

CNN NEWSNIGHT AARON BROWN
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SNOW: The notion used to be crazy enough to make people laugh back when it staple of comic books and science fiction films, death rays destroy the capitol. Chaos ensues. America hangs in the balance.

We can tell you exactly how long it's been since that idea seemed funny, seven months and nine days. Ever since the towers fell, and the Pentagon burned, people everywhere, and certainly people in Washington, have been forced to think through the very worst that might happen. The White House already has implemented a plan to keep the executive branch up and running, but when it comes to Congress, things are a little more complicated, and a little less organized.

(BEGIN VIDEOTAPE)

SNOW (voice-over): September 11, a black cloud billows from the Pentagon, visible from Capitol Hill. Leaders of Congress are warned, another plane may be headed for the famous dome.

UNIDENTIFIED MALE: They have evacuated the Capitol building.

SNOW: Though they can't be sure, some investigators say the Capitol could very well have been the target of flight 93, the plane that crashed in Pennsylvania. A terrorist attack wiping out most or all of Congress. A horrible prospect some say Congress is completely unprepared for. While the executive branch has set up a standby government in a bunker secretly located outside Washington, Congress has no similar plan.

REP. BRIAN BAIRD (D), WASHINGTON: I joked at the time that if our pagers would go off and a voice would come and say "attention all members, run for your lives." As far as I know, that's our plan.

SNOW: Congressman Brian Baird has made it his mission to get colleagues thinking about doomsday scenarios.

BAIRD: We have nothing in place. And this is frightening, I know. Believe me, everyday I think about this. We have nothing in place right now that would allow the United States Congress to reconstitute itself and faster than, at the quickest, a month and a half, two months.

SNOW: Baird is talking about the worst case, a devastating attack killing large numbers of senators and congressmen. While the Constitution says governors could quickly appoint new senators, new House members would have to be elected, elections governed by state laws that vary widely.

NORMAN ORNSTEIN, AMERICAN ENTERPRISE INSTITUTE: If most of the members of the House were killed, we would have no House of Representatives for three to six months. And if you have a Senate but no House, you can't pass laws, you can't confirm a new vice president if it were necessary. You can't declare war. You can't do any of the things you need to do under condition of an immense emergency.

THOMAS FOLEY, FORMER HOUSE SPEAKER: It's not a pleasant subject, but it's one we ought to think about and act on before the tragic event could possibly take place.

SNOW: Former Speaker Foley, and his Republican counterpart, former Speaker Newt Gingrich, suggest governors or the House members themselves, should designate a temporary successor. It's one of several solutions being battered around Capitol Hill. While those complex constitutional issues are still being debated, more practical decisions have been made. The House could relocate if most members survived an attack, but the Capitol were demolished.

REP BOB NEY (R) OHIO: It is no secret about the, you know, the one site that was prepared. And it can be functional really immediately. It was I think well planned, well prepared.

SNOW: The site, Fort McNair, but that's in southeast Washington. Not a good location if the city were destroyed.

Sources tell CNN other locations outside of Washington are being explored. No one wants to say where, but House Republican leaders have secretly asked for \$100 million for alternate sites. Congressman Baird says it's a positive step, but having a nice facility will do no good, if there are no members to occupy it. He says the more urgent need is finding a way to form a new Congress quickly.

BAIRD: What I'm absolutely certain about is the status quo, the current situation leaves our nation in peril and uncertainty at a time of its gravest challenge. And we've got to fix that.

(END VIDEOTAPE)

SNOW: But how do you fix it when your concern isn't shared equally by all of your colleagues? When NEWSNIGHT continues, we'll talk with Congressman Baird who you just saw. A former psychologist, by the way, about his struggle to get other members of Congress to face the possibility of their own demise.

(COMMERCIAL BREAK)

SNOW: I'm joined now by Representative Brian Baird, Democrat of Washington. You just heard from the congressmen just a minute ago in the piece you saw. But there is certainly a lot more to say on this subject.

Congressman, thanks for being here. It's dismal subject, talking about doomsday scenarios for the Congress. I wonder, do you think that the problem or half the battle is that people, not just Congressmen, but people don't want to face the possibility of their own death?

BAIRD: Well of course we don't. You know? Prior to September 11, as you said earlier, it would have seemed farfetched to discuss what we're talking about tonight. But clearly that fourth plane was heading towards the Capitol. And if it were to succeed in striking the Capitol and killing the members of Congress, we owe it to the people to have a plan, even if it's unpleasant to think about our own deaths.

SNOW: I think a lot of people would be very surprised that there's not some giant plan out there. We outline that there, you know, there are some things in place, there's an alternate site. We know there are evacuation plans. You think people just never thought that this was a possibility?

BAIRD: Well, I think people thought about it. In the '50s, in fact, they discussed it, but never got to the point of actually implementing a solution. One of the things September 11 did is help us focus on

the fact that we have to confront these possibilities. We can delay things further if we want, but we delay them at our peril and at the nation's peril.

You have to act to solve these problems before the solution is needed. Because if someone attacks the Capitol, all the mechanisms, the executive branch, the legislative branch, the judiciary that are designated in the Constitution to solve the problems are by definition eliminated. So we should solve it now. And I think it could be urgent.

SNOW: You're a freshman Congressman, first term congressman. No offense, but why latch on to such a morbid cause?

BAIRD: Well on the night of September 11, there was a great debate about whether members should go back into the Congress and show the American people our solidarity. We chose, as many know, to stand on the steps and join hands. But it occurred to me what if we do go into the building and the terrorists have some other device prepared, and they kill us all. What would folks like yourself in your profession tell the American people?

What next? And as I studied that, it became apparent we don't really have clear answers. There are real and important ambiguities in congressional issues about how we replace the Congress, and indeed about the line of succession to the presidency.

I believe the media needs an absolutely clear cut answer and the American people need that answer. If the worst case scenario, what happens to your government? Believe it or not, we don't have clear cut answers. And that's deeply troubling.

SNOW: You know I've been working on this story for a while. And I've had several people say to me, well, the executive branch has a plan. They've got this stand by government in a bunker somewhere that can get up and running right away. So is it really that big a deal that we don't have a Congress for a little while? And again, no offense, but is it really that big a deal -- you know -- can't that fill the void for a while? That executive branch?

BAIRD: Well, conceivably it could. But remember that the Constitution requires checks and balances and purposefully separates power. The Congress has the authority under the Constitution to declare war, to appropriate funds, in fact to approve vice presidential nominees. And in the case of the Speaker of the House, who is third in the line of succession, the Congress actually could elect the person who succeeds to the role of presidency.

If you don't have a House of Representatives, all of those functions would be eliminated. And you could have, for example, a cabinet member declaring extra constitutional powers. And many Americans might not even know who the cabinet member is. And this person has never been elected.

I would much rather have a Congress representing the states, representing the districts of the states, coming together, deciding what the future of the country is, than a cabinet member who moves up to that with absolutely no checks or balances. Separation of powers and checks and balances are so fundamental to our constitutional system. We've got to have a way to rapidly put the Congress back together. Not waiting three or four months or even longer.

SNOW: Quickly Congressman, I know you're going to meet with some other Republicans, have a bipartisan meeting about this, a lot more talking about this. But what happens next in terms of actual legislation? Do you see a constitutional amendment being proposed sometime this year?

BAIRD: Well, we'll be meeting with leaders of both parties in two weeks on May 16. Chris Cox on the Republican side and myself, along with Martin Frost, and Jim Langevin have done a lot of work on this issue. I -- we may need a constitutional amendment. People are reluctant to do that.

I'm not so fixed on exactly how we solve the problem. There are many possible ways. I'm absolutely certain we must have a solution. And I believe we should have that solution during this session of Congress. Because you never know how much time we'll have.

SNOW: Yes. Thank you so much, Congressman Brian Baird, joining us from Washington tonight. Really appreciate your thoughts.