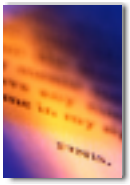


Politics and Lawyering

We have heard so much about the eight U.S. Attorneys fired for reasons that float and change like shape shifters in a sci-fi novel.

They were bad managers. Or they didn't toe the party line. Or they were too passive. Or they didn't file enough death penalty cases. Or they were taking places other bright lawyers needed to advance their own careers.

Some of the reasons are absurd, and some are just weak. But all raise questions about the blurred line between partisan politics and the appointment of U.S. Attorneys.

In one sense, the positions are the spoils of war. Whoever wins the presidential election gets to pick his or her executive team, including Attorney General and the U.S. Attorneys. No one seems to claim that those initial appointments by a new President are a conflict of interest, even though it is a seminal act of partisan politics.

When we have a lawyer doing a good job in a difficult position, we don't like to see him shoved out by partisan muscle.

We not only expect but also want a shift in the policies inside the Department of Justice when we elect a President of a different party. Resignations of existing U.S. Attorneys occur as a matter of course when a new sheriff is in town. It happens every time, and no one ever complains, because shifting players when parties shift is part of the election process. We vote it in.

So what is the problem with a re-elected President deciding to move his players around the chessboard, putting some back in the box and looking for some new ones?

In the abstract, nothing. The re-election of President Bush was fair, and by it we gave him power to make these appointments as he chooses. We don't like the suggestion that good prosecutors were second-guessed by politicians who saw the job as just an extension of campaigns, but we cannot honestly say that we did not know partisan politics was a part of the mix.

While the abstract may not be troubling, for us in Arizona the specific is more than troubling. It is just plain wrong.

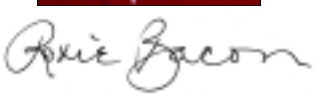
Paul Charlton is what a fair President should want in a chief federal prosecutor. He is experienced. He is smart. He knows the law and the office, and he refuses to use either for personal advancement. The local judiciary as well as his peers and colleagues respect his objectivity and fairness.

Local players chime in, uniform in their conclusion that nothing Paul Charlton did justifies his termination. Even Senator Kyl calls the decision "ham-fisted," and three former U.S. Attorneys from both parties sign a letter attesting to his excellent performance.

If a chief prosecutor is not allowed to run his office independent of specific mandates to push a party line when that runs counter to local priorities, culture and resources, we all feel a little less secure in what it means to be a "nation of laws." The U.S. Attorney makes choices every day that change people's lives, that can even take their lives. We do not want those choices to be determined by partisan politics. And when it feels like they are, we begin to doubt the integrity of the system. As lawyers, it makes us very uncomfortable to see fairness casually tossed aside.

So in Arizona, the abstract notion of a President's power to fire high-profile lawyers for political policy reasons, which is probably not illegal at all, turns into a bizarre ouster of a very good professional who is liked and respected by just about everyone. When we have a lawyer doing a good job in a difficult position, we don't like to see him shoved out by partisan muscle.

It distresses us to see a top professional take the high road and still get railroaded. It makes us think that even if it isn't illegal, it ought to be.



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