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Parker shot first: Judge slams lawmakers in blocking drag law

Republican lawmakers love to blame “activist judges” when rulings don’t go their way in court — even when the decisions in question are issued by GOP appointees. U.S. District Judge Tommy Parker, who was nominated by Donald Trump, turned the tables by going on the offensive in throwing out the country’s first law to limit public drag show performances. Instead of awaiting the barrage from aggrieved legislators, the judge took aim at them first.

While just two pages long, Parker wrote in his ruling, the law “reeks with constitutional maladies of vagueness and overbreadth fatal to statutes that regulate First Amendment rights.” The evidence showed backers had “carelessly, if not intentionally, passed the [act] for the inappropriate purpose of chilling constitutionally-protected speech,” he added. Parker topped it all off by concluding the enactment is part of lawmakers’ “troubling trend of abdicating their responsibilities in exercising considered legislative judgment.”

Despite a trend in conservative legal circles to ignore the legislative history surrounding the passage of bills, the attorney general’s office urged the judge to examine a 100-page transcript of proceedings at the Capitol complex this year to get a better understanding of the intent behind the law. Parker said he did so reluctantly, but the record revealed supporters of the measure “knew what they were doing” when they “deliberately chose” a broad approach.

Parker rejected calls by the government to interpret the law’s age restrictions for performances that are “harmful to minors” as applying to those found to be without literary, artistic, political, or scientific value to a reasonable 17-year-old. The judge said rewriting the law would violate the separation-of-powers principle and offer “perverse incentives” for politicians to ignore constitutional restrictions on the bills they pass at the behest of their constituents.

Senate Majority Leader Jack Johnson (R-Franklin), who co-sponsored the bill with Rep. Chris Todd (R-Jackson), declared the judge’s ruling to be “perplexing.” State Attorney General Jonathan Skrmetti said he’d challenge the decision at the 6th Circuit U.S. Court of Appeals. In the meantime, he said, the law remains in effect in 94 of 95 counties because the plaintiffs dismissed the governor and AG from the case, leaving Shelby County District Attorney General

Steve Mulroy as the lone defendant. Parker acknowledged his power to issue an injunction was limited to Mulroy’s jurisdiction in Shelby County (which is home to about one in eight Tennesseans). But the judge said his analysis about the law’s flaws “applied to virtually anywhere in Tennessee.”

Gov. Bill Lee, who rushed to sign the bill into law the same day it gained final passage in the General Assembly in March, told reporters this week that he won’t consult with Skrmetti about next steps, saying the matter “falls in the realm of the judicial branch.”

Parker background. Before being confirmed on a 98-0 vote in the U.S. Senate in 2018, Parker was a partner at Baker Donelson. His highest-profile case may have been a multi-year defense of former Millington Mayor Richard Hodges on public corruption charges. Hodges pleaded guilty in 2014 to two counts of facilitation of bribery. Parker previously worked for nine years as an assistant U.S. attorney in Memphis. He earned his law degree from Vanderbilt and once served as president of the Memphis Bar Association.

Trump’s other appointees to the federal bench in Tennessee included Mark Norris in the Western District, Eli Richardson and Chip Campbell in the Middle District, and Katherine Crytzer and Chuck Atchley in the Eastern District.

From the campaign trail

DeSantis headlines GOP fundraiser, no leader in Nashville mayor’s race

The headliner for the Tennessee Republican Party’s annual Statesmen’s Dinner next month is Florida Gov. Ron DeSantis, a leading contender for the GOP presidential nomination in 2024. DeSantis’ scheduled appearance on July 15 comes as he tries to recapture momentum for his campaign. A Vanderbilt University poll in December found Tennessee Republicans preferred DeSantis by a 13-percent-age-point margin over Donald Trump. But when the school asked the question again in May, the former president had surged to a 19-point advantage over DeSantis.

Meanwhile, much of Tennessee’s Republican congressional delegation has endorsed Trump, including Sens. Marsha Blackburn of Brentwood and Bill Hagerty of Nashville

(both of whom are expected to miss the Statesmen's Dinner). Among House members, all but Reps. Tim Burchett of Knoxville, Scott DesJarlais of Sherwood, and David Kustoff of Memphis have lined up behind Trump.

DeSantis isn't the only member of the 2024 presidential field to have served as the keynote speaker at the Statesmen's Dinner. Former Vice President Mike Pence spoke in 2017, former South Carolina Gov. Nikki Haley in 2016, former New Jersey Gov. Chris Christie in 2014, and Sen. Tim Scott of South Carolina in 2013.

The featured speaker in May 2015 was former Florida Gov. Jeb Bush, who was welcomed in glowing terms by party leaders of the time, like Gov. Bill Haslam and Sens. Lamar Alexander and Bob Corker. Some conservative attendees grumbled the event felt too much like a Bush campaign rally. Trump officially joined the race a couple weeks later, and Tennessee Republicans soon swung their support behind the real estate mogul. Bush's bid fizzled, and Trump went on to carry 94 of the state's 95 counties in the primary (Williamson County went for Florida Sen. Marco Rubio).

Tennessee Republicans thought they had scored a coup in 2007 when they landed Mitt Romney, a frontrunner for the party's nomination, as the keynote speaker for the Statesmen's Dinner. But things got awkward when Fred Thompson took serious steps toward running for president, causing many in the state to throw their support behind the actor-politician from Lawrenceburg. Romney in his speech alluded to the hype surrounding the aspirations of a certain former Tennessee senator, but said he took "great comfort in the fact that no one in this room — not a single person — will be voting for Al Gore."

By the time the Tennessee primary rolled around, Thompson had already dropped out of the race. Former Arkansas Gov. Mike Huckabee (who would go on to be a Statesmen's Dinner speaker in 2012) ended up winning the Tennessee primary. Romney finished third behind eventual nominee John McCain.

Nashville mayor. With less than six weeks left before the start of early voting, the Nashville electorate has yet to coalesce behind any of the several candidates running for mayor of the state's biggest city. Two polls released this week found more than four in 10 voters were still undecided.

According to a Public Policy Polling survey conducted for the local chapter of the Commercial Real Estate Development Association, Metro Council member Freddie O'Connell led with 10% support, but four others fell within the 4.2-point margin of error: Sen. Jeff Yarbro (9%), Sen. Heidi Campbell (8%), former economic development official Matt Wiltshire (8%), and council member Sharon Hurt (7%).

A Hart Research poll commissioned by Bristol Motor Speedway found Campbell leading the way with 12%, followed by Wiltshire (11%), Yarbro (9%), O'Connell (6%), and Hurt (5%). Republican operative Alice Rolli, former Alliance Bernstein executive Jim Gingrich, and property assessor Vivian Wilhoit brought up the rear in the surveys.

Public Policy Polling has an A-minus rating from FiveThirtyEight.com, while Hart Research gets a B-plus. Early voting for the Aug. 3 election begins July 14. If no one gets a majority, the top two finishers will head to a Sept. 14 runoff.

Obituaries

Nashville Rep. Bill Beck, 14-year Knox County exec Dwight Kessel

The Capitol Hill community was stunned over the week-end when word got out that state Rep. Bill Beck (D-Nashville) had died from a heart attack at age 61. Beck was known for his booming laugh and collegiality, even amid some of the more fierce legislative debates.

Beck, who grew up in Madison and Whites Creek, served in the Tennessee Air National Guard before earning his law degree and going into practice with his mother, Martha Lu Cone Beck. He ran for the House District 51 seat when long-time Rep. Mike Turner didn't seek re-election in 2014.

Beck survived a residency challenge after opponents alleged he lived in Sumner County with his wife and daughter rather than at Nashville addresses he had listed for the two years before the election. Beck was backed in the contest by prominent Nashville politicians like former Mayor Bill Purcell, Trustee Charlie Cardwell, Sheriff Daron Hall, and state Sen. Joe Haynes. Beck ended up winning the three-way Democratic primary with a 41% plurality.

Beck and Sen. Jeff Yarbro (D-Nashville) last year sponsored legislation authorizing the city to increase the local hotel-motel tax from 6% to 7% to help fund the construction of a new domed football stadium. The Metro Council approved the hike to finance the city's \$760 million share of the \$2.2 billion price tag for the new facility.

Amid a breakdown in relations between the capital city and the Republican supermajority in the legislature, House Speaker Cameron Sexton (R-Crossville) in a speech to local business leaders earlier this year listed Beck among the half of the 10-member delegation of Nashville Democrats with whom he may not always agree but are "great people that we can work with." That didn't stop Beck from being a vocal critic of a raft of GOP bills targeting the city, including measures stripping mayoral appointment power to the local airport and sports authorities and cutting the Metro Council from 40 to 20 voting members.

Beck in 2015 sponsored legislation to block a swingers club from relocating from downtown Nashville to Madison, near a Christian school. It passed unanimously. In 2019 he sponsored a bill to make the bluetick coonhound — the same breed as the University of Tennessee's mascot — the official state dog.

Beck served on the conference committee to hammer out the legislative confirmation process for the governor's appointments of appellate judges following voters' approval in 2014 of a constitutional amendment enshrining the state's yes-no retention elections. The Senate initially wanted to create a system by which a judge would be confirmed if either chamber voted in favor. The House rejected the idea on the basis that 17 members of the upper chamber would have the power to approve judges even if all other 115 state lawmakers voted to reject. Under the compromise approved in 2016, an appointment would be sunk if two-thirds of either the House or Senate voted against it.

The year after his election, Beck was arrested on suspicion of drunken driving and violating the implied consent

Tennessee News Digest

- Tennessee State University's Aristocrat of Bands has been invited to perform at the first observance of the Juneteenth holiday at the White House on June 19.
- Alive Hospice of Nashville called off a planned sale and announced it would remain a nonprofit. Alive was only the country's third hospice when it opened in 1975.
- Five finalists to become the next chancellor of the University of Tennessee-Martin

are scheduled to participate in public forums starting on Monday. But the UT System won't release the candidates' identities until two days before their respective visits.

- The board of Memphis Light, Gas, and Water voted to get rid of a requirement for employees to live in Shelby County within six months of being hired.
- Listeners are suing financial guru Dave Ramsey for \$150 million because they didn't

know he was being paid to promote a company called Timeshare Exit Team on his show.

- Florida-based Q.E.P. filed notice with the state it plans to permanently lay off 87 workers at its flooring plant in Johnson City.
 - Hard Rock Cafe is closing its store on Beale Street in Memphis when its lease expires in July. The restaurant's 1997 opening featured the North Mississippi All Stars, The Jayhawks, and The Wallflowers.
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law for refusing to take a sobriety test. Cheatham County General Sessions Judge Phillip Maxey, who was brought to Nashville to preside over the case, dismissed the charges after finding the police officer hadn't had sufficient cause to pull Beck over based on a "momentary observation" of the lawmaker's pickup truck crossing a line on the road.

Because more than a year remains in Beck's term, a special election will be held to succeed him in office. Former Metro Council member Anthony Davis, the owner of the East Nashville Beer Works, is expected to be a leading candidate for the seat. The qualifying deadline is June 22, and the primary will be held alongside the Aug. 3 general in the special election to fill the vacancy created by the ouster of Rep. Justin Jones (D-Nashville). Jones faces Republican Laura Nelson in the District 52 contest.

Kessel. Fourteen-year Knox County Executive Dwight Kessel, who feuded with fellow Republican Knoxville Mayor Victor Ashe, died this week at age 96.

Kessel, a West Virginia native, earned an engineering degree from the University of Tennessee after serving in the Navy during World War II. He was elected to the Knoxville City Council in 1963 and served as county clerk from 1966 until he won his first term as Knox County executive (the position is now called county mayor) in 1980.

Kessel in 1987 opposed a tax increment financing deal for a \$43 million headquarters campus for Whittle Communications in downtown Knoxville. Kessel was overruled in a 15-1 vote by the county commission. The media company would go on to employ 2,000 people, but eventually ran into financial trouble. Most of its components were sold off, and the downtown complex was purchased by the federal government in 1995 for conversion into the Howard H. Baker Jr. United States Courthouse.

Ashe, a longtime Republican state lawmaker, was elected Knoxville mayor in 1988 and soon clashed with Kessel over policy issues. The 10 members of the Knox County legislative delegation became so weary of being lobbied by the competing Ashe and Kessel camps that they agreed to take unanimous positions on matters affecting their home area without consulting either of them. "We would like to see them embrace, but that's dreaming," then-Rep. Charles Severance (R-Knoxville) said in 1994.

Kessel was outraged when Ashe in 1990 withdrew his support for a large incinerator project over concerns about how it would be financed. "What he did was like calling an insurance agent, saying 'I want to buy \$100,000 worth of

life insurance, and, by the way, I'm shooting myself in the morning,'" Kessel said. It was a particularly strong choice of words given that state Rep. Ted Ray Miller (D-Knoxville) had killed himself with a shotgun the previous year as he awaited a federal indictment for extorting \$30,000 from a solid waste authority lawyer in exchange for not pushing legislation to block the incinerator project.

An effort to combine Knoxville and Knox County governments was narrowly defeated in 1983, mostly because of the city's debt incurred hosting the World's Fair. But county and city schools were merged in 1987, giving rise to a renewed consolidation effort. While Kessel was considered an opponent of the merger, proponents pointed to the dysfunctional relationship between the heads of the city and county as a reason to overhaul the system.

In 1993, Kessel signed a proclamation establishing a charter commission and named eight county representatives to the 17-member panel (eight others were designated to come from Knoxville and one from Farragut). But several Kessel appointees were considered anti-city, and his selections of the county law director, finance director, and bond attorney were criticized as having a conflict of interest because their jobs would likely be eliminated under a merger.

The 1994 election took Kessel out of the planning for the consolidation vote. Kessel lost his highly contested re-election bid to Knox County Trustee Tommy Schumpert by less than 1,000 votes. Schumpert, a Democrat, had Ashe's unofficial backing. Kessel had also angered the African-American community for his strong opposition to recognizing the Martin Luther King Jr. holiday.

Kessel's departure from office led to a much more cooperative arrangement over the efforts to create a unified Knox County-Knoxville government. But without the crisis atmosphere ginned up by the Kessel-Ashe acrimony, public support waned. When the matter came to a vote in 1996, consolidation got the support of 52% in Knoxville, but it was rejected by 62% in the county (mergers must be approved by both sets of voters to go into effect).

For the 25th anniversary of the Knoxville World's Fair, Kessel directed the rehabilitation of a 216-cubic-foot Rubik's Cube that stood in front of the Hungarian Pavilion during the event. Last year, Kessel joined successors Schumpert, Mike Ragsdale, and Tim Burchett in attending current Knox County Mayor Glenn Jacobs' budget presentation. "I used to tell my kids, don't forget about the good old days, because that's when you're living," Kessel said at the time.

Tennessee Notes & Quotes

■ “Let me tell you what it is like to be a child in a classroom, and the only child in a classroom, who does not have the same religion as everybody else. When they read a prayer which is not your prayer, from a Bible that is not your Bible, you kind of sit there and you shuffle and kick your feet and you look embarrassed. Do you really want that for your child if you belong to a minority?” — *Knoxville attorney Bernard Bernstein in a speech at the 1977 constitutional convention opposing a proposal to encourage prayer in schools. The amendment was defeated on a 57-28 vote. Bernstein, who went on to serve as the first chair of the Tennessee Holocaust Commission, died last month at age 92.*

■ State Reps. **Justin Pearson** (D-Memphis) and **Justin Jones** (D-Nashville) garnered international attention for getting thrown out of the state House over a gun protest. But if their newfound celebrity translated into a campaign cash bonanza, their latest disclosures don’t show it. In pre-primary reports for their special elections, Jones disclosed just \$64,500 in contributions, including \$1,000 from former U.S. House Speaker **Nancy Pelosi** (D-Calif). Pearson got \$37,200 in donations and gave his bid another \$100,000. But Thursday’s filings may not give a full picture as they don’t include totals raised for the lawmakers’ regular accounts or any affiliated political action committees.

■ Shelby County Mayor **Lee Harris’** proposal to double the wheel tax to \$100 fell two votes short of the nine it needed to clear the county commission. Lee wanted to use the proceeds to rebuild the Regional One Health campus and construct new high schools in Frayser and Cordova.

■ Knox County Mayor **Glenn Jacobs** posted a photo on Twitter of a meeting with former President **Donald Trump**, calling him “friendly, remarkably kind, and incredibly generous with his time.”

■ **Jacobs** and Knox County Sheriff **Tom Spangler** reached an agreement on pay raises that would avert the need to raise property taxes or pursue litigation. Under the deal, the ranks of patrol officers through captains get a 12% salary increase, while jail officers receive a 27% boost. The hikes would cost \$4 million per year. To keep the price tag down, Spangler agreed to give up 29 unfilled positions. The sheriff had originally called for a 30% pay raise.

■ Philanthropists **Barbara** and **Pitt Hyde** announced they had committed \$20 million toward the construction of a new Memphis Brooks Museum of Art. The donation is among \$135 million raised so far, or 75% of the goal. Pitt Hyde is the founder of Memphis-based AutoZone.

■ Televangelist **Pat Robertson**, a 1988 candidate for the Republican presidential nomination, died Thursday at age 93. Robertson received 12% of the vote in Tennessee’s Super Tuesday primary to finish third behind **George H.W. Bush** and **Bob Dole**. Robertson’s state campaign manager, **Jeff Whitesides**, ran in the GOP primary to challenge U.S. Rep. **Bart Gordon** (D-Murfreesboro) in 1992 but lost the nomination to fashion consultant **Marsha Blackburn**. Gordon ended up winning the general by 16 percentage points. Blackburn was first elected to Congress in 2002.

■ **John Ingram**, the Nashville Soccer Club owner who built a \$375 million stadium for his team, is raising what he calls “significant concerns” about plans for about \$100 million in upgrades at the nearby Fairgrounds Speedway. Ingram said Nashville Mayor **John Cooper** and Bristol Motor Speedway’s plans for expanding the track’s grandstand to 30,000 seats — the same size as the soccer stadium — is a much larger facility than originally planned and that the two venues could have a “significant negative effect on the surrounding neighborhood and fan experiences.”

■ **Ingram** noted Nashville SC is responsible for 100% of the debt service on \$225 million in bonds for its stadium (the team picked up the tab for an additional \$150 million in costs). The racetrack deal would be financed by \$17 million each from the Nashville Convention & Visitors Corp. and the state of Tennessee, while the city would issue about \$60 million in bonds to be serviced through sales taxes collected on site, ticket fees, sponsorship deals, and yearly rent payments. The mayor’s office pointed to other cities where multiple sports arenas operate successfully in close proximity.

■ Bristol Motor Speedway President **Jerry Caldwell** cited a 2011 referendum in which Nashville voters by a large margin supported preserving the fairgrounds’ historic mission, including auto racing. But Caldwell didn’t mention a legislative effort this year to lower the bar for making changes at the fairgrounds. The measure sponsored by Sen. **Jon Lundberg** and Rep. **John Crawford** (both R-Bristol) reduced the two-thirds voting threshold required from the Metro Council to demolish buildings at the fairgrounds — a necessary part of any racetrack upgrade — to a majority.

■ Nashville law director **Wally Dietz** has sued over the constitutionality of the fairgrounds law for applying only to a single city without approval of voters or the legislative body. Metro Council members **Colby Sledge**, **Bob Mendes**, and **Sandra Sepulveda** have filed their own lawsuit.

■ **Andrea Bennett-Punke**, a lobbyist for McMahan, Winstead, and Richardson, has been named government affairs director for Swedish wheelchair maker Permobil. The company’s North American headquarters is in Lebanon.

■ The Tennessee School for the Blind in Nashville has named **Richard Ray** as its new director. He succeeds **David Martin**, who was hired as superintendent of the Louisiana Special School District in January. A previous job offer from a district in southern Illinois fell through amid community complaints that he had wrestled professionally as the Flamboyant Faron Fox in the early 2000s.

■ New phone lines issued in the region stretching from Chattanooga to the Tri-Cities will be assigned numbers with a 729 area code. Those with current 423 numbers won’t be affected. East Tennessee’s last update came in 1999, when customers around Knoxville and Oak Ridge were issued the area code of 865, which spells VOL on keypads.

■ Legislative leaders might want to come up with a new area code for Nashville. What’s a three-letter word for screw?