

Alaska State Legislature



Senator Lora Reinhold

March 1, 2021

The Honorable Mike Dunleavy
Office of Governor
Alaska State Capitol, Third Floor
Juneau, Alaska 99801

Dear Governor Dunleavy:

OVERVIEW

With the assistance of my personal constitutional attorney Nathaniel MacPherson,¹ I write in direct response to your diatribe of February 18th, in which you attempt to silence my exercise of basic, fundamental constitutional rights: free speech, free association, due process, and – above all – the right to petition for redress of grievances, which is “among the most precious of the liberties safeguarded by the Bill of Rights.”² Your attempt has failed. Moreover, as explained below, your attempt is – in effect – not only an impermissible infringement of my constitutional rights³, but in addition: it is in the form of that infamous charge: “seditious libel.” I demand that you retract your charges and your unwarranted executive branch mandate.

¹Nathan is licensed in California, England, and Wales. As to State of Alaska matters, he is associated with Alaska counsel.

²*United Mine Workers of America, District 12 v. Illinois State Bar*, 88 S.Ct. 353, 356 (1967).

³ You also appear to be attempting to infringe upon my constitutional duties as a State Senator, inasmuch as you state that the Executive Branch will not interact with me with respect to my office as Senator or my capacity as chair of a committee. (Penultimate paragraph of your letter.)

THE PETITION FOR REDRESS OF GRIEVANCES

By my legitimate inquiries – the responses to which every Alaskan citizen is entitled – you fear possible criticism; but it is the right to petition, and only that right – a right I exercised in its pristine form⁴ – that offers a representative, republican form of government the “safety valve” needed whenever free men and women delegate to a few such vast authority to act. For it is the sacred right to petition which guards against political frustrations of natural men and women. This realization is not without historic precedent, for it was within the *Declaration of Independence*, unanimously adopted in Congress, July 4, 1776, at Philadelphia, that Thomas Jefferson declared:

In every stage of these oppressions We [the People] have petitioned for redress in the most humble of terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

But the right to petition was not formulated by Jefferson, nor anyone within the Colonies, for it was founded upon the oppressions of the freeborn by a tyrant King in England during the 1600s, in the form of that infamous charge: *sedition libel*.

YOUR CHARGES OF SEDITIOUS LIBEL

Your letter charges me – in effect – with seditious libel, a charge abhorred by freeborn Englishmen and abolished by the *First Amendment* right to petition for redress of grievance. If one limits his search to American jurisprudence for a

⁴ See *U.S. v. Hylton*, 558 F. Supp. 872 (S.D. Tx. 1983)(right to petition upheld as against criminal charges of intimidating and impeding federal agents), acquittal affirmed, 710 F2d 1106, 1107 (5th Cir. 1983)(right to petition exercised by defendant “in its pristine form.”).

case of seditious libel, none will be found. The reason is simple: since the *Bill of Rights*, the right to petition has been accepted as such a simple, primitive, and natural right that even a *prosecutor of the most perverted genius* has not imagined such a vile prosecution. And if one researches the full history of the right to petition, one is invariably led to its root: the infamous charge of seditious libel.

No more valuable an instrument of repression was known in England during the 1600s save that born of the Star Chamber: the crime of seditious libel. In an era of universal and savage intolerance, the charge proved most useful to kings, bishops, prosecutors and judges hostile to religious and political freedom. Yet it had no foundation at common law. Rather, it was the brainchild of the keeper of the Star Chamber procedure, Sir Edward Coke, appointed by the King in 1606 as Chief Justice of Common Pleas. As a sideline, Coke was also a judge of the Star Chamber, that infamous court of inquisition in which no rights were afforded the accused, only the opportunity to swear and confess to the alleged crime. And in 1606, Coke prosecuted in the Star Chamber the first case of seditious libel: he obtained the defendant's confession to composing and publishing a scandalous set of verses regarding two of England's highest clergymen.⁵ The case drew little attention and drew Coke to widen his Star Chamber jurisdiction. *See also* the case of *John Lamb* (Star Chamber 1606) (seditious libel; repeating a seditious libel was also punishable as seditious libel).

⁵ *Compare*, ironically: the very recent criticism of Joseph Biden by a Catholic Archbishop. Because he supports abortion, Biden should "stop defining himself as a devout Catholic," says Kansas City Archbishop Joseph Naumann.

Coke then proceeded to develop the theory, without foundation, that truth is no defense to seditious libel. Truth of the allegations became even an *aggravation of the crime*. Freeborn Englishmen were prosecuted and convicted of seditious libel for any oral or written statement, *however true*, which shamed the king, his court, one of his appointees, his honorable clergy, or was otherwise in “derogation of the king’s crown and dignity.” Any criticism, by petition, preaching, or publication, which concerned the royal dignity and was in prejudice of the king, was considered seditious libel. The practice was soon broadened to quiet religious dissidents. And, in 1678, the twelve high judges of England declared seditious libel punishable at common law, whereupon, cases were brought in the Court of Kings Bench, the Star Chamber having been abolished in 1641.

Thomas M. Cooley, in his *A Treatise on the Constitutional Limitations*, Volume 1 at 728, quoting from Story, *On the Constitution*, stated, that the right to assemble and to petition is one which “would seem unnecessary to be expressly provided for in a republican government, since it results from the very nature and structure of its institutions. It is impossible that it could be practically denied until the spirit of liberty had wholly disappeared, and the people had become so servile and debased as to be unfit to exercise any of the privileges of free men....”

Your charges against me as contained in your letter cannot stand, as they are illegal under the *First Amendment* right to petition, the Common Law, the “law of the land” (Magna Carta 1215) and as Jefferson declared within the Preamble to the *Declaration of Independence*, the “Laws of Nature and of Nature’s God.”

A MOST PERNICIOUS ATTACK UPON LIBERTY

The *First Amendment* is, according to Supreme Court holdings, by no means absolute, although the amendment does state in no uncertain terms: “Congress shall make no law...abridging...the right of the people...to petition the government for a redress of grievances.” What room is there, in these words, for regulation by law or by a governor’s executive action? Not enough, I submit, to silence the acts of a citizen who files with proper state authorities genuine inquiries and complaints. If your charges and punishment against me are to stand, what Alaskan citizen – and most especially, what state legislator – will dare to open his mouth, much less to use his pen, against even the worst governmental administrators; yes, even against one who may be corrupt and even confess to it? Your charges and punishment against me are a most pernicious attack upon constitutional liberty.

DENIAL OF DUE PROCESS

The *Fifth Amendment, U.S. Constitution*, guarantees “due process of law”, which includes: notice and opportunity to be heard. Your charges lack notice. You make general statements and provide footnote references to my numerous Facebook Posts in general, but not once do you “hit the nail on the head.” Yet, you claim that I have not acted “in good faith.” And, rather than await a response from me to your charges, you impose the penalty: the entire Alaska Executive Branch is to totally ignore any request or inquiry from me, whether personal, or in my capacity as Senator, or in my capacity as Senate Judiciary Committee Chair. I am – unequivocally – denied any access to the Executive Branch.⁶ You, the Governor, are “prosecutor, judge, and jury.”

⁶ The Alaska Freedom of Information Act aka Public Records Act mandates otherwise. *AS §40.25.10*.

YOUR UNSUPPORTED, SPECIOUS, GENERAL ALLEGATIONS

Your allegations are:

1. “[P]ublicly misrepresent the State of Alaska’s response to a global health crisis”. (Page 2, with reference to footnote 7, which references seven Facebook posts, without mention of the contents of the posts, much less a specific claim of “misrepresentation”.)

2. “[B]aseless allegations that, on multiple occasions, were demonstrated to you to be false. (Page 2, with reference to footnote 8, which references a Facebook Post date, with – again – no mention of the contents or a specific “misrepresentation”).)

3. “[B]latant inaccuracies in your public statements about the State of Alaska’s health responses.” (Page 2, without a reference.)

4. “Your baseless, deleterious, and self-serving demands on government resources....” (Page 3, without a reference.)

Opportunity to be heard? Conspicuous by its absence.

Due process requires more. Far more.

While you, Governor Dunleavy, on page two of your letter, make clear to me that you “have never imposed martial law or forced Alaskans to take the COVID-19 vaccine”, the record is clear: I never stated otherwise.

My personal record is also clear, indeed stellar: I have never received any charges of misconduct or an ethics complaint; and, in over 20 years of serving on public committees, never once did I receive an official complaint.

RESULTS OF COVID 19 INQUIRIES:
“INTELLIGENT MINDS DIFFER”

To be clear, I have in fact posted links and other information on Facebook regarding COVID, *e.g.*, to list but a few:⁷

1. 12/12. A video from Dr. Scott Jensen, critical of Dr. Fauci’s response to COVID.

2. 1/30. My reaction to an article regarding how the State Medical Examiner’s Office determines if the death is a COVID death; we need answers because federal funds are associated with the diagnosis of COVID.

3. 1/30. Your administration denied participation in the Judiciary Committee’s hearings the following week regarding COVID Disaster declarations and impact. I call for the people’s questions to be answered and to ensure checks and balances between the branches of government.

4. 2/1. Vaccines under Emergency Use Authorization require informed consent and cannot be mandated.

My legal and moral basis for such posting? The obvious: *First Amendment* Free Speech, Free Association, and Right to Petition the Government for Redress of Grievances. My moral conscience? Religious Freedom. Such topics warrant healthy, indeed even feisty and diverse debate, without fear of reprisal in the form of unfounded serious allegations.

⁷ Because your charges lack specificity as to the contents of my Facebook posts, it is presently unknown which of the posts are included in your list of charges.

YOUR ACTIONS VIOLATE THE *GUARANTEE CLAUSE* OF
THE *U.S. CONSTITUTION, ARTICLE IV, SECTION 4*

The *Guarantee Clause*: "The United States shall guarantee to every State in this Union a Republican Form of Government...." No Monarchy. The People govern through elections. Three branches of government. Separation of powers. Checks and Balances. Your charges and punishment are the acts of a Monarch.

YOUR FAILED ATTEMPT TO DISENFRANCHISE
THE FRANCHISED ELECTORATE

You have – in effect – attempted to impede the duties of a duly-elected Alaska Senator, denying access to the executive branch as guaranteed by a republican form of government. However, as even Legislative Legal has advised, the power lies with the legislative branch of government, not the executive, to move or stop legislation, to host hearings, and to control the purse.

SUMMARY AND CONCLUSION

For the reasons stated, I admonish that both your charges and punishment be immediately withdrawn. Otherwise, your letter indeed sets a dangerous precedent, one unknown in the Free World. Including – of course – Alaska.

Sincerely,



Lora Reinbold
Senator

cc: The Honorable Peter Micciche, Senate President, Alaska Senate
The Honorable Tom Begich, Senate Democratic Leader, Alaska Senate