



## **Power scorned and power lost reveals the best side of Kentucky**

By Jim Waters

First up on this edition of Liberty's Lovers and Losers: Kentucky's courts.

- Liberty Loser: Franklin Circuit Court; Liberty Lover: Kentucky Court of Appeals

Two different courts ruled two different ways on whether the state could seize 141 Internet domain names just because those sites happen to take people to gambling Web sites.

Gov. Steve Beshear apparently thinks the state can ignore the private-property rights and due process of the owners of these domain names.

The governor's lawyers convinced Franklin Circuit Judge Thomas Wingate to uphold the seizure attempt. Wingate went along with the legal muscle exercised by the executive branch, agreeing that Web site domain names represent "gaming devices" that Kentucky statute allows the state to seize.

But seizing private property by using a criminal statute to satisfy a civil claim that a series of Internet protocol numbers or Web URL's constitute the equivalent of a tavern's slot machine "stretches credulity," said Judge Michelle Keller of the Kentucky Court of Appeals. That court overturned Wingate's ruling.

Keller wrote for the court's majority that if the Legislature intended to make these Web site domain names illegal by labeling them "gambling devices," lawmakers could have done so. But they did not, she noted.

By scorning the governor and his powerful pal in the local Franklin Circuit Court — where the folks too often get the short end of the stick when high-profile politicians become involved — the appeals court demonstrated its continuing commitment to the separation of governmental powers.

"If the three powers maintain their mutual independence on each other our Government may last long, but not so if either can assume the authorities of the other," wrote Thomas Jefferson in 1820.

In this case, the judiciary acted as a check-and-balance against a governor who wants to eliminate competition for Kentucky's gambling enterprises but doesn't want the issue debated in public. After all, someone surely would point out that some online gaming sites in Kentucky, including [www.twinspires.com](http://www.twinspires.com), didn't make the list for government seizure.

Rhetorical question: Why in the world would the Churchill Downs Inc. online wagering site not make the list?

Wingate could have stopped the executive branch. He didn't, which contributed to a greater erosion of liberty in Kentucky. Thank goodness Keller's liberty-loving court restored it.

- Liberty lovers: National Guard troops and caring neighbors

A utility company's worst enemy – freezing rain attached to power lines – caused a record power outage in Kentucky. The homes and businesses of more than 607,000 people lost power, and as I write this column, some still face living without electricity.

While our state harbors political leaders whose ineptness remains fully charged in the General Assembly this time of year, we can take pride in having the best National Guard troops and the most caring residents.

These troops saved at least four lives by going door-to-door in Louisville to check on residents caught by the storm. Our liberty becomes worthless if we don't defend our people and protect our property. I commend these soldiers as heroic preservers of freedom.

But not all heroes wear uniforms.

Many caring Kentuckians fortunate enough to avoid power outages opened their homes, hearts and wallets to the less fortunate. Those with generators loaned them to neighbors caught without means or heat. Churches and charitable groups responded, collecting money, serving food and setting up shelters. Emergency management workers labored around the clock.

We have a lot of problems to solve in Kentucky. But the response to this storm from Louisville to Bowling Green and from Lexington to Leitchfield should remind us that our greatest asset remains the caring and the conscience of an independent and free people — not professional politicians and their bureaucratic security blanket found in Frankfort.

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