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Editorial

Roll Call

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Two years after Sept. 11, 2001, Congress still has not fully faced up to the awful threat terrorism poses to the continuity of the legislative branch. It has tightened security. It has made arrangements for alternate meeting sites. But it has not addressed the worst contingency - a successful attack that wipes out much of the House of Representatives. There's been a lot of talk, but not much encouraged by House leaders. A blue-ribbon citizens panel has delivered a report calling for a constitutional amendment allowing for pre-appointment of stand-by House Members, allowing governors to temporarily fill House vacancies similar to the way the Constitution presently provides for replenishing the Senate. The amendment, introduced by Rep. Brian Baird (D-Wash.), appears to have broad support.

For much of the past two years, House leaders have tried to wish the issue away, as though what happened to the World Trade Center could never happen to the Capitol. But pressure for the amendment has led them now to back legislation sponsored by the chairmen of the Rules and Judiciary committees, mandating that states hold special elections to fill House vacancies within 21 days if 100 or more Members are killed.

We understand the leadership's reluctance to tinker with the Constitution and its preference to maintain the House's hallowed tradition of direct

election. However, there is another strain of argument in favor of the legislation - and against the amendment - that we do not countenance. It is that the country can be safely governed by the executive branch - perhaps by the military - during a time of extreme trauma, and that the legislative branch, once it reconstitutes itself later, can approve or disapprove the executive's actions *ex post facto*. This argument amounts to an abandonment of the legislative function, which we cannot imagine that Members can countenance.

Moreover, as *Roll Call* reports today, all of the state election officials who responded to a questionnaire sent out by Sen. John Cornyn (R-Texas), chairman of the Judiciary subcommittee on the Constitution, responded that holding special elections in 21 days was nigh-on impossible. Eight Members who previously served as secretary of state in their home states were deeply divided on the issue. As Sen. Evan Bayh (D-Ind.) put it, "Twenty-one days is not a very long period of time for a candidate to become known. In three weeks time, the chances are only the wealthy and well-known would get elected or Democratic or Republican districts would just send the appointee of their party."

If the party is going to pick the new Member, as the legislation proposes, why isn't it better for elected Members to choose a slate of their prospective successors, as the amendment proposes? In any event, it's long past time for the House to debate and act on its own continuity. "Haunted" by the prospect of catastrophe, Baird has introduced a discharge petition to bring the issue to the House floor. We'd prefer House leaders bring it up instead.

