

PRESIDENTIAL SUCCESSION: A FUTURE CRISIS WE CAN SOLVE NOW

By Rep. Brad Sherman

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September 11th brought into sharp focus the importance of planning for the unthinkable.

Recently, we learned that top civil servants — constituting a hidden emergency “shadow government” — are busy making contingency plans to respond to the possible decapitation of the federal government. Our vice president, meanwhile, spends much of his time in a “secure, but undisclosed, location.” Clearly, the executive branch takes continuity of government seriously, and so too should Congress. That is why I was pleased to join with Reps. Brian Baird (D-Wash.) and Chris Cox (R-Calif.) and over 100 of our colleagues to call on the House Leadership to create a special panel to review continuity of government issues.

Over a year ago, I went to the House floor to suggest we revisit the issue of presidential succession before a crisis occurred. We all know that the vice president assumes the presidency when the president is incapacitated or dead. However, if there is no sitting vice president or if the vice president also falls victim to attack at the same time, then the line of succession is determined by statute, a statute we can change without amending the Constitution.

Under the Presidential Succession Act of 1947, if the Office of the Vice President is vacant, the next in line is the Speaker of the House, thereafter the president pro tempore of the Senate, followed by Cabinet secretaries, beginning with the secretary of state. Thus, the death of a president at a time when the Office of the Vice President is vacant could vest the

presidency in the opposite political party and radically change national policy.

In 1974, for instance, with Gerald Ford serving as president without a vice president, the country would have drastically changed policy if House Speaker Carl Albert (Okla.), a Democrat, had assumed the presidency. This is only the most recent instance where a political party could occupy the White House without prevailing in the Electoral College.

As a Democrat, I hope that Rep. Dick Gephardt (D-Mo.) will become Speaker in nine months. Imagine how secure Vice President Cheney’s undisclosed location would be if Dick Gephardt stood behind him in line of succession. I want a Democrat to take the White House in 2004 — not 2003.

Moreover, under the 1947 Act, the person in line after the Speaker is the president pro tempore of the Senate — normally the most senior member of the Senate majority. One year ago, this was Sen. Strom Thurmond (R-S.C.). Thus, in a time of unprecedented national crisis we could be asking Americans to accept the leadership of a relatively unknown senior senator who was selected by his or her colleagues for a chiefly ceremonial post.

To address these concerns, I have introduced H.R. 3816, the Presidential Succession Act of 2002. It requires the president to file an official document with the clerk of the House of Representatives designating, after the vice president, the next person in line of succession as either the Speaker of the House or the House minority leader. Similarly, the president would file with the secretary of the Senate, designating the third in line as either the Senate majority leader or minority leader. Thereafter, the line of succession would continue through the Cabinet as provided by current law. Scholar Norm Ornstein has suggested that after the Cabinet secretaries the line should go through designated governors,

since governors are unlikely to be hurt in a horrific attack on Washington, D.C. Presidential succession issues could arise even in the absence of a horrific terrorist attack. A single madman can kill a president. A single disease can incapacitate a vice president. Two such occurrences, neither of which is unprecedented, could vest the presidency in a Speaker of the opposite political party. Three such occurrences could vest the presidency in a relatively unknown senior senator never selected for national leadership. Failure to act will someday invite a lunatic or evildoer to try to radically change national policy through an assassination.

Americans from Main Street to Wall Street, and our friends and adversaries around the world, should know that, even if there is no one currently serving as vice president, the next person in line is a relatively well-known and able leader selected by Congress for major national responsibility, and likely to steer the ship of state on the same course as the persons elected as president and vice president. It is not clear that H.R. 3816 is the best answer to the presidential succession issue. However, it is clear that this issue, illuminated by Sept. 11th and combined with the congressional continuity issue identified by Rep. Brian Baird (D-Wash.), justifies the appointment of a special panel to review governmental continuity issues.

Rep. Brad Sherman is a Democrat representing California's 24th District.