



Bluegrass Beacon

BY JIM WATERS

Regulation without representation 'a dereliction of duty'

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Decisions made for colonists by a king interfering with their economic livelihood and individual liberties were at the core of the American Revolution.

Taxes were levied on colonists by Parliament in far-away Britain – without representation for the colonists. This led to the cry of “No taxation without representation” that became the main talking point in the list of grievances against King George III.

The founders’ willingness to go to war over this lack of representation tells me they probably would take huge issue with the “regulation without representation” now occurring in some Kentucky communities.

For example, the Hopkins County Board of Health decided to create and enforce a law without so much as a vote by elected officials.

The county’s fiscal court asked the health board to offer recommendations about a smoking ban on restaurants and other privately owned businesses. Instead, the board’s non-elected health nannies enacted their own smoking ban on all public places, including privately owned businesses.

Rather than hold these out-of-control officials accountable, local magistrates and county judge-executive Donald Carroll seemed all too happy to allow the health board to assist them in avoiding a tough vote on a controversial issue.

Fortunately, not all elected officials rolled over.

Hopkins County Attorney Todd P’Pool publicly questioned the ban’s constitutionality. So, if P’Pool decides not to press for enforcement, will the health board dispatch its own goon squad – created by the same state bureaucrats who appointed these health-board members? I wonder how such a move would go down in the fiercely independent communities of rural Kentucky.

So far, opponents of the ban have hit a wall in the courtroom. A judge denied a request for an injunction after attorneys for the health board argued that state statute allows local health boards to enact smoking regulations.

But if the legality were so clear, don't you think politicians with similar levels of chicken-heartedness in every other Kentucky county would take the same route as Hopkins County magistrates by punting to local health nannies?

Kentucky law allows health boards to adopt regulations to enforce laws created by elected officials. But whatever Hopkins' health nannies have been smoking has skewed their reasoning into thinking that means non-elected bureaucrats can enact laws threatening the constitutionally protected private-property rights of local business owners.

The Kentucky Freedom Coalition, a group of Hopkins County business owners and concerned residents, has gathered more than 2,000 signatures on a petition challenging the cowardice of local representatives.

In a letter to the Hopkins County Health Department, Kentucky Freedom Coalition spokesman Hal Latham promised his group will "vigorously fight any attempt by the Health Board to enact laws concerning this matter . . . We are passionate about freedom and private property rights."

I'm glad somebody is.

The developments in Hopkins County should concern even those supportive of government-imposed smoking bans. Allowing elected officials to avoid accountability for key policies represents an erosion of the representative form of government for which so many have fought.

One letter to the editor referred to the politicians' cowardice in these matters as "a dereliction of duty."

Of course, many elected officials want to avoid taking a position. They know the consequences of taking a stand on an issue as divisive as a government-imposed smoking ban. Longtime Paducah Mayor Bill Paxton was in a tough re-election fight this fall after supporting a stifling smoking ban passed in his city last year.

Surely, no process that exists is more fundamentally un-American than laws enacted and enforced by non-elected bureaucrats.

Just the thought of it chokes me up more than smoke from a cheap cigar.

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