

## **CALAMITY SHOULDN'T BRING SHIFT IN POWER**

By Jules Witcover

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WASHINGTON - Thinking the unthinkable, who would be president if another terrorist attack today were in one swoop to remove from office the president, vice president and speaker of the House?

The answer is Sen. Robert C. Byrd of West Virginia, an 84-year-old man who also happens to be a Democrat. By virtue of Democratic control of the Senate, he holds the largely ceremonial position of Senate president pro tempore. The statute on succession - not the Constitution - places him third in line to assume the presidency, after Vice President Dick Cheney and Speaker Dennis Hastert, if something should befall President Bush.

Mr. Byrd's age is not what would add political turmoil on top of tragedy if this particular unthinkable circumstance were to occur. That Mr. Byrd is a doctrinaire Democrat means that an act of terrorism conceivably could change the philosophical and ideological course of the government along with the identity of the new president.

For this reason, Democratic Rep. Brad Sherman of California is sponsoring legislation that would remove anyone from the line of succession who is not a member of the president's party. If this seems like a strange proposal coming from a congressman whose action could keep a fellow Democrat out of the White House, Mr. Sherman says: "I want to take the White House in 2004," not by way of a flawed line of succession.

Under Mr. Sherman's bill, the sitting president, in the event his party does not control the House or the Senate, would be empowered to bypass an opposition party speaker or Senate

president pro tem and designate the House and Senate minority leaders of his own party to replace him on the list. In other words, Mr. Byrd would be bypassed in favor of Senate Minority Leader Trent Lott.

The notion that the line of succession would reach that far down to choose a president has until now been dismissed as far-fetched. In every case so far of a president leaving office by death or resignation, a vice president has been there to assume the presidency.

The vice presidency did stand vacant eight times, however, until ratification in 1967 of the 25th Amendment, providing for filling a vacancy. The congressional leaders were next in line after the vice president from 1792 until 1886, when Congress changed the order to Cabinet members, starting with the secretary of state. The order was switched back to the congressional leadership again in 1947, putting the speaker next after the vice president and Senate president pro tem, and only then the Cabinet members.

When the next vice presidential vacancy occurred with the resignation of Spiro Agnew in 1973, President Richard Nixon chose House Republican leader Gerald Ford. When Mr. Ford moved up to the presidency the next year, he named Republican Gov. Nelson Rockefeller of New York to replace him as vice president.

Mr. Sherman's plan rests on his belief that the nation's voters choose not only a president but also a philosophy or ideology reflected in his party affiliation. Therefore, he argues, they should be entitled to expect that the philosophy or ideology would survive in power if the president and vice president who embraced it were somehow removed.

Mr. Sherman professes not to care whether the person succeeding to the presidency is an elected official or an unelected Cabinet member, as long as he or she is in tune with

the incumbent's basic points of view as reflected by shared party membership.

The issue of ensuring continuity of political philosophy and policy first surfaced in the presidency of John Adams, a Federalist, when under the original provisions of the Constitution the vice presidency went to the runner-up in the balloting for president. In 1796, that candidate was Thomas Jefferson, a foe of Federalism. The problem was rectified in the 12th Amendment, ratified in 1804, providing for separate election of the president and vice president.

Some may think it ghoulish even to contemplate the possibility that a terrorist attack could put a Democrat in the Oval Office chair then occupied by a Republican president. But the country learned on Sept. 11 that the unthinkable can happen. Congressman Sherman's change in the succession line is no more than a prudent precaution against a power shift for which the people did not vote.

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