

THE CASE AGAINST A NATIONAL COMMISSION

Written by Charles Jay
Friday, 15 August 2003 18:00

The 88th Round

As I touched upon in the last chapter, I have undergone something of a metamorphosis over the course of the last fifteen months. At the beginning, I was a staunch supporter of the idea for a national commission, because like most people, I figured it would represent a major step forward in getting the sport of boxing under control from the regulatory perspective, and improve it to the point where increased public acceptance would be a natural result.

But taking my experience in and around boxing (close to twenty years' worth) into account, and adding in the time, effort and research that was required to put together a rather intensive study of the issues relative to boxing reform, I started to drift further and further away from that point of view. Since I'm assuming this is not the opinion of the majority, I feel it incumbent upon myself to offer a full explanation.

You're about to get that, and then some.

So what would be the case AGAINST a national boxing commission?

Let's talk about the little things first. Obviously, there is the question of state's rights. Let me quote a letter sent by Tim Lueckenhoff to Senator John McCain on October 11, 2002:

"Commissions opposed to the creation of the United States Boxing Administration fear their states' rights will be infringed upon with the passage of this legislation. In essence they will lose their autonomy. There is (sic) concerns by commissions that the legislation does not go far enough to strictly enforce the clauses contained therein. Some commissions also feel, that club shows will be adversely effected with the minimum criteria for medical testing not to mention the payment of licensee fees to the Administration. Which will ultimately put fewer dollars in boxer's pockets."

Yes, there's some hot air in that message, especially with regard to the medical testing. But there's a little substance as well.

I wouldn't deny that you'd have a bunch of commissioners fearing they will lose their gratuitous state jobs, or that their state commissions may be eliminated entirely if as bill is passed calling for national regulation. To a degree, it's self-preservation. The problem is that it might manifest itself into something that can effectively create a quagmire.

Please keep in mind that we're talking about a dual national-state system, in which the states would have a significant amount of autonomy. But, if a state were not a supporter of a national commission on the basis of assertion of states' rights, would we have to constantly worry about

THE CASE AGAINST A NATIONAL COMMISSION

Written by Charles Jay
Friday, 15 August 2003 18:00

them enforcing the federal laws in their area, or would they implement the regulations they thought were useful and discard those they felt unnecessary? Don't tell me this couldn't happen; I've examined enough pages of depositions from Greg Page's lawsuit against the Kentucky Athletic Commission to know that the Kentucky people don't even bother obeying their own STATE law, much less the federal laws that apply to them through the Professional Boxer Safety Act, which they STILL don't believe they have the obligation to follow,

So now you want to create MORE laws, with MORE bureaucracy, giving them MORE reason to ignore the rules?

In between battles of ego, more fighters are likely to get hurt.

I'd be much in favor an educational process in which commissioners, executive directors, and commission attorneys were schooled on what the laws were. You wouldn't necessary need a national board for that - just maybe a more efficiently-run ABC, or a private organization. At that point, it would be the state's obligation to make sure all those laws were being carried out. You probably wouldn't want to have a situation where, if an "accident" happened as a result of neglect, the federal government would be exposed to the liability.

I know this may sound irreconcilable with some of the points made above, but the fact is, when you look at club shows, and I mean SMALL club shows, there is a very compelling argument that regulation on the state level is going to be more effective than it would be if the state were independent, but still taking directives from a national board, if that's the way this ultimately evolves. After all, locally-based regulators generally know the fighters in that area better, and know the "operators" better. I couldn't see a national commission passing judgment on what kind of fights would be allowable on a show like that. In fact, I don't know ANY useful place they would have on a show like that. I think that a state commission, if they were acting responsibly (and I concede that's a big IF), would naturally perform better.

If a centralized structure was going to be given ultimate authority over local fights, it would have to be staffed by a lot of people - perhaps dozens. Remember, there were an average of 2.3 cards PER DAY in the United States last year - that's a lot of activity for one office to handle, even if it's getting some help around the country. It brings to mind the question as to whether, as inefficient as some state commissions have proven to be, whether a national structure would actually exacerbate the situation, by creating less of a hands-on situation, more distance, and less overall efficiency.

I also wonder whether those geniuses, Ken Nahigian (McCain's aide) and Greg Sirb (Pennsylvania's commission head), who are behind the new Boxing Amendments Act, have studied whether there are laws in certain states that would not necessarily be superseded by a federal law, and which might present a conflict with the regulatory power of a national commission in a particular jurisdiction? Has the proper due diligence been performed? With those two guys pulling the strings, don't bet on it.

And speaking of geniuses, let me reiterate something I have said all along in the "Operation Cleanup" series - your laws are only as good as the people you have enforcing them. It is

THE CASE AGAINST A NATIONAL COMMISSION

Written by Charles Jay
Friday, 15 August 2003 18:00

mandatory that I take into account the quality of people who could be running the show, along with the evolution that a national commission could take over the course of time.

What we might see eventually is a national hierarchy, with regional or state "directors" - responsible to the federal level - who pay particular attention to boxing in their respective areas. Of course, the most seamless way to do something like that is to draw from the people who are currently involved with state commissions. More to the point, they would be those who were able to lobby most effectively, which means it's likely we would see the same bureaucracy of incompetent regulators.

As we mentioned a few moments ago, the way the bill is laid out now, states would still retain an autonomous position, but there would be national oversight, either in the form of one person, or, if a compromise between McCain and Harry Reid is reached, a committee. Absent any radical and innovative thinking, what you're going to be faced with, in effect, is that the same folks who were failures on a state level will be elevated to positions where they can be failures on the national level. Do you see any progress in that? I surely don't.

I can say with some degree of conviction that we can do without people like former Kentucky's Jack Kerns, primarily responsible for Greg Page's physical state, who was First Vice-President of the Association of Boxing Commissions for nearly two years, working for a prospective national agency. He's a horrible exemplar, but that's exactly the kind of thing you're looking at - the only difference is, instead of Kerns, you'd have Kerns "wannabes". Believe me, there are plenty of them.

Let's face it - the guys who are being looked at for these national posts are the "usual suspects" from the Association of Boxing Commissions. And if you take a step back and think about it, if they had ever been able to get their act together, or persuade others to do the same, no conversation about a national commission would even be required.

Truth be known, the people in the ABC have not shown the vision or competence to assume any kind of leadership role in a national commission structure. They're just not strong enough. And I'm thoroughly convinced it wouldn't guarantee any improvement whatsoever in the quality of boxing regulation.

You'd be hard-pressed to get the best available people from the various commissions to leave positions with their respective states and take a job that may or may not work out for them. You've got to understand - many of them not only run their commission, they also are involved simultaneously with other state agencies, or have been in the past. They've got attractive benefits packages and many years toward their state pension. The best people are not useless political appointees, but skilled administrators who have built a certain record of efficiency. Some of those guys - and I'm talking about people like Marc Ratner (Nevada), Tom Mishou (Georgia), or Larry Hazzard (New Jersey) - are not particularly attracted to the job of national boxing "czar".

That leaves you with people like Sirb, a blindly ambitious political creature whose major qualification for the job is that he has ingratiated himself to the right people in McCain's office.

THE CASE AGAINST A NATIONAL COMMISSION

Written by Charles Jay
Friday, 15 August 2003 18:00

But he's part of the same ineffective bureaucracy, and in fact, has been a ringleader of it.

If you're going to embark on making changes to the structure, you're not accomplishing anything unless you change the PEOPLE who constitute that structure.

And I don't see anyone being creative or resourceful enough to make a clean sweep, bringing fresh, new people in. And even if that was their intention, would they know how to go out and find those people? Don't leave that kind of thing up to politicians like McCain, who think in cliches when it comes to the boxing business.

What is of ultimate importance here is that I have to fashion an argument for or against a national commission based largely on a contemplation of the actual bill that would create the centralized national structure.

And so that brings with it the matter of accountability to taxpayers.

To ask, "why should taxpayers shoulder the burden for subsidizing the regulation of boxing?", is a legitimate question, especially as taxpayers in each state are already doing it. I don't think the general public cares about boxing. I don't think many politicians in Washington, outside of McCain himself, find this an interesting or particularly useful issue.

Coming up with a rationale for the kind of expenditure necessary to run a national board is a subject of great concern to Wally Jernigan, Nebraska's commission director.

"At a time when the budgets of every state and the federal government are upside down, I can't justify new taxpayer spending with no return for the dollars allocated", says Jernigan. "You might want to get the Commerce Budget Office Estimate Report for a complete review of cost. There is an estimate that there will be 3 executives, and 27 additional employees with an anticipated budget for salaries and benefits of \$3 million per year. So looking at the big picture, where is the justification for such financial un-soundness?"

I agree with that observation. I think anyone in favor of advancing an entire structure based on this bill should have had the foresight to at least be creative in coming up with a formula to make it pay for itself. There are probably ways to do this. In fact, there are some states who have to reconcile their budgets through revenues. Absent that, since as it is we are looking at an Ali Act that no representative of the Justice Department seems anxious to enforce, an alternative that deserves to be explored is to introduce model legislation, or for all states come to an agreement on at least SOME standards that everyone, individually can adopt, operating on the premise that a STATE law is a lot easier to prosecute and/or implement on the state level than a federal law that in the end amounts to an "unfunded mandate", and may never have teeth.

As I mentioned in the previous chapter, there are standards that can be adopted and implemented on a nationwide basis without having to establish a national commission - things like uniform rules, consistent norms for medical testing, standard forms for boxer-manager and

THE CASE AGAINST A NATIONAL COMMISSION

Written by Charles Jay
Friday, 15 August 2003 18:00

boxer-promoter contracts, requirements for sanctioning bodies, minimum safety provisions, and more - all of which can be done through legislation, as it would have the effect of overriding state law.

But there are many things that could be part of an effective centralized regulatory structure that are NOT dealt with in the new Boxing Amendments Act . Like the oversight of networks in the role they play. Or federal disciplinary actions against state commissions that break the law. Or disclosure requirements for managers who may be hiding money from their fighters. Or the nationwide ban of dangerous Toughman contests and variations thereof. Or provisions for reciprocal suspensions for non-medical reasons, including those against promoters, managers, agents, etc. Or a database for fighter records that doesn't cost customers nine dollars a pop.

Those things don't seem to be on the agenda. And if they're not going to be, I really don't see any reason to back the new McCain-sponsored bill, and in turn, a national commission, within the present frames of reference.

What do we need it for? To provide an incompetents' full-employment program?

I don't think so. Don't despair, though. Viable alternatives will come, a few chapters down the line.

fightpage@totalaction.com

Copyright 2003 Total Action Inc.