

The act is procedural in nature. It lays out the process the President must follow to declare a national emergency but does not provide the President with any additional powers. Instead, it requires the President to specify where, in existing law, he has been granted the authority for the powers he intends to exercise.

By itself, the National Emergencies Act does not give the President the power to repurpose billions of dollars to build a wall. The President must look elsewhere for that authority.

In his declaration, the President cites the authority provided by title 10, section 2808 of the U.S. Code, which relates to "Construction authority in the event of a declaration of war or national emergency." But that authorization applies only to "military construction projects" that are "necessary to support [the] use of the armed forces." I do not believe this provision can be fairly read to bootstrap the presence of troops along the southern border into the authority to build a wall as a military construction project.

The question isn't whether the President can act in an emergency but whether he can do so in a manner that would undermine the congressional power of the purse.

Here, I think we need a better understanding of what should qualify as an emergency. One place we could turn is to a five-part test originally developed by the Office of Management and Budget in 1991, under former President George Herbert Walker Bush, to determine whether requested funding merited an "emergency spending" designation under our budget rules.

Under that test, a spending request was designated as an "emergency" only if all five of the following conditions were met:

First, expenditures had to be necessary; second, the need had to be sudden, coming into being quickly, not building up over time; third, the need had to be urgent; fourth, the need had to be unforeseen; and fifth, the need could not be permanent.

I raise this test only by way of analogy, but it is fair to say that whether or not you agree with the President that more should be done to secure the southern border—and I do agree with the President's goal—his decision to fund a border wall through a national emergency declaration would not pass this five-part test.

The President's declaration also has practical implications for the military construction appropriations process, as my colleague has pointed out.

Last year, in testimony before the Appropriations Committee, the Department of Defense said that the President's budget request for military construction funding was crucial to support our national defense, including construction projects to improve military readiness and increase the lethality of the force. This includes missile defense, improved facilities in Europe to deter Russian aggression,

and infrastructure to operationalize the F-35 stealth fighter.

This also included several important efforts at the Portsmouth Naval Shipyard in Maine that are vital to the Navy conducting timely maintenance and refueling of our Nation's submarines. Shifting funding away from these vital projects is shortsighted and could have very real national security implications.

We must defend Congress's institutional powers, as the Founders hoped we would, even when doing so is inconvenient or goes against the outcome we might prefer.

The gridlock we have experienced on difficult issues like border security and immigration reform is not simply a failure to get our work done but a reflection of the fact that we have yet to reach a consensus.

The President's emergency declaration is ill-advised precisely because it attempts to shortcut the process of checks and balances by usurping Congress's authority. This resolution blocks that overreach, and I hope, regardless of our colleague's position on the construction of the border wall, that we will join together to assert Congress's constitutional authority in the appropriations process.

I urge our colleagues to support this important resolution.

Mr. UDALL. Would the Senator yield?

Ms. COLLINS. I would be happy to.

Mr. UDALL. I just want to say, because we have both been here for a bit talking on the floor about this, I want to thank Senator COLLINS for standing up for principle. I want to thank her for standing up for our Constitution. It is a real honor to join her in this resolution of disapproval.

I also, as she just did, thank the two other Senators who are joining us, Senator MURKOWSKI and Senator SHAHEEN. I thank the Senator very much.

Ms. COLLINS. Mr. President, I would thank the Senator for his gracious comments. As always, it has been a great pleasure to work with him, and I know he cares deeply about the constitutional principle that brings us to the floor today. Let us defend the Constitution.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 85—RECOGNIZING THE 100TH ANNIVERSARY OF THE FOUNDING OF EASTERSEALS, A LEADING ADVOCATE AND SERVICE PROVIDER FOR CHILDREN AND ADULTS WITH DISABILITIES, INCLUDING VETERANS AND OLDER ADULTS, AND THEIR CAREGIVERS AND FAMILIES

Mr. BROWN (for himself and Mr. PORTMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 85

Whereas, on April 22, 1919, an organization now known as Easterseals was formed to

highlight and address the health care and service needs of children with disabilities;

Whereas, in 1945, Easterseals expanded its mission by opening its programs and services to returning veterans of World War II and other adults with disabilities;

Whereas, since its inception, Easterseals has strongly advocated for essential services and support for individuals with disabilities and diverse needs, including by authoring a "Bill of Rights" for children with disabilities in 1931 that led to government-funded disability services and by increasing public awareness and support through national campaigns, including its successful "seals" campaign;

Whereas Easterseals has grown from humble beginnings in Elyria, Ohio, to become a national network of leading nonprofit organizations in States across the country that deliver high-quality, local services and support to help children and adults with disabilities, including veterans and older adults, live independently, achieve milestones, and fully participate in their communities, and to help caregivers and families of children and adults with disabilities;

Whereas Easterseals partners with the Federal Government, State and local governments, corporations, foundations, and other entities to provide or connect individuals with disabilities and their families with early childhood education and intervention services, employment assistance and placement services, transportation solutions, mental health services, respite services, camping and recreation activities, and caregiving and aging support; and

Whereas Easterseals continues the mission and commitment to service envisioned by its founder, Edgar Allen, a parent, businessman, and Rotarian, who concluded, "Your life and mine shall be valued not by what we take, but by what we give.": Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates April 22, 2019, as the 100th anniversary of the founding of Easterseals; and

(2) recognizes Easterseals for—

(A) its impact during the past 100 years in the lives of millions of people in the United States; and

(B) its commitment to expanding possibilities for children and adults with disabilities, including veterans and older adults, to ensure that all individuals can live, learn, work, and play in their communities.

SENATE RESOLUTION 86—PROVIDING FOR MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. BLUNT submitted the following resolution; which was considered and agreed to.:

S. RES. 86

*Resolved*, That the following named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Blunt, Mr. Roberts, Mr. Wicker, Ms. Klobuchar, and Mr. Udall.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Blunt, Mr. Roberts, Mr. Shelby, Ms. Klobuchar, and Mr. Leahy.