances, and we have participated in the highest levels of policy deliberations on a broad range of issues. These include: immigration, border security, counterterrorism, military operations, and our nation's relationship with other countries, including those south of our border.

a. Madeleine K. Albright served as Secretary of State from 1997 to 2001. A refugee and naturalized American citizen, she served as U.S. Permanent Representative to the United Nations from 1993 to 1997. She has also been a member of the Central Intelligence Agency External Advisory Board since 2009 and of the Defense Policy Board since 2011, in which capacities she has received assessments of threats facing the United States.

b. Jeremy B. Bash served as Chief of Staff of the U.S. Department of Defense from 2011 to 2013, and as Chief of Staff of the Central Intelligence Agency from 2009 to 2011.

c. John B. Bellinger III served as the Legal Adviser to the U.S. Department of State from 2005 to 2009. He previously served as Senior Associate Counsel to the President and Legal Adviser to the National Security Council from 2001 to 2005.

d. Daniel Benjamin served as Ambassador-at-Large for Counterterrorism at the U.S. Department of State from 2009 to 2012.

e. Antony Blinken served as Deputy Secretary of State from 2015 to 2017. He previously served as Deputy National Security Advisor to the President from 2013 to 2015.

f. John O. Brennan served as Director of the Central Intelligence Agency from 2013 to 2017. He previously served as Deputy National Security Advisor for Homeland Security and Counterterrorism and Assistant to the President from 2009 to 2013.

g. R. Nicholas Burns served as Under Secretary of State for Political Affairs from 2005 to 2008. He previously served as U.S. Ambassador to NATO and as U.S. Ambassador to Greece.

h. William J. Burns served as Deputy Secretary of State from 2011 to 2014. He previously served as Under Secretary of State for Political Affairs from 2008 to 2011, as U.S. Ambassador to Russia from 2005 to 2008, as Assistant Secretary of State for Near Eastern Affairs from 2001 to 2005, and as U.S. Ambassador to Jordan from 1998 to 2001.

i. Johnnie Carson served as Assistant Secretary of State for African Affairs from 2009 to 2013. He previously served as the U.S. Ambassador to Kenya from 1999 to 2003, to Zimbabwe from 1995 to 1997, and to Uganda from 1991 to 1994.

j. James Clapper served as U.S. Director of National Intelligence from 2010 to 2017.

k. David S. Cohen served as Under Secretary of the Treasury for Terrorism and Financial Intelligence from 2011 to 2015 and as Deputy Director of the Central Intelligence Agency from 2015 to 2017.

l. Eliot A. Cohen served as Counselor of the U.S. Department of State from 2007 to 2009.

m. Ryan Crocker served as U.S. Ambassador to Afghanistan from 2011 to 2012, as U.S. Ambassador to Iraq from 2007 to 2009, as U.S. Ambassador to Pakistan from 2004 to 2007, as U.S. Ambassador to Syria from 1998 to 2001, as U.S. Ambassador to Kuwait from 1994 to 1997, and U.S. Ambassador to Lebanon from 1990 to 1993.

n. Thomas Donilon served as National Security Advisor to the President from 2010 to 2013.

o. Jen Easterly served as Special Assistant to the President and Senior Director for Counterterrorism from 2013 to 2016.

p. Nancy Ely-Raphel served as Senior Adviser to the Secretary of State and Director of the Office to Monitor and Combat Trafficking in Persons from 2001 to 2003. She previously served as the U.S. Ambassador to Slovenia from 1998 to 2001.

q. Daniel P. Erikson served as Special Adviser for Western Hemisphere Affairs to the Vice President from 2015 to 2017, and as Senior Adviser for Western Hemisphere Affairs at the U.S. Department of State from 2010 to 2015.

r. John D. Feeley served as U.S. Ambassador to Panama from 2015 to 2018. He served as Principal Deputy Assistant Secretary for Western Hemisphere Affairs at the U.S. Department of State from 2012 to 2015.

s. Daniel F. Feldman served as Special Representative for Afghanistan and Pakistan at the U.S. Department of State from 2014 to 2015.

t. Jonathan Finan served as Chief of Staff to the Secretary of State from 2015 to 2017, and Director of the Policy Planning Staff at the U.S. Department of State from 2016 to 2017.

u. Jendayi Frazer served as Assistant Secretary of State for African Affairs from 2005 to 2009. She served as U.S. Ambassador to South Africa from 2004 to 2005.

v. Suzy George served as Executive Secretary and Chief of Staff of the National Security Council from 2014 to 2017.

w. Phil Gordon served as Special Assistant to the President and White House Coordinator for the Middle East, North Africa and the Gulf from 2013 to 2015, and Assistant Secretary of State for European and Eurasian Affairs from 2009 to 2013.

x. Chuck Hagel served as Secretary of Defense from 2013 to 2015, and previously served as Co-Chair of the President's Intelligence Advisory Board. From 1997 to 2009, he served as U.S. Senator for Nebraska, and as a senior member of the Senate Foreign Relations and Intelligence Committees.

y. Avril D. Haines served as Deputy National Security Advisor to the President from 2015 to 2017. From 2013 to 2015, she served as Deputy Director of the Central Intelligence Agency.

z. Luke Hartig served as Senior Director for Counterterrorism at the National Security Council from 2014 to 2016.

aa. Heather A. Higginbottom served as Deputy Secretary of State for Management and Resources from 2013 to 2017.

bb. Roberta Jacobson served as U.S. Ambassador to Mexico from 2016 to 2018. She

previously served as Assistant Secretary of State for Western Hemisphere Affairs from 2011 to 2016.

cc. Gil Kerlikowske served as Commissioner of Customs and Border Protection from 2014 to 2017. He previously served as Director of the Office of National Drug Control Policy from 2009 to 2014.

dd. John F. Kerry served as Secretary of State from 2013 to 2017.

ee. Prem Kumar served as Senior Director for the Middle East and North Africa at the National Security Council from 2013 to 2015.

ff. John E. McLaughlin served as Deputy Director of the Central Intelligence Agency from 2000 to 2004 and as Acting Director in 2004. His duties included briefing President-elect Bill Clinton and President George W. Bush.

gg. Lisa O. Monaco served as Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor from 2013 to 2017. Previously, she served as Assistant Attorney General for National Security from 2011 to 2013.

hh. Janet Napolitano served as Secretary of Homeland Security from 2009 to 2013. She served as the Governor of Arizona from 2003 to 2009.

ii. James D. Nealon served as Assistant Secretary for International Engagement at the U.S. Department of Homeland Security from 2017 to 2018. He served as U.S. Ambassador to Honduras from 2014 to 2017.

jj. James C. O'Brien served as Special Presidential Envoy for Hostage Affairs from 2015 to 2017. He served in the U.S. Department of State from 1989 to 2001, including as Principal Deputy Director of Policy Planning and as Special Presidential Envoy for the Balkans.

kk. Matthew G. Olsen served as Director of the National Counterterrorism Center from 2011 to 2014.

ll. Leon E. Panetta served as Secretary of Defense from 2011 to 2013. From 2009 to 2011, he served as Director of the Central Intelligence Agency.

mm. Anne W. Patterson served as Assistant Secretary of State for Near Eastern Affairs from 2013 to 2017. Previously, she served as the U.S. Ambassador to Egypt from 2011 to 2013, to Pakistan from 2007 to 2010, to Colombia from 2000 to 2003, and to El Salvador from 1997 to 2000.

nn. Thomas R. Pickering served as Under Secretary of State for Political Affairs from 1997 to 2000. He served as U.S. Permanent Representative to the United Nations from 1989 to 1992.

oo. Amy Pope served as Deputy Homeland Security Advisor and Deputy Assistant to the President from 2015 to 2017.

pp. Samantha J. Power served as U.S. Permanent Representative to the United Nations from 2013 to 2017. From 2009 to 2013, she served as Senior Director for Multilateral and Human Rights at the National Security Council.

qq. Jeffrey Prescott served as Deputy National Security Advisor to the Vice President from 2013 to 2015, and as Special Assistant to the President and Senior Director for Iran, Iraq, Syria and the Gulf States from 2015 to 2017.

rr. Nicholas Rasmussen served as Director of the National Counterterrorism Center from 2014 to 2017.

ss. Alan Charles Raul served as Vice Chairman of the Privacy and Civil Liberties Oversight Board from 2006 to 2008. He previously served as General Counsel of the U.S. Department of Agriculture from 1989 to 1993, General Counsel of the Office of Management and Budget in the Executive Office of the President from 1988 to 1989, and Associate Counsel to the President from 1986 to 1989.

tt. Dan Restrepo served as Special Assistant to the President and Senior Director for

Western Hemisphere Affairs at the National Security Council from 2009 to 2012.

uu. Susan E. Rice served as U.S. Permanent Representative to the United Nations from 2009 to 2013 and as National Security Advisor to the President from 2013 to 2017.

vv. Anne C. Richard served as Assistant Secretary of State for Population, Refugees, and Migration from 2012 to 2017.

ww. Eric P. Schwartz served as Assistant Secretary of State for Population, Refugees, and Migration from 2009 to 2011. From 1993 to 2001, he was responsible for refugee and humanitarian issues at the National Security Council, ultimately serving as Special Assistant to the President for National Security Affairs and Senior Director for Multilateral and Humanitarian Affairs.

xx. Andrew J. Shapiro served as Assistant Secretary of State for Political-Military Affairs from 2009 to 2013.

yy. Wendy R. Sherman served as Under Secretary of State for Political Affairs from 2011 to 2015.

zz. Vikram Singh served as Deputy Special Representative for Afghanistan and Pakistan from 2010 to 2011 and as Deputy Assistant Secretary of Defense for Southeast Asia from 2012 to 2014.

aaa. Dana Shell Smith served as U.S. Ambassador to Qatar from 2014 to 2017. Previously, she served as Principal Deputy Assistant Secretary of Public Affairs.

bbb. Jeffrey H. Smith served as General Counsel of the Central Intelligence Agency from 1995 to 1996. He previously served as General Counsel of the Senate Armed Services Committee.

ccc. Jake Sullivan served as National Security Advisor to the Vice President from 2013 to 2014. He previously served as Director of Policy Planning at the U.S. Department of State from 2011 to 2013.

ddd. Strobe Talbott served as Deputy Secretary of State from 1994 to 2001.

eee. Linda Thomas-Greenfield served as Assistant Secretary for the Bureau of African Affairs from 2013 to 2017. She previously served as U.S. Ambassador to Liberia and Deputy Assistant Secretary for the Bureau of Population, Refugees, and Migration from 2004 to 2006.

fff. Arturo A. Valenzuela served as Assistant Secretary of State for Western Hemisphere Affairs from 2009 to 2011. He previously served as Special Assistant to the President and Senior Director for Inter-American Affairs at the National Security Council from 1999 to 2000, and as Deputy Assistant Secretary of State for Mexican Affairs from 1994 to 1996.

2. On February 15, 2019, the President declared a "national emergency" for the purpose of diverting appropriated funds from previously designated uses to build a wall along the southern border. We are aware of no emergency that remotely justifies such a step. The President's actions are at odds with the overwhelming evidence in the public record, including the administration's own data and estimates. We have lived and worked through national emergencies, and we support the President's power to mobilize the Executive Branch to respond quickly in genuine national emergencies. But under no plausible assessment of the evidence is there a national emergency today that entitles the President to tap into funds appropriated for other purposes to build a wall at the southern border. To our knowledge, the President's assertion of a national emergency here is unprecedented, in that he seeks to address a situation: (1) that has been enduring, rather than one that has arisen suddenly; (2) that in fact has improved over time rather than deteriorated; (3) by reprogramming billions of dollars in funds in the face of clear congressional intent to the contrary; and (4)

with assertions that are rebutted not just by the public record, but by his agencies' own official data, documents, and statements.

3. *Illegal border crossings are near forty-year lows.* At the outset, there is no evidence of a sudden or emergency increase in the number of people seeking to cross the southern border. According to the administration's own data, the numbers of apprehensions and undetected illegal border crossings at the southern border are near forty-year lows. Although there was a modest increase in apprehensions in 2018, that figure is in keeping with the number of apprehensions only two years earlier, and the overall trend indicates a dramatic decline over the last fifteen years in particular. The administration also estimates that "undetected unlawful entries" at the southern border "fell from approximately 851,000 to nearly 62,000" between fiscal years 2006 to 2016, the most recent years for which data are available. The United States currently hosts what is estimated to be the smallest number of undocumented immigrants since 2004. And in fact, in recent years, the majority of currently undocumented immigrants entered the United States legally, but overstayed their visas, a problem that will not be addressed by the declaration of an emergency along the southern border.

4. *There is no documented terrorist or national security emergency at the southern border.* There is no reason to believe that there is a terrorist or national security emergency at the southern border that could justify the President's proclamation.

a. This administration's own most recent Country Report on Terrorism, released only five months ago, found that "there was no credible evidence indicating that international terrorist groups have established bases in Mexico, worked with Mexican drug cartels, or sent operatives via Mexico into the United States." Since 1975, there has been only one reported incident in which immigrants who had crossed the southern border illegally attempted to commit a terrorist act. That incident occurred more than twelve years ago, and involved three brothers from Macedonia who had been brought into the United States as children more than twenty years earlier.

b. Although the White House has claimed, as an argument favoring a wall at the southern border, that almost 4,000 known or suspected terrorists were intercepted at the southern border in a single year, this assertion has since been widely and consistently repudiated, including by this administration's own Department of Homeland Security. The overwhelming majority of individuals on terrorism watchlists who were intercepted by U.S. Customs and Border Patrol were attempting to travel to the United States by air; of the individuals on the terrorist watchlist who were encountered while entering the United States during fiscal year 2017, only 13 percent traveled by land. And for those who have attempted to enter by land, only a small fraction do so at the southern border. Between October 2017 and March 2018, forty-one foreign immigrants on the terrorist watchlist were intercepted at the northern border. Only six such immigrants were intercepted at the southern border.

5. *There is no emergency related to violent crime at the southern border.* Nor can the administration justify its actions on the grounds that the incidence of violent crime on the southern border constitutes a national emergency. Factual evidence consistently shows that unauthorized immigrants have no special proclivity to engage in criminal or violent behavior. According to a Cato Institute analysis of criminological data, undocumented immigrants are 44 per-

cent *less likely* to be incarcerated nationwide than are native-born citizens. And in Texas, undocumented immigrants were found to have a first-time conviction rate 32 percent below that of native-born Americans; the conviction rates of unauthorized immigrants for violent crimes such as homicide and sex offenses were also below those of native-born Americans. Meanwhile, overall rates of violent crime in the United States have declined significantly over the past 25 years, falling 49 percent from 1993 to 2017. And violent crime rates in the country's 30 largest cities have decreased on average by 2.7 percent in 2018 alone, further undermining any suggestion that recent crime trends currently warrant the declaration of a national emergency.

6. *There is no human or drug trafficking emergency that can be addressed by a wall at the southern border.* The administration has claimed that the presence of human and drug trafficking at the border justifies its emergency declaration. But there is no evidence of any such sudden crisis at the southern border that necessitates a reprogramming of appropriations to build a border wall.

a. The overwhelming majority of opioids that enter the United States across a land border are carried through legal ports of entry in personal or commercial vehicles, not smuggled through unauthorized border crossings. A border wall would not stop these drugs from entering the United States. Nor would a wall stop drugs from entering via other routes, including smuggling tunnels, which circumvent such physical barriers as fences and walls, and international mail (which is how high-purity fentanyl, for example, is usually shipped from China directly to the United States).

b. Likewise, illegal crossings at the southern border are not the principal source of human trafficking victims. About two-thirds of human trafficking victims served by nonprofit organizations that receive funding from the relevant Department of Justice office are U.S. citizens, and even among non-citizens, most trafficking victims usually arrive in the country on valid visas. None of these instances of trafficking could be addressed by a border wall. And the three states with the highest per capita trafficking reporting rates are not even located along the southern border.

7. *This proclamation will only exacerbate the humanitarian concerns that do exist at the southern border.* There are real humanitarian concerns at the border, but they largely result from the current administration's own deliberate policies towards migrants. For example, the administration has used a "metering" policy to turn away families fleeing extreme violence and persecution in their home countries, forcing them to wait indefinitely at the border to present their asylum cases, and has adopted a number of other punitive steps to restrict those seeking asylum at the southern border. These actions have forced asylum-seekers to live on the streets or in makeshift shelters and tent cities with abysmal living conditions, and limited access to basic sanitation has caused outbreaks of disease and death. This state of affairs is a consequence of choices this administration has made, and erecting a wall will do nothing to ease the suffering of these people.

8. *Redirecting funds for the claimed "national emergency" will undermine U.S. national security and foreign policy interests.* In the face of a nonexistent threat, redirecting funds for the construction of a wall along the southern border will *undermine* national security by needlessly pulling resources from Department of Defense programs that are responsible for keeping our troops and our country safe and running effectively.

a. Repurposing funds from the defense construction budget will drain money from crit-

ical defense infrastructure projects, possibly including improvement of military hospitals, construction of roads, and renovation of on-base housing. And the proclamation will likely continue to divert those armed forces already deployed at the southern border from their usual training activities or missions, affecting troop readiness.

b. In addition, the administration's unilateral, provocative actions are heightening tensions with our neighbors to the south, at a moment when we need their help to address a range of Western Hemisphere concerns. These actions are placing friendly governments to the south under impossible pressures and driving partners away. They have especially strained our diplomatic relationship with Mexico, a relationship that is vital to regional efforts ranging from critical intelligence and law enforcement partnerships to cooperative efforts to address the growing tensions with Venezuela. Additionally, the proclamation could well lead to the degradation of the natural environment in a manner that could only contribute to long-term socioeconomic and security challenges.

c. Finally, by declaring a national emergency for domestic political reasons with no compelling reason or justification from his senior intelligence and law enforcement officials, the President has further eroded his credibility with foreign leaders, both friend and foe. Should a genuine foreign crisis erupt, this lack of credibility will materially weaken this administration's ability to marshal allies to support the United States, and will embolden adversaries to oppose us.

9. *The situation at the border does not require the use of the armed forces, and a wall is unnecessary to support the use of the armed forces.* We understand that the administration is also claiming that the situation at the southern border "requires use of the armed forces," and that a wall is "necessary to support such use" of the armed forces. These claims are implausible.

a. Historically, our country has deployed National Guard troops at the border solely to assist the Border Patrol when there was an extremely high number of apprehensions, together with a particularly low number of Border Patrol agents. But currently, even with retention and recruitment challenges, the Border Patrol is at historically high staffing and funding levels, and apprehensions—measured in both absolute and per-agent terms—are near historic lows.

b. Furthermore, the composition of southern border crossings has shifted such that families and unaccompanied minors now account for the majority of immigrants seeking entry at the southern border; these individuals do not present a threat that would need to be countered with military force.

c. Just last month, when asked what the military is doing at the border that couldn't be done by the Department of Homeland Security if it had the funding for it, a top-level defense official responded, "[n]one of the capabilities that we are providing [at the southern border] are combat capabilities. It's not a war zone along the border." Finally, it is implausible that hundreds of miles of wall across the southern border are somehow necessary to support the use of armed forces. We are aware of no military- or security-related rationale that could remotely justify such an endeavor.

10. *There is no basis for circumventing the appropriations process with a declaration of a national emergency at the southern border.* We do not deny that our nation faces real immigration and national security challenges. But as the foregoing demonstrates, these challenges demand a thoughtful, evidence-based strategy, not a manufactured crisis that rests on falsehoods and fearmongering. In a briefing before the Senate Intelligence Committee on

January 29, 2019, less than one month before the Presidential Proclamation, the Directors of the CIA, DNI, FBI, and NSA testified about numerous serious current threats to U.S. national security, but none of the officials identified a security crisis at the U.S.-Mexico border. In a briefing before the House Armed Services Committee the next day, Pentagon officials acknowledged that the 2018 National Defense Strategy does not identify the southern border as a security threat. Leading legislators with access to classified information and the President's own statements have strongly suggested, if not confirmed, that there is no evidence supporting the administration's claims of an emergency. And it is reported that the President made the decision to circumvent the appropriations process and reprogram money without the Acting Secretary of Defense having even started to consider where the funds might come from, suggesting an absence of consultation and internal deliberations that in our experience are necessary and expected before taking a decision of this magnitude.

11. For all of the foregoing reasons, in our professional opinion, there is no factual basis for the declaration of a national emergency for the purpose of circumventing the appropriations process and reprogramming billions of dollars in funding to construct a wall at the southern border, as directed by the Presidential Proclamation of February 15, 2019.

Respectfully submitted,

Signed *

Madeleine K. Albright, Jeremy B. Bash, John B. Bellinger III, Daniel Benjamin, Antony Blinken, John O. Brennan, R. Nicholas Burns, William J. Burns, Johnnie Carson, James Clapper.

David S. Cohen, Eliot A. Cohen, Ryan Crocker, Thomas Donilon, Jen Easterly, Nancy Ely-Raphel, Daniel P. Erikson, John D. Feeley, Daniel F. Feldman, Jonathan Finer.

Jendayi Frazer, Suzy George, Phil Gordon, Chuck Hagel, Avril D. Haines, Luke Hartig, Heather A. Higginbottom, Roberta Jacobson, Gil Kerlikowske, John F. Kerry.

Prem Kumar, John E. McLaughlin, Lisa O. Monaco, Janet Napolitano, James D. Nealon, James C. O'Brien, Matthew G. Olsen, Leon E. Panetta, Anne W. Patterson, Thomas R. Pickering.

Amy Pope, Samantha J. Power, Jeffrey Prescott, Nicholas Rasmussen, Alan Charles Raul, Dan Restrepo, Susan E. Rice, Anne C. Richard, Eric P. Schwartz, Andrew J. Shapiro.

Wendy R. Sherman, Vikram Singh, Dana Shell Smith, Jeffrey H. Smith, Jake Sullivan, Strobe Talbott, Linda Thomas-Greenfield, Arturo A. Valenzuela.

Mr. SCHUMER. Even the President himself, who is now declaring an emergency, halfway through his meandering speech proclaiming the emergency, said: "I didn't need to do this . . . but I'd rather do it [build the wall] much faster."

If there was ever a statement that says this is not an emergency, that is it. He said he didn't need to do this. So, my colleagues, my dear colleagues, if we are going to let the President, any President, on a whim, declare emergencies just because he or she can't get their way in the Congress, we have fundamentally changed the building blocks, these strong, proud building blocks that the Founding Fathers put into place.

Second, the President's emergency declaration could cannibalize funding

from worthy projects all over the country. We don't even know yet which projects he is planning to take the funds from. I ask my colleagues to think about that—what important initiatives in your State are on the Trump chopping block? What military project will the President cancel to fund the border wall Congress rejected?

Third, and I made this point a little bit at the beginning, but it bears repeating. Far and away most importantly, the President's emergency declaration is a fundamental distortion of our constitutional order. The Constitution gives Congress the power of the purse, not the President, and congressional intent on the border wall is clear. The President's wall has been before Congress several times, and not once has it garnered enough votes to merit consideration. In some cases it was with Republican votes. The President said that it was just the Democrats who blocked it. That is not true. There were Republican votes when the wall was on the floor for voting as well.

As the great New Yorker, Justice Jackson from Jamestown, NY, observed, the President's legal authority in the realm of emergencies is at its very weakest when it goes against the expressed will of Congress. In case the will of Congress was not already clear, soon it will be made so. The obvious remedy for President Trump's outrageous and lawless declaration is for Congress to vote to terminate the state of emergency. The House will vote on such a resolution tomorrow, and the Senate will soon follow suit.

I know my friends on the other side of the aisle fashion themselves supporters of the military, defenders of property rights, and stewards of the Constitution, as do Democrats. This vote on the resolution to terminate the state of emergency will test our fidelity to those principles.

Congress should come together to reject in a bipartisan fashion—we have come together before in bipartisan ways. If ever there were one moment that cries out for bipartisan rejection of an overreach of power, this is it. We should reject this naked power grab, this defacement of our constitutional balance of powers, for what seem to be largely political purposes.

NORTH KOREA

Mr. SCHUMER. Madam President, the President is on his way to Thailand for a second summit with Chairman Kim of North Korea. It is in all of our interests for the President to achieve a diplomatic resolution with North Korea that achieves a stable peace and the complete, verifiable, and irreversible denuclearization of the Korean Peninsula. Failing that, the Congress must continue to pressure a regime that permits gross humanitarian abuses and remains one of the most repressive governments on the globe.

We cannot tolerate the President making concessions without, in ex-

change, receiving verifiable, enduring, and concrete commitments from North Korea to denuclearize.

President Trump's first summit with Chairman Kim granted his regime the international legitimacy and acceptance that Kim has long craved while undermining our policy of maximum pressure and sanctions, seemingly so the President could have a photo op and make a speech.

Unsurprisingly, the results of that meeting were disappointing. The President claimed, bizarrely and wildly, that North Korea is "no longer a nuclear threat" right after the meeting, while the U.S. intelligence community has continually testified before Congress that North Korea has not been denuclearizing and appears unlikely to give up its nuclear weapons. So how can the President say it is no longer a nuclear threat when the same threat existed when he threatened North Korea earlier and after, when he seemed to make nice to President Kim? Meanwhile, the President suspended joint military readiness drills with the South Koreans—drills we have been conducting for 60 years for the safety of East Asia.

No one wants to see a repeat of the same movie. No one wants another summit that is more about photo ops and optics than progress. We are all rooting for diplomacy to succeed, but the President can't be too naive or too eager to reach a deal that gives him the photo op again but that doesn't achieve the complete denuclearization of the Korean Peninsula.

CHINA

Mr. SCHUMER. Madam President, in a similar vein, on China, President Trump announced he would be delaying the imposition of higher tariffs on March 1, in the hopes of coming to a larger trade agreement. This is all well and good if the Trump administration ultimately achieves a strong deal that makes progress on China's rapacious trade policies. But we are not there yet, and my message to President Trump is don't back down.

The President has shown the right instincts on China many times. I give him credit for that. I have praised him publicly for that, but at other times, I believe his eagerness for the appearance of accomplishment gets the best of him. Recent history has taught us that when President Trump makes unilateral concessions to China—as he did when he interfered in the sanctions against ZTE—China does very little for us in return.

President Trump must not make the same mistake again, whether by interfering in the U.S. criminal charges brought against Huawei or otherwise decreasing our leverage, until and unless China makes meaningful, enforceable, and verifiable agreements to end its theft of American intellectual property and other trade abuses.

Hopefully, that is where the negotiations are headed. If the President does