

# Shouldn't We Rethink Who's Next in Line?

By Paul Sracic

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Missing from the debate over the new Homeland Security Act was any discussion of a serious problem with the nation's governing structure: In a post-9/11 world, it is frighteningly easy to imagine scenarios in which the presidential succession law would leave us with either inadequate leadership or no leadership at all.

Despite changes in our thinking about how to cope with terrorist threats to the nation and the government, we continue to operate under a 55-year-old law that basically merges succession schemes from 1792 and 1886. Passed by Congress in 1947, the Presidential Succession Act calls for the president and vice president, if they are unable to serve, to be succeeded by the speaker of the House of Representatives, followed by the president pro tempore of the Senate (the longest serving senator from the majority party) and then the various cabinet secretaries, ordered according to when the departments they represent were established.

But this plan is flawed. What if United Airlines Flight 93, the plane that went down in a field in Pennsylvania, had managed to hit the White House, as some suspect it was meant to do? And suppose that the hijackers of American Airlines Flight 77, which crashed into the Pentagon, had instead destroyed the Capitol? Had all this occurred, and had President Bush been in Washington rather than Florida that day, we may well have lost the president, the vice president and the speaker of the House.

That would have meant that Sen. Robert Byrd, who was then 83 years old, would have become acting president. With all due respect to the long-serving Democratic senator from West Virginia, would it have made sense, in the midst of such an extraordinary crisis, to place someone of his advanced years at the nation's helm?

I would argue that the president pro-tem, which is essentially an honorary position, should be taken out of the succession lineup. (This was actually done in 1886, but undone in 1947.) Legislation to that affect was proposed last February by Rep. Brad Sherman (D-Calif.).

Moving down the list, one runs into somewhat more logical successors in the Cabinet. Still, many Cabinet members have never held elective office. And only an accident of historical timing places Treasury Secretary Paul O'Neill, who has little political experience, ahead of Secretary of Defense Donald Rumsfeld, a veteran of several administrations and a former member of Congress. The new secretary of Homeland Security, former Pennsylvania governor Tom Ridge, will be last on the list, well behind Commerce Secretary Donald Evans, a former oil company executive.

Once it removes the president pro-tem from the list of successors, Congress should also legislate a reordering of Cabinet positions for the purposes of succession. But even then, a significant hazard would remain.

In the event of a massive attack that destroyed Washington, we might be left with no leadership at all, because everyone in line to succeed the president is based in the District. The simple answer is to dilute the concentration of power. We have become accustomed to seeing Vice President Cheney being

whisked off to some "undisclosed location" from time to time. And for years, the Secret Service has made sure that at least one Cabinet member did not attend the president's State of the Union address in case of an attack on Washington. Yet these precautions are fairly ad hoc.

A more permanent, statutory and perhaps constitutional restructuring is necessary to ensure continuity of leadership in the event of a crisis and to minimize chaos. We should extend the succession order beyond the Beltway. One option would be for Congress to include the governors in the line of succession, ranked by the relative populations of their states. After all, governors have the requisite executive experience. Indeed, four of the last five presidents were either former or sitting governors.

There is, however, a better solution, even if it may at first seem radical. Suppose President Bush had been incapacitated on 9/11. Partisan considerations aside, who would have been most qualified, at least temporarily to assume control of the nation? It is difficult to argue against the credentials of Bill Clinton who, over the previous eight years had been privy to classified intelligence information and had established relationships with many foreign leaders. The same argument might have been made in 1993, after the first World Trade Center attack. Had Clinton died in office then, who better to take over than former President Bush?

Why not allow former presidents, who do not normally live in Washington and already have Secret Service protection, into the order of succession? The 22nd Amendment, which limits presidents to two terms, would have to be changed and might even be accompanied by provision that allowed the Electoral College to be reconvened within a certain number of days for a special election, so that a permanent replacement could be named. Indeed, I would argue that, if the replacement is temporary, then it makes sense to place the previous president at the top, rather than at the bottom of the succession line.

Most experts agree that, no matter how much we improve homeland security, we will remain vulnerable to terrorist acts. Every disaster plan assumes effective implementation, which demands leadership. The presidential succession act is dangerously flawed and must be fixed immediately. After all, we do not know whether we have any time to spare.

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