

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

a good job, I will be the first to praise him. If he backs off or takes some temporary measure in decreasing the balance of trade but doesn't change China's structural rapaciousness against the United States and our intellectual property and our industrial know-how, he will be criticized by me and many others on both sides of the aisle.

S. 311

Mr. SCHUMER. Madam President, a word on today's vote on women's reproductive rights: The bill the Senate will vote on shortly is carefully crafted to target, intimidate, and shut down reproductive healthcare providers. Doctors across this country—Democratic doctors, Republican doctors—are lining up against the bill because it would impose requirements on what type of care doctors must provide in certain circumstances, even if that care is ineffective, contradictory to medical evidence, and against the family's wishes.

My Republican colleagues have said some incendiary things about opposing this bill. Let me be very clear. Many of these claims are false. It has always been illegal to harm a newborn infant. This vote has nothing—nothing—to do with that. Read the language. We are talking about situations when expectant parents tragically learn their pregnancy is no longer viable, and there is a fatal diagnosis. What happens in those circumstances should be decided between a woman, her family, her minister, priest, rabbi, imam, and her doctor.

It makes no sense for Washington politicians who know nothing about individual circumstances to say they know better than the doctors or the patients and their families. The bill is solely meant to intimidate doctors and restrict patients' access to care and has nothing—nothing, nothing—to do with protecting children.

Last Friday, the administration announced it was imposing a gag rule on U.S. reproductive healthcare providers and trying to restrict access to healthcare clinics that provide reproductive care. So this vote doesn't occur in a vacuum. It is part of a pattern of actions taken by President Trump and congressional Republicans to limit, deny, or circumscribe a woman's right to healthcare.

I urge the American people to do their own research, read the bill, and see what it says. Most of you will agree with it. Pay attention to the facts and not the false rhetoric. This bill is Washington politics at its worst. I will vote no.

VICTIMS OF 9/11 COMPENSATION FUND

Mr. SCHUMER. Finally—and this time it is finally, I say to my good friend from Nebraska—I turn the attention of my colleagues to a harrowing fact: We are vastly approaching the point where more people

will have died from exposure to toxic chemicals on 9/11 than were killed on 9/11 itself. These are the first responders, firefighters, police, and FBI agents who rushed to the towers that fateful day, ran into the fire, smoke, and twisted steel, risking their lives and, later, we learned, risking their health to get people out. These are the union members and construction workers who worked at the pile, breathing in a toxic blend of ash and dust in the days and weeks and months that followed. These are the people, the innocents, who lived downtown when the United States was attacked in the most dastardly attack on American soil.

Right now we have a problem. While these folks are heroes and, sadly, many are suffering—because of the alarming number who are suffering from 9/11-related illnesses, the victim compensation fund is running out of money earlier than expected. The Justice Department recently announced that it might have to cut compensation awards between 50 and 70 percent.

So today I was proud to join Senators GILLIBRAND and GARDNER, as well as a group of our colleagues in the House, to introduce legislation to fix the shortfall of funding and put the victims' compensation fund on sure footing for the foreseeable future.

I urge all of my colleagues, Democrat and Republican alike, to sign on and help us pass this bill and give some hope to the thousands who were brave on 9/11 and who are suffering now.

I yield the floor.

BORN-ALIVE ABORTION SURVIVORS PROTECTION ACT—MOTION TO PROCEED—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 311, which the clerk will report.

The senior assistant legislative clerk read as follows:

Motion to proceed to S. 311, a bill to amend title 18, United States Code, to prohibit a health care practitioner from failing to exercise the proper degree of care in the case of a child who survives an abortion or attempted abortion.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. SASSE. Madam President, I ask unanimous consent that the time until 5:30 p.m. today, including quorum calls, be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSE. Madam President, I just listened to the senior Senator from New York—my friend from the gym and the minority leader—deliver some summaries of what he said was in the bill before us, and he implored this body and implored the people watching on C-SPAN to read the bill, stating they would find that all of these terrible things are in the bill.

I see the minority leader has to leave the floor now, but, humbly, I would

urge him to come back and show us where any of what he just said is in this bill. What he said wasn't true.

I rise today for a simple purpose. I want to ask each and every one of our colleagues whether we are OK with infanticide. This language is blunt. I recognize that, and it is too blunt for many people in this body, but, frankly, that is what we are talking about here today.

Infanticide is what the abortion survivors—Born-Alive Abortion Survivors Protection Act is actually about.

Are we a country that protects babies who are alive, born outside the womb after having survived a botched abortion? That is what this is about.

Are we a country that says it is OK to actively allow that baby to die, which is the current position of Federal law? That is the question before us, plain and simple.

Here are the facts. We know that some babies, especially late in gestation, survive attempted abortions. We know, too, that some of these babies are left to die—left to die. No further protections exist today to shield them from this ugly fate, and only some States have protections on their books. We have seen in our national discourse over the last month and a half a few States moving in different ways to undo protections that some of these babies have had at the State level.

The Born-Alive Abortion Survivors Protection Act is trying to right this obvious wrong. The bill's terms are simple: A child born alive during a botched abortion would be given the same level of care that would be provided to any other baby born at that same gestational age. That is it.

This bill isn't about abortion. I am pro-life—unapologetically pro-life—but this bill is not about anything that limits abortion. This bill doesn't have anything to do with *Roe v. Wade*. This bill is about something else. What this bill does is try to secure basic rights, equal rights for babies who are born and are outside the womb. That is what we are talking about.

Over the course of the next hour, as this is debated on the floor, people are going to say a whole bunch of other things. I would ask them to please bring the text of the bill to the floor when they do it and show us whether there is anything about limiting abortion in this bill.

This bill is exclusively about protecting babies who have already been born and are outside of the womb. Every baby deserves a fighting chance, whether that 24-week old baby, fighting for air and fighting for life, having just taken her first breaths, is at an abortion clinic where she survived a botched abortion or she is in a delivery room at the local hospital. Both of those babies are equally deserving of care, protection, and humane treatment, and our laws should treat both of these human beings as babies because they are babies. They have been born, and they are outside of the womb.