

February 25, 2019

Dear Representative,

Americans will not tolerate a President who abuses the powers of his office. Congress must act swiftly and decisively to check any imagined emergency that President Trump is attempting to use as a pretext to bypass the legislative branch of government and build an unnecessary wall along our border with Mexico. On behalf of Common Cause's 1.2 million members around the country, we strongly urge you to vote "yes" on Congressman Castro's resolution, H.J. Res. 46, relating to a national emergency declared by the President on February 15, 2019. **We plan to score this vote in our next Democracy Scorecard.**

President Trump announced he will disregard the constitutionally-required appropriations process and has declared a national emergency in an attempt to build the wall, simply to make good on a call-and-response line he used during his campaign rallies – part and parcel with his demagoguery of immigrants. Congress cannot let this abuse of the National Emergencies Act stand. Ironically, the Act itself is a post-Watergate reform, enacted to reassert Congress' constitutional role in checking and safeguarding against authoritarian abuses of power. Congress must put our country and Constitution before party and check this power grab by President Trump.

The legal rationale asserted by the White House to justify its "state of emergency" wall construction is deeply flawed. Under the [statute](#) granting a President authority to initiate military construction projects in the event of a national emergency, the emergency must be one that necessitates military action and only then can a construction project "necessary to support such use of the armed forces" be undertaken. The White House's reliance on this provision turns the statute on its head – the only need for the military action here is to build the construction project itself.

Additionally, the [Posse Comitatus Act](#), dating to Reconstruction in the wake of the Civil War, prohibits military engagement in law enforcement activities with respect to civilians (including immigrants) unless Congress specifically authorizes it. In effect, the military is prohibited by federal law from engaging in the only activity that could necessitate military construction of a border wall – enforcement of immigration laws. And President Trump's own comments undermine his declaration of a national emergency. In a February 15th press conference in the Rose Garden, President Trump himself declared, "I didn't need to do this, but I'd rather do it much faster. I just want to get it done faster, that's all."

Furthermore, a bipartisan group of 58 former senior national security officials issued a statement on February 25th saying "there is no factual basis" for President Trump's proclamation of a national

emergency to build a wall on the U.S.-Mexico border. Their statement continues: “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.”

The legal justification asserted by the White House is deeply flawed, but the fact remains that President Trump is using that unsound legal theory in order to bypass Congress, which refuses to waste billions of dollars on an ineffective wall simply to please the President. Congress cannot sit idly by while the President undermines its authority as a coequal branch of government – an authority granted in the United States Constitution to prevent authoritarian rule. History will not be kind to any Member of Congress who allows the President to undermine the foundations of our democracy through the blatant misuse of the Emergency Powers Act.

Sincerely,



Karen Hobert Flynn
President
Common Cause

Since 1970, [Common Cause](#) has been working to hold power accountable through lobbying, litigation, and organizing. Our non-partisan, pro-democracy work has helped pass hundreds of reforms at the federal, state, and local levels. We now have 30 state chapters and more than 1.2 million members around the country who are working to strengthen our democracy.

