

Trump's national emergency and its massive unintended consequences

By Aaron Blake

We can finally see the road map for how we'll avert the second government shutdown of 2019: President Trump will sign the compromise legislation agreed to by Congress, but he'll *also declare a national emergency* to try to get the billions more he needs to build a border wall. Senate Majority Leader Mitch McConnell (R-Ky.) announced Trump's intentions on the Senate floor Thursday afternoon.

The outcome, subject to change via Trump's whims, of course, makes political sense for many reasons. Trump was never going to get Democrats to agree to more border wall funding, because the wall is unpopular and he didn't have the leverage. This solution allows Trump to perhaps mollify the conservative critics who are still demanding the wall and are criticizing the compromise. It also allows McConnell to turn the page on a showdown and shutdown he never wanted in the first place.

But while this allows everyone an escape hatch in the near term, the long-term unintended consequences are huge.

The first thing we should emphasize is that this is hardly foolproof. There is no guarantee that Trump's declaration will pass legal muster, [for reasons we've detailed](#), so there's a real possibility he'll wind up with no wall after all.

But consider the alternative: that it *does* pass legal muster. If it does, it will set an entirely new precedent for executive power in the United States. It would be Trump bulldozing yet another political norm and changing the American presidency — potentially for good.

While there certainly is a problem on the border, experts agree it is [less of an emergency than it has been for much of this century](#). This kind of national emergency declaration is also out of step with previous ones, which generally focus on sanctions and situations that simply cannot await congressional action. In other words, if Trump can do this, the power to declare national emergencies is even broader than we knew.

Even Republican senators have worried that if Trump succeeds, it will set troubling precedent. Future presidents could treat any of their pet issues as national emergencies and simply bypass Congress.

"If today, the national emergency is border security, tomorrow the national emergency might be climate change, so let's seize fossil fuel plants or something," Sen. Marco Rubio (R-Fla.) [said last month](#). "Maybe it's an exaggeration, but my point is, we've got to be very careful about endorsing broad uses of executive power in our republic."

Even one of Trump's most reliable and vocal supporters in the House, [Rep. Matt Gaetz \(R-Fla.\)](#), [said](#), "I don't want the next national emergency to be that some Democrat president says we have to build transgender bathrooms in every elementary school in America."

Gaetz's suggestion is certainly overkill, and slippery-slope arguments are overused in politics. But his overall point is legitimate. We simply haven't seen a president extend the use of a national emergency declaration for something like this, because past presidents had some compunction about executive overreach. They also worried about how what they were doing might be viewed outside their own base. And the institutionalists in Congress would fiercely protect their constitutional prerogative over the purse strings of government.

All three of those things are much less of an obstacle today. Through a steady erosion over the course of decades and then Trump's jackhammer of a presidency, there are fewer political norms and less and less legislative desire standing in the way of a gambit like this. And Trump seems to have worn down the likes of McConnell, who [previously opposed a national emergency declaration and now says he'll support it](#). That is key, because Congress could vote to try to stop Trump; McConnell's assent means such an effort is much less likely in the Senate.

But doing whatever it takes to extricate yourself from a mess can have much more serious implications than you realize in real time. Everyone seems to be taking the easy way out, but depending on how this all shakes out, it could mean changing the balance of power between the legislative and executive branches for years and decades to come.

It would be only the latest political norm Trump would have demolished.