

CONGRESS

'We have become ... dismayed'

■ We need an infusion of men and women committed to Congress as an institution — to engaging with one another seriously.

WASHINGTON — Congress returns for a final pre-election push this week, with few of its members feeling much hope of salvaging some real accomplishments from this dismal session.

In an interview last week, one of the Republican leaders of the House told me that in the 21 districts he visited during the August recess, including those in his own Midwestern state, immigration vies with Iraq as a mat-

ter of major concern to the voters. Does that mean, I asked, that you're likely to try to complete a final version of the immigration reform bill, endorsed by President Bush and passed, in different forms, by the House and Senate?

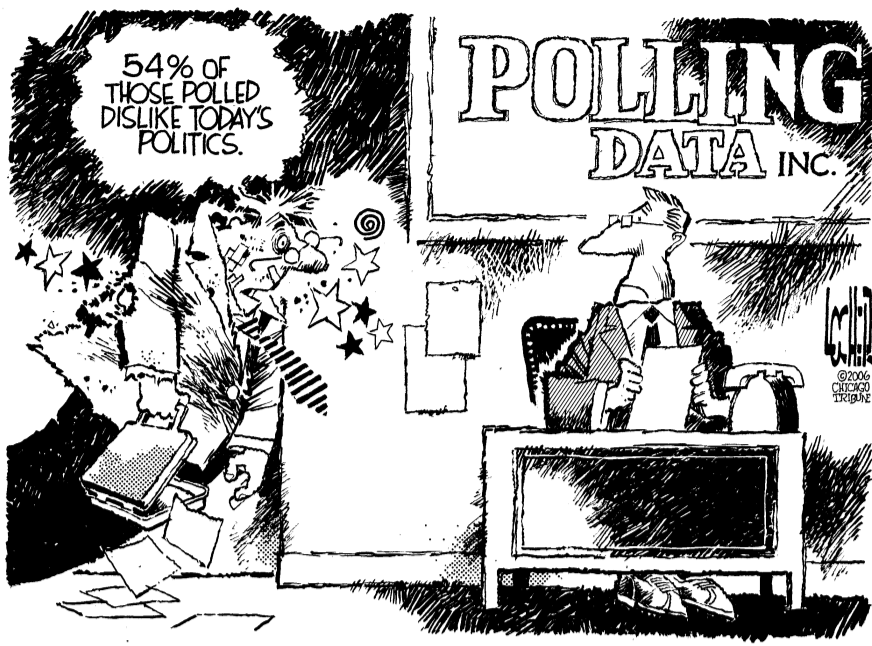
"No," said the GOP leader, who spoke without attribution in the interest of candor. "The voters would rather we get it done right than done fast. I don't look for any action in September."

Fast is not exactly the adjective that comes to mind to describe a legislative package that cleared the House about nine months ago and came out of the Senate, in different form, back in May.

In a normal legislative process, the differing bills would be sent to a conference committee of representatives and senators who would work out the differences and send their product on for final votes and a presidential signature. But there is so little agreement between the two Republican-controlled chambers — and so little trust among the members — that they would rather disagree and delay than compromise.

And politically, they find it safer. As the Republican leader told me, "House Republicans can go home and campaign on the bill the House passed," even though the problem of illegal immigration remains unsolved.

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This is but one example of the failures that led Thomas E. Mann of the Brookings Institution and Norman J. Ornstein of the American Enterprise Institute to title their recently published volume *The Broken Branch: How Congress Is Failing America and How to Get It Back on Track*.

In the Oxford University Press volume, the two eminent scholars cite many other instances of institutional damage — from runaway budgets to the lobbying scandals to the near-abandonment of effective oversight of executive agencies.

They write as two men who love Congress and admire many who work there. But they say that "over the past two decades, we have become more and more dismayed at the course of Congress. Our unease began with the Democrats in charge of both houses, when a combination of their arrogance after thirty-plus years in the majority and the increasingly shrill frustration of Republicans who chafed under their seemingly permanent minority status was creating strains different and more ominous than any we had seen before."

When the Republicans took over in 1994, they promised needed reforms, "but it did not take long before those promises went by the boards, and practices that were more unsettling than those of the Democrats became the norms." Rules were bent, votes held open, committees side-stepped, and communications between the parties cut off — all in the interests of "moving" the GOP agenda and the president's program, once George W. Bush arrived in the White House.

The result, they write, has been the increasing enfeeblement of the legislative branch and its abandonment of its proper constitutional role as the first branch of government — and the loss of both pride and a sense of institutional responsibility.

How else do you explain impotence and inaction, not just on immigration but on energy, healthcare and the war in Iraq?

What Mann and Ornstein fear is that if Democrats regain a majority in the House this fall, they may be tempted to use the same kind of bullying tactics on Republicans that Republicans have employed these past 12 years. That would in turn prolong the policy gridlock and further weaken the already shabby reputation of Congress.

But a new election means new faces — and possibly a new spirit on Capitol Hill. Mann and Ornstein have a number of specific changes to suggest in congressional rules and procedures — and in lobbying regulations.

But their main point is simple. We need an infusion of men and women committed to Congress as an institution — to engaging with one another seriously enough to search out and find areas of agreement, and to join hands with one another to insist on the rights and prerogatives of the nation's legislature, not make it simply an echo chamber of presidential politics.

That ought to be the criterion by which candidates are judged in this election season.

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VOTING | TECHNOLOGY

Error — reboot?

■ The combination of electronic voting technology and vital races should have elections officials on their toes.

By DICK THORNBURGH and RICHARD CELESTE
SPECIAL TO THE WASHINGTON POST

For many years, election officials have kept the machinery of American democracy running in the face of sometimes overwhelming difficulties. But this November's elections will pose unprecedented challenges to them.

For many jurisdictions, the 2006 elections will see the first large-scale use of electronic voting systems. Many organizations have learned the hard way that deployment and use of new technologies on a large scale virtually guarantee big surprises and unintended consequences: system crashes, corrupted data or painfully slow systems. The usual remedies are to develop, test and evaluate small-scale prototypes before committing to organization-wide upgrades in technology, and to keep both old and new systems running for a while so that failures in the new system do not paralyze operations.

Unfortunately, faced with the deadlines for deploying enhanced voting systems that were set by the Help America Vote Act of 2002, most electoral jurisdictions have been unable to follow this prudent path.

That's why we believe it will be essential this year that jurisdictions have backup and contingency plans that anticipate a wide range of possible failures in their electronic voting systems, including those that occur in the middle of the voting process on Election Day (or days).

The outcome of the November elections seems likely to be very close. Depending on the results of a few races, control of the House or Senate — or both — may be at stake, which is likely to lead to close scrutiny of how those elections are carried out. If major problems arise with unproven technology and new election procedures, the political heat will be high indeed.

What problems might crop up on Election Day? Software or hardware problems could render a significant number of voting machines inoperable when they

are first turned on. An unexpected sequence of voting inputs on touch screens might cause machines to lock up. Or the cards that voters use to activate voting machines to accept their votes might not work properly. Or voting machines might be inadvertently loaded with the ballot for a neighboring precinct.

Jurisdictions need to come up with contingency plans for such November problems. One possible example: Make preparations to fall back to paper ballots if necessary.

Other problems might include machines that appear to work but then yield an erroneous electronic vote count. Systems could lose votes because they continue to accept them after their memories are full, or because they have incorrectly reset themselves in the middle of the day as voters are attempting to vote.

In such cases, applicable backup technologies such as paper trails, which provide an independent, permanent record of activity on a voting machine, might already be in place. But paper trails themselves have potential problems (such as jammed printers) and voters might be confused by the introduction of an unfamiliar element into the election whose purpose and role will not be clear to many voters.

For any given jurisdiction, the likelihood of a specific problem is low. But with 9,500 jurisdictions in the United States it's likely that problems will occur in some of them. Indeed, many of the problems described above have happened in one jurisdiction or another.

We don't mean to suggest there will be widespread failures of electronic voting systems. But in this election year, the challenges facing election officials and the nation are formidable. Prudence and reasonable contingency planning should rule at this moment of truth for electronic voting, as election officials across the land work to retain public confidence in the face of new challenges.

Dick Thornburgh is a former Republican governor of Pennsylvania. Richard Celeste is a former Democratic governor of Ohio. They headed a recent study by the National Academies' National Research Council on electronic voting. This essay appeared previously in *The Washington Post*.

Texas: 1892 election has lessons for 21st-century voters

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facing independents Carole Keeton Strayhorn and Kinky Friedman and Democrat Chris Bell, well, you get the consolation prize. In fact, the election in question took place more than a century ago, in 1892, and it was arguably the most famous race in Texas history.

It also offers some lessons for what to expect this fall.

The incumbent governor in 1892 was Jim Hogg, who had run as a moderate reformer. He had the misfortune of becoming governor during a prolonged recession that was fast becoming a full-fledged depression, at least for farmers — the bulk of Texas voters.

Hogg, like Perry, was an attractive candidate (based more on his personality and oratorical skills than on his looks — he weighed in at 300 pounds). But like Perry, Hogg had created bitter enemies, including many within his own party.

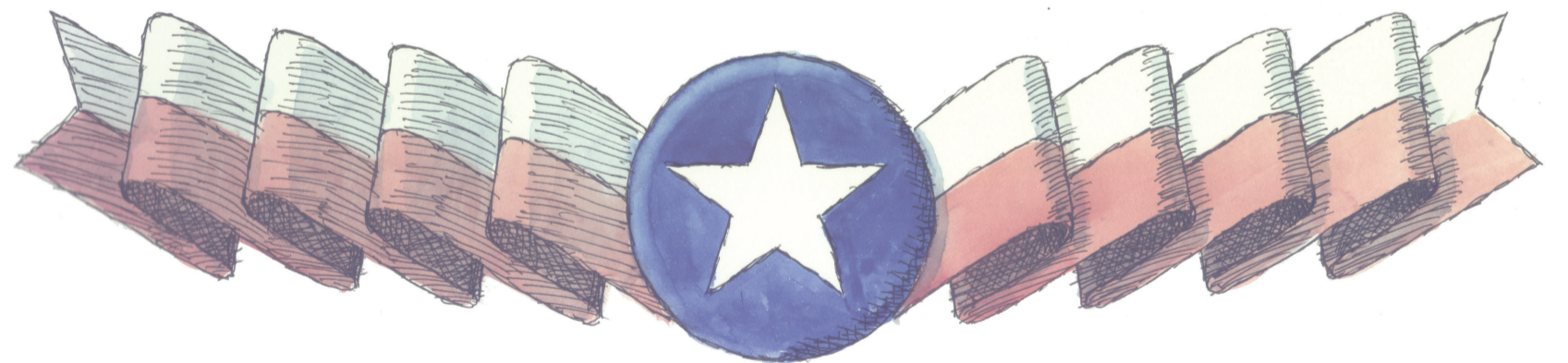
He had courted the farmer vote and owed his election to them, but he had not kept his promise to effectively rein in railroad rates. And when he failed to give farmers a voice on the newly created Railroad Commission, they turned against him with a vengeance, launching the third-party movement known as Populism.

The Populists nominated a former state judge from Fort Worth: Thomas L. Nugent, who favored some radical solutions to farmers' problems, including government ownership of the railroads, more money for education and low-cost government loans for struggling farmers. The dignified, scholarly Nugent was no Kinky Friedman, but like Friedman's, his candidacy was calculated to shake up the political establishment.

Nugent's insurgent race was bad enough for Hogg, but the governor had an even greater problem: a revolt from within his own party over his alleged anti-corporate views. When the leader of the party's conservative wing, Waco attorney George Clark, failed to gain the nomination, he launched an independent race featuring the slogan "Turn Texas Loose!" Like Strayhorn, Clark had formidable financial backing from party members who loathed the incumbent.

Almost overlooked in the confusion was the other major party.

In 1892, the Republicans occupied the position that Democrats hold today in Texas: a seemingly permanent minority party, kept



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a float only by the existence of a national party. The GOP's support for black rights — especially voting rights — had cost it the support of most white Texans, and it could play only the role of spoiler in the upcoming race.

But even though the 1892 Republicans certainly could have found a Chris Bell to carry the party standard in what almost certainly would be a losing cause, party leaders had other ideas.

When the party's state convention met, it declined to make a nomination. Instead, at the urging of African-American party leader Norris Wright Cuney, the party threw its support to Clark in hopes of defeating Hogg. Imagine today's Democratic convention endorsing Strayhorn, and you get the idea.

The ensuing free-for-all captured the public's imagination like no gubernatorial race before or since.

The candidates traveled incessantly, speaking to giant crowds everywhere they went. Money (and whiskey) flowed freely.

As the election grew nearer, things turned ugly. Hogg's dirty-tricks machine spread the false rumor that Nugent would withdraw from the race and throw his support to the governor. The governor's supporters also threw mud at Clark with a racist phrase: "The Three C's: Clark, Cuney, and the Coons." The Clark campaign asserted that Hogg had stolen the Populists' platform.

In the era before polling, nobody knew what would happen on Election Day. But when the votes were counted, Hogg emerged the winner with 44 percent of the vote, to Clark's 31 percent and Nugent's 25 percent.

History, of course, never fully repeats itself, but the famous 1892 race offers some lessons

for our own time.

On the plus side, having three viable candidates with clearly defined positions on the issues was a victory for democracy. The voters of Texas had real choices, and that's a good thing.

But that long-ago race also stands as a cautionary tale.

Hogg used the power of incumbency to great benefit, as Perry will certainly do. Even a well-financed foe such as Clark (or, in the case of 2006, Strayhorn), faces an uphill battle against an incumbent who has the power of patronage and name recognition on his side.

The 1892 race also reminds us — as if we needed reminding — that money talks.

Nugent had legions of devoted followers and was an intrinsically appealing candidate, but his Populist campaign was desperately underfinanced, mostly relying on the nickels and dimes of poor farmers and laborers. (Kinky, take note.) Hogg and Clark, like Perry and Strayhorn, both had war chests well-filled with special-interest money.

And what of the poor 1892 Republicans? From the vantage point of a century later, we can only shake our heads at the mentality of a society that would condemn a party to political purgatory because it supported minority rights. But this was by no means apparent at the time.

History would vindicate the late-19th-century Republicans. Their views on racial equality and their calls for fair elections — much-despised in their own time — today mark them as being ahead of their time. Perhaps the lesson here is that we should think about the long-term verdict of history before we cast our ballot in November.

Hogg's second term proved anticlimactic. With no mandate from the voters and a slumping economy, policy initiatives took a back seat to balancing the budget. Hogg's legislative program languished. The Populist insurgency deepened, and Nugent would run an even stronger race the next time around.

But Populism, with the odds so stacked against it, soon faded from the scene. As racial attitudes hardened in the 20th century, the Republicans almost ceased to exist in Texas. Democrats continued their internal squabbling, but never again would the party split as in 1892.

In the end, Texans decided that the only thing that really mattered was electing the party that called itself "conservative" — the party that would keep taxes low and minorities in their place. If that meant decades more of bad government, inadequate education and no meaningful choices every November, so be it. And that's exactly what we got for the next 70 years after Hogg.

Texas stands at a crossroads in 2006, much as it did in 1892. We have choices. If we will study the issues and get beyond slogans and campaign demagoguery, perhaps we will avoid the mistakes that our great-grandparents made a century ago.

Or we can mindlessly cast our votes based on largely meaningless labels like "conservative" or "liberal," and continue to live in an undemocratic, one-party state, along with all the problems that go with it.

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