

CAN CONGRESS CONVENE ONLINE?

By Noah Shachtman

Wired News

October 25, 2001

Spooked by anthrax in the Capitol, public officials and opinion makers are scrambling to figure out how to keep the government running if Congress can't physically convene. Among the options being considered: having senators and representatives gather online, in "an electronic Congress."

The idea, proposed by the Democratic Leadership Council -- the centrist group once headed by Bill Clinton -- is finding sympathetic ears in both parties. But don't expect lawmakers to begin voting on their laptops any time soon, policy analysts caution.

In an online newsletter article entitled "Legislating By Any Means Necessary," the DLC asserted that a website "could easily be built" that would allow congress members and their staffs to debate, draft legislation and vote over the Internet.

Entry to the site would be restricted by more than just a password, the DLC article stated. "Bio-metrics" or "human verification" would likely be required to enter the virtual halls of an e-Congress, so "the best system might require members spread around the country to go to the nearest state capitol or city hall to use special kiosks there."

This question of access is one of several "ifs, ands or buts that go along with a proposal like this," Ari Schwartz, associate director of the Center for Democracy and Technology, said.

"As an idea, this is laudable," he continued. "But there's the potential to make the system much more closed than it is in the physical world. Maybe it can't be open to the public because we don't want hackers breaking in."

Randolph Court, a DLC staffer (and former Wired News contributor) who helped shape the report, said, "This was supposed to be a conversation starter. We put this out there not as a full-baked proposal, not as an end-to-end solution."

Currently, the proposal calls for the site to be open to the public on "a read-only basis, so citizens could watch their representatives much as they can now on C-Span."

Other solutions for continuing congressional operations during an emergency seem no more complete. The White House, for example, recently proposed taking the power of the purse away from Congress if it's unable to meet, providing for an automatic extension of the government's funding for 30 days under such circumstances.

Rep. Brian Baird (R-Washington) has proposed a constitutional amendment that would allow governors to appoint temporary replacement legislators if more than a quarter of the members of Congress are killed or incapacitated. The special elections system currently in place to replenish Congress' ranks when a representative or senator dies would take too long in a national emergency, Baird said. Fifty co-sponsors have signed onto Baird's bill since its introduction last week.

Baird -- who participated this week in an American Enterprise Institute panel ominously entitled, "What if Congress Were Obliterated?" -- is open to the idea of an e-Congress.

"There's merit to the idea (of) maintaining communication and voting electronically if the Capitol's facilities are unusable," he said.

But in a body that has banned mobile phones and laptops from the congressional chambers, forbids remote deliberations and prohibits voting from members' offices, Baird may be in the minority.

"It's unreasonable that we couldn't get the members to meet in a building somewhere," Newt Gingrich, former Speaker of the House, said.

James Snider, an analyst at the New America Foundation, said, "There's no question that there's fierce opposition in Congress to doing anything that might transform the current system of face-to-face communication."

The U.S. Constitution itself might prevent an online congressional session, according to Norman Ornstein, the American Enterprise Institute congressional scholar.

Article 1, Section 5 of the Constitution states that "neither House, during the Session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting."

During the War of 1812, the Capitol building and the White House were burned to the ground by the British. A quick withdrawal allowed the government to continue without running afoul of the constitutional provision.

At the height of the Cold War, there were elaborate evacuation plans to move members of Congress to a hidden bunker at the Greenbrier resort in West Virginia.

But the Greenbrier is today a tourist getaway, not a secret hideaway. And there's been no replacement for the shelter since its closing.

As Ornstein said, "It's fairly evident from the chaos when the House and Senate decided to close down that there's no game plan."