As Congress enacts huge “border security” bill

Trump to declare national emergency to build wall

Patrick Martin
15 February 2019

As Congress voted Thursday to approve spending $1.375 billion for border fencing, wall repairs and other barriers on the US-Mexico border, as part of a much larger bill funding one quarter of the federal government through September 30, the White House announced that President Donald Trump would sign the funding bill into law, but would accompany this by declaring a national emergency on the US-Mexico border.

“President Trump will sign the government funding bill, and as he has stated before, he will also take other executive action—including a national emergency—to ensure we stop the national security and humanitarian crisis at the border,” said Sarah Huckabee Sanders, the White House press secretary.

Under the emergency declaration, the White House claims, Trump would have the authority to direct the US military to build the full-scale wall he has demanded along the border, but which Congress, under both Republican and Democratic control, has refused to support. Trump would reportedly use the assumed emergency powers to redirect funds appropriated by Congress for other purposes to pay for the wall instead.

Under Article I of the Constitution, Congress has the power to appropriate funds. “No money shall be drawn from the Treasury, but in consequence of appropriations made by law,” the text reads.

Given the clear constitutional reservation to Congress of the “power of the purse,” Trump’s emergency decree has the character of an authoritarian, dictatorial move. It would represent a new assertion of executive authority, and, together with the very limited resistance expected from the legislative branch, a significant erosion of the constitutional system of “checks and balances” devised after the American Revolution to prevent the growth of a monarchical type of unrestrained executive power.

The responses of the two top congressional leaders are revealing. Senate Majority Leader Mitch McConnell, the top Republican, had publicly opposed the declaration of a national emergency to evade congressional authority over spending—until Thursday afternoon, when he told the Senate, just before the vote on the federal funding bill, that Trump had agreed to sign the bill only if he combined it with an emergency declaration. McConnell said he now supported such a decree.

House Speaker Nancy Pelosi, the top congressional Democrat, criticized Trump’s expected declaration, saying, “The president is doing an end run around Congress.” She said that Democrats were “reviewing our options,” which could include a congressional resolution of disapproval or a legal challenge.

At the same time, she was visibly ambivalent about the right of a president to assert emergency powers, suggesting that a Democratic president could make use of the same power on an issue like gun control. Noting the first anniversary of the massacre at Marjory Stoneman Douglas High School in Parkland, Florida, she continued, “That’s a national emergency. Why don’t you declare that emergency, Mr. President? I wish you would.”

The implications of this political collaboration (from the Republicans) and complacency (from the Democrats) are quite ominous. Neither bourgeois party is waging a fight to defend the constitutional separation of powers or oppose what is, in effect, the declaration of unlimited presidential power.

Neither Pelosi or any other Democrat has suggested that such a declaration is a violation of the constitution, let alone an impeachable offense. Similarly, the media discusses the action entirely from the standpoint of its immediate impact on the border issue, or on Trump’s political fortunes in 2020, but not as an attack on democratic rights. Public opinion is being desensitized to this threat.

It is worth recalling that the congressional Authorization for the Use of Military Force, passed in 2001, initially adopted as an urgent necessity to respond to the 9/11 attacks, has been interpreted by successive administrations,

© World Socialist Web Site

Democratic and Republican, as a blanket declaration of war on any organization or government targeted by the US president.

In similar fashion, the declaration of a national emergency to resolve a domestic political dispute in favor of the president could be repeated and extended. The first time it is done, it may be controversial; the second time, there will already be a precedent; the third time, it will become routine.

The assumption of emergency powers makes the president the arbiter of Washington, able to draw on huge and effectively unlimited resources, such as the $800 billion budget for the Pentagon, the main focus of the Trump White House in its search for funding for the border wall. In using Pentagon funds and ordering military personnel to build the wall—either directly, through the Army Corps of Engineers, or by using Pentagon subcontractors—Trump would effectively settle this domestic political issue through the exercise of his powers as commander-in-chief.

According to a study by the Brennan Center for Justice, there have been 58 national emergency declarations since the National Emergencies Law was adopted, codifying the procedure, in 1976. Of these, 31 declarations are still active. Nearly all the emergency declarations have been directly linked to the foreign policy of the US government and to the president's authority as commander-in-chief. The vast majority involve presidential directives blocking US trade or financial dealings with designated foreign individuals, organizations or governments, or entire countries.

The list of countries subject to such emergency declarations is a roster of those once or currently targeted for aggression and subversion by Washington. Among the declarations on the Brennan list are those currently directed against individuals, parties or governments in Iran, Venezuela, Sudan, Nicaragua, Russia, Cuba, North Korea, Congo, Belarus, Somalia, Libya, Yemen, Central African Republic, Burundi, Zimbabwe, Syria, Lebanon and Iraq. There are also blanket orders dealing with terrorist groups, narcotics traffickers, and trade in chemical, biological and nuclear weapons or their components. There are orders, now expired, against targets in Serbia, Bosnia, Liberia, the Ivory Coast, Iraq under Saddam Hussein, Sierra Leone, Afghanistan under the Taliban, Panama, Haiti, Angola, and South Africa under apartheid.

Only one emergency declaration concerns a US domestic crisis, the outbreak of the H1N1 flu epidemic in 2009, which was allowed to expire after the epidemic subsided.

No president in modern history has ever used the declaration of a national emergency to bypass Congress or decide a dispute over domestic policy.

One declaration of national emergency, so-called Proclamation 7463, was issued by President George W. Bush after the 9/11 attacks. This is the measure under which the president orders National Guard units to serve overseas, a key component of the US military effort in the invasions and subsequent occupations of Afghanistan and Iraq. It has been renewed year after year, first by Bush, then Obama, and in 2017 and 2018 by Trump.

Meanwhile, Congress has never exercised its right to review the actions taken under these emergency declarations. In fact, according to one report, no president has ever carried out the requirement to report to Congress every six months on what funds have been expended in furtherance of these emergency decrees.

None of these democratic and constitutional issues were raised in the desultory and limited debates held before the Senate and House votes Thursday on the funding legislation. The bill, providing more than $300 billion to eight federal departments and many lesser agencies, passed the Senate 83–16 and the House 300–106.

Only five Senate Democrats opposed the bill, including four announced presidential candidates—Cory Booker, Kirsten Gillibrand, Kamala Harris and Elizabeth Warren. Independent former presidential candidate Bernie Sanders, widely expected to run again in 2020, voted for the bill, as did Amy Klobuchar, Sherrod Brown and Jeff Merkley, declared or undeclared presidential hopefuls.

In the House of Representatives only 19 Democrats opposed the bill to provide $49 billion in funding to the Department of Homeland Security, including $1.375 billion in wall funding. They were joined by 87 ultra-right Republicans who wanted the full $5.7 billion in wall funding initially demanded by Trump.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site