

## CONTINUITY VOTE SPLITS PARTIES

By Suzanne Nelson

*Roll Call*

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After successfully closing their ranks to turn back Democrats' attempts to force a wide-ranging debate on continuity of Congress on Thursday, House Republicans have made it clear they don't expect to open the door to further significant action on the issue this year.

During debate on his measure, which would mandate expedited special elections within 45 days after more than 100 Members were killed, Judiciary Chairman Jim Sensenbrenner (R-Wis.) indicated that he would hold a hearing on or markup of Rep. Brian Baird's (D-Wash.) constitutional amendment. But Baird wonders if that session will be as perfunctory as the first was two years ago.

"I will get my colleague his vote and his debate for him," Sensenbrenner said in a sharp exchange with Baird, but not before pointing out that he expected the Democrat's resolution to fail.

Baird was most indignant about the failure to have full debate about something he said was fundamental to the institution and Republican government itself.

"You now give us two hours," Baird said on the floor in an exchange with Rules Chairman David Dreier (R-Calif.), who co-sponsored the legislation. "Ask my colleagues, as I did yesterday, have they had sufficient time to study this matter of this magnitude before we vote on it. They will tell you, 'No, sir. I have not.' They will vote party line as we far too

often do here. But they will not vote their conscience because their conscience has not grappled with it."

In an interview Friday, one day after the House passed Sensenbrenner's bill 305-97, Baird said above all he wished his colleagues on both sides of the aisle would take time to seriously consider vulnerabilities he believes defy a simple legislative solution.

"One of the great frustrations yesterday [was] there were still people coming down to the floor and looking up and seeing what the party vote was and pushing the button. Only by really grappling with the issues, and not just making a cursory 'I think this is a good idea or I don't think this is a good idea,' can we do this justice," he said.

Baird and a small but growing number of Members, predominantly Democrats, believe only a constitutional amendment to allow temporary appointments will ensure the House can function with a constitutional quorum if large numbers of Members are killed or incapacitated. The Republican leadership, however, has made clear to their conference that the unbroken tradition of House Members being directly elected must be maintained, even in catastrophic circumstances. And many Democrats, while uncomfortable with Sensenbrenner's bill, are not ready to embrace non-elected Members, even for a short period.

The Judiciary subcommittee on the Constitution held one hearing in 2002 on Baird's amendment proposal, but since then Sensenbrenner has steadfastly resisted further discussion. Earlier this year the panel reported out his bill on a

party-line vote.

"I think there is broad agreement in this House, more than one might know from listening to the debate. I worry that we have not begun the work that needs to be done," said Rep. Zoe Lofgren (D-Calif.), who has introduced an amendment of her own.

Rep. Adam Schiff (D-Calif.) went even further, calling the bill and the process that led to it a "dereliction of duty."

"This is really a bipartisan issue. It should really have a bipartisan work product," he said on the floor.

In an interview after the vote, Schiff, a member of the Judiciary Committee, said he just came from the second of five hearings on gay marriage, while there have been virtually no hearings on amendments to ensure Congressional continuity.

"This is not how this should be. I think from the very beginning this should have been handled in a bipartisan way. There must be some discomfort in the Republican Conference about this," Schiff said. "I think we should go back to the drawing board. You can't tell me that my colleagues on this can't work with Brian Baird. Everyone can work with Brian Baird. Once you start on this [partisan] track it's awfully tough to get off of it."

It's not clear at this point whether Sensenbrenner's promise to allow debate on an amendment is an attempt to encourage discussion or simply an effort to shelve the issue. A spokesman for the committee said that no hearings were yet scheduled.

During the debate, House Majority Whip Roy Blunt (R-Mo.) said the bill "may be the final step. It may be an interim step." Before the bill came to the floor, Blunt engaged in extensive discussions with Rep. John Larson (D-Conn.) as to how the process could be opened to appease those who support an amendment. Sensenbrenner's sudden willingness to mark up Baird's resolution appears to be the product of those conversations.

Asked whether his subcommittee would hold another hearing, Rep. Steve Chabot (R-Ohio) said Thursday: "I probably ought to wait to talk to Chairman Sensenbrenner and the leadership."

Baird said his understanding was that Judiciary would hold a hearing -but only on his proposal and not those offered by Lofgren, Larson and Rep. Dana Rohrabacher (R-Calif.).

"I am very uncomfortable with just my bill being brought up. I think it typifies the kind of problems we've had. This has never from day one been about me passing a constitutional amendment. There are other people who might have better ideas," Baird said. "What I would not like to see is a take-it-or-leave-it one shot at Baird's bill.

"I hope to talk to every Member personally between now and when this comes up," which he said may be within the next few weeks. "People who haven't looked at this are quite understandably saying, 'Well, what about this?'" Baird said, almost begging his colleagues to read the Federalist Papers, Article I, and the independent Continuity of Government Commission's report on the subject and to talk to their constituents.

"If they would take the time to examine it for themselves, they might not agree with me in the end, and that's part of the process. I just would ask them not to do so off a summary sheet."

the more riveting discussions."

But Baird, who said he plans to seek the help of other amendment sponsors, has a difficult task in explaining an extremely complicated problem to a busy audience in a short time frame. Most Members haven't yet dedicated much time to the subject, something Baird says he understands given Congress' schedule.

"I haven't given it a lot of thought," Rep. Robert Wexler (D-Fla.). "If there was a constitutional amendment, certainly I would consider it. But I don't know if one is necessary."

The biggest challenge will certainly be among Republicans. Although they didn't actively whip Sensenbrenner's bill, the GOP leadership has made clear to the Conference over a period of months what the party's position is on the subject.

A four-page House Policy Committee paper on the Continuity in Representation Act stipulated that Sensenbrenner's bill didn't preclude a constitutional amendment, but it also laid out all the reasons why Speaker Dennis Hastert (R-Ill.), Majority Leader Tom DeLay (R-Texas) and Blunt have said they oppose it. And the issue has not garnered more than a few minutes at Whip meetings.

"There was a comment that we need to get the bill passed," Rep. Steve Pearce (R-N.M.) said, adding that they spent "three, four or five" minutes discussing the pros and the cons. "It was not one of