

The Republican Club of Sun City NEWSLETTER

March 2018

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Sun City Texas

(Topics Below: Texas Republican Party Establishes Program for Citizen Participation in Legislative Process, Texas Public Policy Foundation News, Impaired Justices Who Do Not Resign)

ATTORNEY FOR HIGH-PROFILE GOP ORGANIZATIONS AND INDIVIDUALS TO ADDRESS CLUB

Chris Gober, founder of The Gober Group Law Firm of Austin and Washington, D.C., and trusted legal adviser for several high-profile GOP organizations, such as the Republican National Committee and the Texas Republican Party, and for many high-profile individuals, including among other notables, former President George W. Bush, former Governor Rick Perry, and, currently, Sen. Ted Cruz, will address the club during its dinner meeting scheduled for **Thursday, March 8 in the ballroom of the Social Center in Sun City.**

While he is conversant about many legal issues, the primary focus of his address is “politics” as suggested by its title, “A Look at the 2018 Political Landscape: Will the Republican Firewalls in the U. S. House and Senate Hold?” He will analyze the chances that Republicans could lose control of the Senate and/or the House. His discussion will include the use of maps to illustrate the political situation, and a discussion of “what we need to do in Texas.” (A discussion of some legal issues could take place during the question-and-answer segment)

A graduate of the Harvard Law School, Gober has an impressive legal background, having served as Counsel in the Office of Legal Policy at the U. S. Department of Justice where he focused on national security issues and the confirmations of Chief Justice John Roberts and Justice Samuel Alito to the U. S. Supreme Court. In addition to his legal experience, he served as a political operative for President George W. Bush's 2000 and 2004 presidential campaigns and as general consultant to a member of the U. S. House of Representatives during the 2012 elections cycle.

He currently serves as General Counsel to the Republican Party of Texas and is the Managing Partner of The Gober Group, a nationally recognized law firm that represents political and public policy advocates, business enterprises ranging from emerging start-ups to multibillion-dollar companies and high-profile entrepreneurs, investors, professional athletes, and entertainers. The Gober Group has been recognized as ranking among the fastest-growing private companies in the United States based on revenue growth in 2016 and 2017.

INFORMATION ABOUT THE MEETING OF MARCH 8

BEGINNING TIMES: Doors Open – 5:45 pm; Social Period – 6:00 pm; Dinner – 6:30 pm; Program – 7:00 pm
MENU: Italian penne pasta with marinara and meatballs, Caesar salad with Caesar dressing and garlic toast. Also as an option: grilled chicken breast on Caesar salad.

COST: Dinner fee is \$18 per person. Checks made out to “The Republican Club of Sun City” should be mailed to: **The Republican Club of Sun City, 1530 Sun City Blvd., Suite 120, PMB 227, Georgetown, TX 78633**, or left in a special drop box located on the front porch of the home of club treasurer Gene Edwards at 202 Duck Creek Lane. For information, contact Gene at 520-990-1159 or geneedwards@earthlink.net The deadline for payment or reservations is Friday, March 2.

Attendees are reminded of the request made by the Executive Committee that advanced payments for the dinner be submitted by the payment deadline so that the proper amount of food can be ordered, and that attendees who have made reservations in advance make payments *prior* to the meeting, when possible, so that a “boggling down” of the line at the ballroom entrance can be avoided.

VISITORS ARE WELCOME! (Non-members may attend a maximum of two meetings per year – as attendees for the dinner or as observers for the program – without having to pay membership dues.)

LONG-TIME REPUBLICAN OFFICER-ACTIVIST TO ADDRESS CLUB IN APRIL

Robin Armstrong, MD, long-time Republican officer-activist at the state level who now, as National Committeeman, represents, along with two other Texas, the state at the Republican National Committee (RNC), will address the club during its dinner meeting scheduled for **Thursday, April 19 in the ballroom of the Social Center in Sun City.**

Details of the meeting will be provided in the April newsletter.

OTHER CLUB NEWS

Brian Olson, VP for membership, reports that the current 2018 club membership stands at 343, a figure considerably above that of a year ago when it was 288. Club treasurer Gene Edwards reports that at the February 1st meeting, were were 225 individuals attending the dinner, plus an additional estimated 50 individuals attending as observers of the program.

Club members of the year 2017 who have not yet renewed, are reminded that if they do not renew membership for the year 2018 by February 28, their names will be removed from the roster to receive newsletters and other club communications. They can, of course, renew anytime later in the year.

PRECINCT CONVENTIONS SCHEDULED FOR TUESDAY, MARCH 6

All precinct conventions of the county will be held on Tuesday, March 6 at the same locations where balloting took place that election day. The sign-in period begins that day after the conclusion of voting. Meetings begin at 8:00 PM. Locations of the meetings and precinct chairmen are as follows:

Pct. 381, Sue DeVillez, ch. - Social Center
Pct. 393, Cathy Cody, ch. - Cowan Creek

Pct. 394, Gene Edwards, ch. - Cowan Creek
Pct. 396, Terry Putnam, ch. - Social Center

After the election of a permanent chairman – which could be the precinct chairman, but doesn't have to be – the convention proceeds to discharge its two main duties: (1) Elect delegates and alternates to the county convention, and (2) receive and vote on proposed resolutions (planks to the state party platform) to be submitted to the county convention for consideration. To be eligible to vote, one must have voted in the Republican primary.

Each precinct is entitled to send to the county convention one delegate for every certain number of votes cast during the most recent race for Governor. (Two years ago that figure was 25)

One does not have to attend the precinct convention to be a delegate to the county convention; however, to be eligible to be a delegate or alternate, one must have voted in the primary and must have been elected at the precinct convention.

Participants in the precinct convention may submit resolutions for consideration by those in attendance. A proposed resolution must be submitted in writing. It is debatable and amendable. Passed resolution are submitted to a Resolutions Committee at the county convention for further consideration. Effort should be made to be sure that submitted resolutions are not already in the party platform, a copy of which can be obtained from the state party website, TexasGOP.org

The County Convention will be held on Saturday, March 24 at the Taylor Main Street Campus in Taylor.

TEXAS GOP ESTABLISHES PROGRAM FOR CITIZENS TO PARTICIPATE WITH LEGISLATORS IN HEARINGS

The Texas Republican Party announces on its website a program titled, "Strategic Texas Action Team," a program involving legislative hearings to be held during the "interim" between legislative sessions when House and Senate committees hold hearings on certain legislative matters to be considered during the coming legislative session. In this program, citizens can participate along with legislators in these interim hearings which, according to the state party's website, "are the legislature's way of reaching out to you for your opinion on important issues."

Interested citizens can sign up to receive notices of the dates and locations of hearings, and can indicate areas of special interest which currently include the following:

Constitutional Carry
Abolish Abortion

School Choice
Religious Liberty

Replace Property Tax System
Other

This program provides a wonderful opportunity for citizen input to counter some of the deleterious influences lobbyists, socialists/communists, Soros organizations, Russians(?) and the like exert on legislators.

To obtain information and to enroll as a participant contact the state party at TexasGOP.org, then scroll down to "85th Legislature Interim Charges" and click the red bar.

TEXAS PUBLIC POLICY FOUNDATION GOES ON OFFENSIVE; ATTACKS "ENEMY" ON ITS OWN TURF

Foreword. The Texas Public Policy Foundation (TPPF) is well-known by many club members. Indeed, a number of them are contributors to that organization. Also, last year, two officers of TPPF – Devin Roberts and

Chip Roy (now running for a congressional position) – addressed the club during its meeting in July.

Because there is general interest about the TPPF on the part of club members, some excerpts of a news article appearing in the January 1, 2018 issue of the Fort Worth Star Telegram are presented below. The article describes the changed and expanded mission of the TPPF and also its spectacular growth, subjects about which many club members may not be informed. If this is the case, they are likely to find the news article descriptive, exciting and even inspiring. Excerpts from the news article follow.

An Expanded Mission. No longer a conservative Texas think tank that spent much of the last decade fighting the White House from a purely defensive position over various states' rights issues, the TPPF is shifting gears to “go on offensive in GOP-controlled Washington.” In other words, TPPF is attacking the “enemy” - the Washington Establishment attempting to subordinate states' rights – on the enemy's own turf, and with other states as allies!

The election of Donald Trump as president has been a major factor in this change. TPPF's president and CEO, Fort Worth resident Brooke Rollins, says limited-government advocates have an ally in President Trump – who campaigned on taking power back from Washington – and they're gearing up to drive policy back the other direction.” This White House represents the opportunity to completely reinvigorate the idea that the states should be running themselves,” said Rollins. Further, she continues, “There's an opportunity here for those of us who believe that government closest to the people serves the people best ...to completely change the way people think about government, and get the whole idea of self-governance back to center stage.”

Among the subjects of special interest to the TPPF are Medicaid and health care, and environmental regulations, matters about which the Constitution gives the federal government no authority. Also of interest is the application of the private sector to reduce or eliminate national problems.

The Growth of TPPF. A number of club members will be able to recall the size of TPPF a mere 15 years ago when Brooke Rollins became president and CEO of TPPF, when the organization had a 3-person staff, when it had a limited mission generally confined to state issues, and when attendees to TPPF functions were served lunch in boxes because there were no tables in the TPPF facility which was located 3rd or 4th floor of a building on Congress avenue. But then a few years ago, TPPF acquired its own building and spectacular growth ensued as evidenced by the following statistics:

- The TPPF has more than 75 employees (up from 3) in Texas alone.
- In addition to the Texas staff, there is currently a staff of 5 in Washington, with plans to increase the staffing there to as many as 15 in 2018. [Thus to attack the “enemy” on its turf]
- It has more than 10 employees based in other states, helping coordinate states' right efforts across the country. Most notably, during Obamacare's implementation, TPPF helped organize and lead 21 states in rejecting the law's Medicaid expansion.
- A December 2017 TPPF communication reported that TPPF had just hired its 82nd employee!

(The website of TPPF is TexasPolicy.com; the telephone number is 512-472-2700)

LATE BREAKING NEWS: ROLLINS TO LEAVE TPPF, JOIN WHITE HOUSE

Shortly after the above report was completed, breaking news reported that Brooke Rollins will leave TPPF to take a job at the White House Office of American Innovation – led by Jared Kushner, President Trump's son-in-law. No information about a date of transition was available.

AGING, PHYSICALLY AND MENTALLY IMPAIRED SUPREME COURT JUSTICES AND THE CONSTITUTION

Foreword. Recently, there was increasing speculation that at least two of the current members of the Supreme Court – Justice Ginsburg and Justice Kennedy – would retire by or during the current term. In both cases the reasons concerned advancing years and declining health which could possibly affect the quality of their work in the future.

An article on the American Thinker website reports that Ginsburg, now 84 and to be 85 on March 15, has had severe health problems described as follows:

Ginsburg was diagnosed with colon cancer in 1999 and underwent surgery followed by chemotherapy and radiation therapy. During the process, she did not miss a day on the bench. Physically weakened after the cancer treatment, Ginsburg began working with a personal trainer.

On February 5, 2009, she again underwent surgery related to pancreatic cancer. Ginsburg's tumor was discovered at an early stage. She was released from a New York City hospital on February 13 and returned to the bench when the Supreme Court went back into session on February 23, 2009. On September 24, 2009, Ginsburg was hospitalized in Washington for lightheadedness following an outpatient treatment for iron deficiency and was released the following day.

On November 26, 2014, she had a stent placed in her right coronary artery after experiencing discomfort while

exercising in the Supreme Court gym with her personal trainer.

The situation with Justice Kennedy, age 81, is not much better, reports the American Thinker. In 2005, he had a stent inserted to keep an artery open after experiencing mild chest pain. He got a revised stent a year later.

Despite recent speculation about retirement, and despite aging and health problems, both Justices are showing no signs of retirement, and, instead, are showing signs of continuing to serve indefinitely. Justice Ginsburg has already hired four clerks for the October 2018 term and four clerks for the October 2019 term which ends in June 2020. Justice Kennedy has reportedly selected four clerks for the October 2018 term.*

This report is to provide the reader with some basic information about certain Constitutional provisions which may or may not go into effect in the event the service of a Justice is interrupted, and how the nation and the Supreme Court dealt with interruptions of service by a Justice in the past.

Constitutional Provisions. Conventional wisdom holds that federal judges are appointed “for life.” But this belief conflicts with certain provisions of the Constitution, particularly in regard to the behavior of a judge. Section 1 of Article III provides that judges “shall hold their offices during good behavior . . .” Further, Article II states in pertinent part that “. . . civil officers . . . shall be removed from office on impeachment for, and conviction of, treason, bribery or other crimes and misdemeanors.” Author Andrew McCarthy explains the term “high crimes and misdemeanors” concerns violations of a “political” nature necessitating a popular political will among the citizenry if a judge or official is to be removed from office. It is instructive to note that such political will was not present during the unsuccessful impeachment proceeding involving President Bill Clinton.

The cited Constitutional provisions appear to be directed at a judge’s *behavior* and matters over which judges have discretion. But what are the alternatives if a judge, because of declining health or mental acuity, through no fault of his own, can no longer discharge the duties of his office, but refuses – or is unable – to resign? That situation is discussed in the last section of this report where a sampling of such problems are illustrated.

The Procedure to Replace Justices. While the procedure, if any, to replace ailing Justices who do not or cannot resign may not be clear, it is clear that the Senate does have certain procedures in place to bring about a replacement of a Justice who has resigned or died while in office.

There have been some recent and significant changes in Senate procedures. The Senate Democrats obstruction of the full Senate acting on a replacement for the position formerly held by the late Justice Scalia drove Senate Republicans to abolish the filibuster rule requiring a 60 vote threshold for cloture for Supreme Court nominations. Now only 51 votes are needed.

Another favorable development: The so-called “blue-slips” privilege, an unofficial Senate protocol which accords individual Senators the opportunity to approve or disapprove of judicial nominees in their home states. Consequently, presidents may be reluctant to nominate a judicial candidate from the state of a liberal Democrat. There has been some variance during recent decades on the enforcement of this protocol, and recently Sen. Grassley, chairman of the Judiciary Committee, has indicated he will not treat a negative “blue-slip” as a veto.

Despite the favorable changes noted above, the Senate’s arcane and cumbersome “cloture” process, described below, continues:

No vote can take place in the Senate on any bill, amendment, or nomination unless there has first been agreement to end debate on the particular matter. In the ordinary course, the Senate routinely proceeds to merits votes by the unanimous consent of its members. But if a single member persists in withholding consent, the procedure for ending debate is a cloture motion. Two business days after the filing of a cloture motion, the Senate votes on that motion. If the motion is successful, further debate on the matter can continue for up to 30 floor hours, during which time no other merits votes can occur.

So even though the 60-vote threshold for cloture on nominations has been abolished, the cloture process – now with a simple-majority requirement – continues to apply to nominations.

Physically and Mentally Impaired Supreme Court Justices of the Past. Radio talk show host and legal scholar Mark Levin, in his well-documented book, *Men in Black*, describes some of the ailments – both physical and mental – experienced by certain Supreme Court Justices of the past who did not or could not resign, and how the other members of the Court dealt with that situation. Some of the past situations could be replicated in the future. Following, for sampling purposes, are excerpts from Lenin’s book that describe the physical and mental problems of four Justices who did not or could not resign.

JOSEPH MCKENNA

McKenna was appointed by William McKinley in 1897, and his mental faculties began to decline as he approached his eighties. After Chief Justice William Taft failed to convince McKenna that it was time to retire, Taft called a meeting of the other justices at his home. The decided they could not allow McKenna to cast the deciding vote in the Court’s decisions. From then on they agreed that if there was a split vote among them, they would change their votes and not allow the case to go forward. The Court did hold a few cases over until McKenna finally agreed to retire in 1924. (emphasis added)

HUGO BLACK

Black, appointed by FDR in 1937, had been a member of the Ku Klux Klan in Alabama. He stayed on the Court longer than he should have. In 1969, he suffered a stroke, “resulting in a partial loss of memory.” His health troubles became worse. “In late March 1971, he started having acute pain in his left ear and a chronic headache over his eye and in the back of his head. Aspirin did not help. He found it more difficult to concentrate. His short-term memory was waning. He would latch onto some event of long ago and reminisce. In conference he began to stumble badly, becoming tired and confused, and unable to remember which case was being discussed.” (emphasis added)

WILLIAM O. DOUGLAS

FDR appointed Douglas in 1939. In a particularly bizarre episode, Douglas [married 4 times; divorced 3 times] met a flight attendant on a plane and invited her to visit him at the Court, where he allegedly physically assaulted her. According to author Bruce Murphy:

Just a short time after she had entered Douglas's chambers, though, members of the staff began hearing strange sounds from inside – shouts, banging furniture, and running feet. A short time later, the office door flew open and out rushed the young woman, her face all flushed and her clothing badly disheveled, shouting at the startled office staff how outraged and disgusted she was. Douglas, she said, had chased her around his desk, grabbing at her clothes and demanding that they go to a motel immediately for a sexual liason.

In his last year on the Court, Douglas also suffered, at times, from delusion: “A 1974 stroke incapacitated William O. Douglas at the age of 76 for 2 ½ months, though he told the press he had been hurt in a fall. Afterwards, he slurred his words, couldn't walk, developed fears that people were trying to kill him, thought he was chief justice and spurned pleas that he quit.” Things were so bad that the justices themselves took action: “His refusal to step down despite obvious mental and physical problems led colleagues to decide secretly to stop counting his vote in some cases, until he finally quit at the insistence of his wife and friends,” some ten months after the stroke. (emphasis added)

THURGOOD MARSHALL

Marshall, appointed by LBJ in 1967, stayed on the court too long. In his final years on the Court, he became indifferent to his judicial duties – he reportedly left much of the writing of opinions to his clerks and sometimes didn't bother to read the briefs submitted by counsel. Instead, he apparently spent many hours watching television in his chambers, especially soap operas. Despite the fact that he wasn't quite giving it his all, he didn't want to leave, since he would probably be replaced by a conservative. “But despite poor health in recent years . . . he was determined to keep his seat as long as the likely replacement was another conservative nominee.” (emphasis added)

FOOTNOTES:

*Justices Ginsburg and Kennedy may be delaying retirements because of a philosophical – if not ideological – clash within the court today. Two factions can be identified. One faction believes the Constitution should be interpreted as a “living, evolving” document to meet the demands of an ever changing society. Ginsburg, for example, has written that “a too strict jurisprudence of the framers original intent seems unworkable . . . boldly dynamic interpretation departing radically from the original understanding” of the Constitution is sometimes necessary, although she indicated no limits on courts when applying that philosophy. Justice Kennedy, author of the decision approving same-sex marriage, urged that the Court be influenced by the European Court of Appeals which espouses liberalism.

Another faction, whose champion is the late Justice Scalia, who holds in his book, *A Matter of Interpretation*, that the interpretation of the Constitution should be based on the “original meaning of the text” - not on *unexpressed intent* or such extraneous factors as what Europeans are doing. President Trump is seeking Justices in the mold of Scalia, but the reluctance of Ginsburg and Kennedy to resign may be an effort to deny him of that opportunity.

**Note that Justice Marshall, even though impaired, refused to resign on grounds his replacement would be conservative, a situation which could resurface in the future.

TRUMP ENDS PRESIDENTIAL ADVISORY COMMISSION ON ELECTION INTERGRITY

In May of 2017 President Trump signed an executive order creating the Advisory Commission on Election Integrity chaired by Vice President Mike Pence. It was tasked to investigate ways to improve confidence in the electoral system and to investigate “vulnerabilities in voting systems and practices used for Federal elections that could lead to improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting.”

But on January 3rd, President Trump disbanded the Commission, stating, “Despite substantial evidence of voter fraud, many states have refused to provide the [Commission] with basic information relevant to its inquiry.” He then continued, “Rather than engage in endless legal battles at taxpayer expense, today I signed an executive order to dissolve the Commission.”

Hans von Spakovsky, a member of the Commission, points to some significant problems with a number of states refusing to provide information to the Commission as reported by Trump: “A third of the states flatly refused to give the commission the voter registration and voter history data we requested – even though it is supposed to be publicly available information. States routinely provide that same data to political parties, candidates, and other third parties.”

He then posits some motives for this refusal, motives the reader will likely find highly disturbing in view of the widespread corruption of which the population is aware at virtually all levels of government and by many government agencies, such as the Justice Department, FBI, Internal Revenue Service and on and on. Speaking in stark terms, Spakovsky contends: “There are only two possible explanations for their refusal: either they were part of the partisan resist-Trump-at-all-costs movement, or they were afraid of what we might find.”

Unsurprisingly, a number of demagogic statements made by Democrats ensued in the wake of Trump's announcement. Sen. Schumer claimed that the Commission constituted a “front to suppress the vote.” In addition, he insisted the Committee's disbandment demonstrates that “ill-founded proposals that just appeal to a narrow groups of people won't work, and we hope they'll learn this lesson elsewhere.” House Minority Leader Nancy Pelosi said that the entire point of the Commission had been to “enable voter suppression” and promote “bigoted delusions of widespread voter fraud.”

But claims that there is no evidence of “widespread voter fraud” may be premature if not unwarranted. Author Jason Snead comments why there may be a lack of such evidence: “That sad reality is a result of the lack of adequate safeguard in many states – policies such as voter identification and proof of citizenship requirements – that make it possible to detect fraud. Even when fraud is detected, many prosecutors opt not to pursue cases for the simple fact that their priorities lie elsewhere.”

Author Arnold Ahlert explains why many states are simply unable to produce evidence because of their system of conducting elections: “Americans might be shocked to discover that at least 38 states currently or will soon allow voters to register online, and 14 currently or will soon permit voters to register on Election Day. Moreover, according to Ballotpedia, 34% of the states have no ID requirement to vote, 24% have non-strict, non-photo voter ID laws, 20% have non-strict, photo ID laws, 6% have strict, non-photo ID laws, and 16% have strict, photo ID laws.”

Ahlert contends there could be problems when states allow voter registration to take place as a part of the process of issuing driver's licenses. He notes that “twelve states – California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, New Mexico, Nevada, Utah, Vermont and Washington, plus the District of Columbia – allow illegal aliens to obtain driver's licenses.”

Despite the absence of a commission to collect data on a nation-wide basis, data has nevertheless been collected on a limited basis by other organizations. Snead reports that the Heritage Foundation reports information revealing “its data base now lists 1,107 verified instances of fraud, including 961 criminal convictions of proven fraudsters, 48 cases that ended in civil penalties, 76 cases that resulted in defendants entering diversion programs, and 22 that ended with either a judicial or official finding of fraud.” Snead also reports that “A 2012 Pew study concluded that nationwide some 24 million voter registrations – nearly 1 in 8 – were inaccurate, out-of-date, or duplicative. In 2017, the Public Interest Legal Foundation identified 248 counties in 24 states where the number of registered voters exceeds the number of adult residents.” Further, “The Public Interest Legal Foundation recently identified 5,556 noncitizens who had, since 2011, successfully registered to vote in the critical swing state of Virginia. Even more alarming, this same report identified 1,852 noncitizens who collectively cast 7,474 ballots in the same state.”

Despite President Trump's ending the election commission, the cause of voter integrity is not dead. *The Washington Times* reports “President Trump asked the Department of Homeland Security to assume the panel's work and determine what to do next. The Department will co-ordinate with the states about keeping election machines and other critical infrastructure secure and focused on citizenship data which the Department already collects to weed out illegal voters.”