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Main Image:

[Alaskan justice](#) ^[1]

Forty-three of the 50 states elect their attorney general. That fact crossed my mind recently when the Alaska Dispatch News reported that, at the direction of Gov. Bill Walker, Richard Svobodny, the deputy attorney general who supervises the criminal division at the Department of Law, flew to Bethel from Juneau to hand-deliver a letter to Bethel District Attorney June Stein ^[2] in which Gov. Bill Walker fired Stein without the professional courtesy of telling her why.

I do not know Stein. But I know Myron Angstman, who began practicing law in Bethel more than 40 years ago when I did, and who still practices there. When he heard that Walker had fired Stein, Myron told Bethel public media outlet KYUK ^[3] that in his dealings with her he had found Stein to be a “hard-working” and “competent” attorney. I also know that for every district attorney, Bethel is a difficult and depressing duty station. In 1974 when Myron and I arrived in Bethel, there was one district attorney. Today, in addition to Stein, six others are needed to handle caseloads that collectively document the extent to which Bethel and the surrounding villages are riven with domestic violence, child sexual abuse, violent assaults, and, most recently again in Bethel, yet another completely senseless alcohol-fueled murder.

The fact that Walker refused to explain to Stein ^[4] why her performance working in those conditions was so substandard that he had decided to fire her is particularly troubling because, according to ADN, the governor may have fired Stein for no reason other than that a Bethel attorney named James Valcarce, a campaign contributor and member of the Walker transition team who dislikes Stein, asked him to.

Equally troubling, Walker told ADN that a “number of people” other than Valcarce had complained to him about Stein. But the governor pointedly refused to identify those people or explain their complaints.

That reeks of Star Chamber caprice and unfairness.

Was Myron Naneng, the president of the Bethel-based Association of Village Council Presidents, one of the complainers? Was Julie Kitka, the president of the Alaska Federation of Natives, another? And would Walker have inserted himself as deeply into a department personnel matter about staffing a Bush office as he did without consulting Lt. Gov. Byron Mallott, whom the governor has given a virtual blank check to oversee rural policy for his administration?

While I do not know the answers to those questions, hopefully ADN and Alaska Public Media will do their jobs and find them.

But so far in the story of Stein's firing absolutely no mention has been made of the individual who should have been at the center of the story: Alaska Attorney General Craig Richards.

According to a former Alaska attorney general of my acquaintance, "If the governor receives a complaint about a district attorney the proper protocol is for the governor to refer the complaint to the attorney general. The attorney general then investigates the complaint. If the complaint is valid, the attorney general counsels the district attorney if he or she has been departing from Department of Law policy, transfers the district attorney to another office, or in a really bad case terminates the district attorney from his or her employment. But the termination comes from the attorney general. Not the governor."

Richards, who is Walker's former law partner, apparently did none of that. Why didn't he?

When Alaska was a territory the attorney general was an elected public official. And during the Alaska Constitutional Convention, Fairbanks delegate Frank Barr offered an amendment whose passage would have continued that practice by having the new state's attorney general "elected at the same time and in the same manner as the governor."

When he explained his amendment, Barr told the other delegates that if the attorney general was appointed by, and served at the pleasure of, the governor, and the governor "wanted to bulldoze something through" that was "a little bit questionable, the attorney general might feel that he was obligated to the governor if he were appointed, and his opinion might be biased a little bit. I wouldn't say he would flout the law, but he could be biased a little bit to either one side or the other. And even if he were entirely honest and tried to render an impartial decision, I'm afraid his conscience would hurt him a little bit because he was obligated to the governor and went against the governor's wishes, so to remove him from that embarrassing position, I think that he should be elected."

A majority of the delegates did not find that rationale persuasive, and they rejected Barr's amendment by a vote of 12 to 40. As a consequence, since statehood the attorney general of Alaska has been appointed by the governor and has served at the governor's pleasure.

If he had been an elected public official, would Attorney General Avrum Gross have signed off as easily as he did on Gov. Jay Hammond's flagrantly unconstitutional scheme to base the amount of each Alaska Permanent Fund dividend check on the number of years each Alaskan has lived in the state? Would Attorney General Bruce Botelho have had one legal position regarding tribal sovereignty when he served at Gov. Wally Hickel's pleasure and then the opposite position when he served Gov. Tony Knowles? And would Richards have allowed Walker to fire a department employee for reasons that may or may not have been blatantly political without affording that employee notice of, and an opportunity to refute, the complaints that had been made against her?

Those queries have nothing to do with Gross and Botelho, who are friends of mine, or with Richards, whom I do not know but who people whose opinions I respect tell me is a good man and a journeyman attorney.

Rather, they have to do with the structure of the Alaska Constitution. And they raise the question of whether a majority of delegates voted wrong when they rejected Barr's amendment at the constitutional convention to elect the attorney general.

If they voted wrong that is a mistake the Alaska Legislature can rectify by putting Barr's amendment to the state Constitution on the ballot in 2016 in order to let Alaska voters decide for themselves whether they want to elect their attorney general.

Whether the Legislature should do that merits public discussion. And the time to begin that discussion is during the soon to be held hearings the Senate and House Judiciary Committee hearings on Richards' confirmation.

Donald Craig Mitchell is an attorney in Anchorage. From 1977 to 1993, Mitchell was vice president, then general counsel for the Alaska Federation of Natives in Washington, D.C. He is the author of "Sold American: The Story of Alaska Natives and Their Land" and "Take My Land Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims," which the Alaska Historical Society recognized in 2006 as two of the most important books ever written about the history of Alaska.

The views expressed here are the writer's own and are not necessarily endorsed by Alaska Dispatch News, which welcomes a broad range of viewpoints. To submit a piece for consideration, email [commentary\(at\)alaskadispatch.com](mailto:commentary(at)alaskadispatch.com) [5].

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[4] <http://www.adn.com/article/20150224/walkers-firing-bethel-district-attorney-may-be-awkward-first>

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