

ORNSTEIN IS WRONG: HOUSE MEMBERS SHOULD NEVER BE APPOINTED

By Rep. Vic Snyder

Roll Call

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In a Nov. 8 Roll Call "memo" to Speaker Dennis Hastert (R-Ill.) and Minority Leader Richard Gephardt (D-Mo.), Norman Ornstein argues that the leaders have not "stepped up to the plate" to ensure the survival of the House of Representatives as a functioning legislative body should large numbers of House Members be killed or incapacitated.

He says Rep. Brian Baird's (D-Wash.) proposed amendment is "exactly right on track." I disagree.

The House of Representatives is the "People's House." Never in our nation's history - not once - has an unelected House Member taken the oath of office. Why? Because the framers specifically mandated replacement by election in order to preserve the connection of the House to the people.

Ornstein argues that neither the framers nor our predecessors "up to and through the Cold War" could have anticipated a tragedy so terrible as the massive loss of life at the Capitol. But the records of the House show otherwise.

Multiple times during the Cold War similar amendments were proposed. In 1954, 1955 and 1960, the Senate passed versions giving governors the power to make temporary appointments to the House. Sen. Carey Kefauver's (D-Tenn.) speech during the floor debate in 1960 cites "atomic blast," "germ warfare" and "violent attacks by irresponsible partisans" as potential causes of massive loss of life among legislators, but the House never even brought these proposals to the floor for a vote.

And what of the framers? The very first House was composed of 65 Members. If enacted at that time, the language of the Baird proposal would have triggered appointments if 17 Members died or were incapacitated. In view of the frequency of infectious disease, war, and the dangers of travel at that time, it would not have taken much late-night musing for the framers to imagine a scenario in which 17 died or were incapacitated by disease or violence. Yet they specifically mandated direct elections for all House Members with no exceptions, even in a time of vacancies.

Ornstein says, "There is no other way to confront this problem" other than with a constitutional amendment. But there is: States could, and perhaps should, adopt special election laws providing for an expedited election process in extraordinary circumstances, such as massive losses in the House or in an individual state's Congressional delegation. These procedures could involve shortened filing periods and campaign times, decisions the framers intended to be made by the states.

Should large numbers of House Members be appointed by governors, the nature of the House would be changed for years. Ornstein is wrong when he says, "There wouldn't be enough time for an appointee to become entrenched and use incumbency for political advantage." Three months would be plenty of time to gain advantage over challengers. The eyes of voters would be on the turmoil and the new Congress, not on challengers. If several hundred appointees take office, the People's House would become the Appointees House.

Ornstein suggests that a middle ground would be for "both chambers to pass such an amendment without the usual seven-year ratification deadline and leave it for the states to implement if it is ever needed." Such an approach would make a very difficult time for America even more so. Asking 50 state legislatures to meet, deliberate and ratify an amendment in the midst of the incredible

emotion and grief surrounding a national tragedy could only slow down the process to replace Members of the House, either by appointment or election.

Ornstein believes that House lawmakers are in a "heavy state of denial," an amazingly inaccurate statement. Is there any American in or out of Congress who is unaware that large numbers of people, including House Members, could be killed in one violent tragedy? Of course not. I oppose Baird's amendment because I believe it is a bad idea, not because I am afflicted by some psychobabble diagnosis of denial.

As Ornstein says, one of our responsibilities as Members is "to protect the integrity of Congress." Since 1789 all House lawmakers, without exception, have been elected. We should let the events of Sept. 11 motivate us to protect this unique quality of this incredible institution.

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