

PAY ATTENTION

Roll Call

March 4, 2003

WASHINGTON – In many sensible ways, Congress is preparing itself for terrorist attacks. It has tightened security, erected barriers, installed biochemical detection devices and upgraded training for emergency personnel. On Monday, the House conducted an evacuation drill with staff standing in for Members. Members will go through the drill, too. So, with Congressional leaders obviously aware of terrorist dangers, why has next to nothing happened to ensure the continuity of Congress in case of a catastrophic attack? Congress almost certainly needs to pass a constitutional amendment to speed reconstitution of the House after such an attack.

Action on a constitutional amendment is the responsibility of the House Judiciary Committee, but Chairman Jim Sensenbrenner (R-Wis.) shows little interest in the project. The Judiciary subcommittee on the Constitution held just one hearing on the question last year. So, we suggest that someone who is interested, Rep. Christopher Cox (R-Calif.), make it part of the jurisdiction of the new Homeland Security Committee, of which Sensenbrenner is a member. Perhaps a move by Cox would stimulate action by Sensenbrenner. Or Speaker Dennis Hastert (R-Ill.) and Majority Leader Tom DeLay (R-Texas) might call for it.

The basic problem, first brought to national attention by American Enterprise Institute scholar and Roll Call Contributing Writer Norman Ornstein, is that a major terrorist attack on the

Capitol that killed hundreds of Members would leave the United States without a legislative branch at a time when it would be necessary to pass emergency legislation. Senate vacancies could be filled reasonably quickly by appointments made by state governors. Replacement of House Members, however, requires special elections, the rules for which are set by state law and vary widely.

So far, one action the House has taken is to pass a resolution urging states to speed up the election process to no more than two months. As Ornstein pointed out in a Roll Call column last week, it would be unrealistic to expect the states to conduct, say, 200 quick special elections at a moment of national emergency.

The House also has passed a rules change letting the Speaker redefine a quorum to include only living House Members, but that is not likely to pass constitutional muster. The Constitution almost certainly needs to be amended to allow for emergency appointment of House Members in a manner similar to that for Senators. But, as Ornstein noted, details - such as what constitutes an emergency, who would make the appointments and what the replacements' terms would be - need to be deliberated.

A bipartisan Commission on the Continuity of Government headed by former Sen. Alan Simpson (R-Wyo.) and former White House counsel Lloyd Cutler is scheduled to report soon on how to proceed. We hope the report will trigger serious Congressional action.