



Written by [Michael Tennant](#) on June 1, 2010

Christian Conservatives Court California Voters

According to the Associated Press, “A group of conservative attorneys say they are on a mission from God to unseat four California judges in a rare challenge that is turning a traditionally snooze-button election into what both sides call a battle for the integrity of U.S. courts.”

“Vowing to be God’s ambassadors on the bench,” continues the AP, “the four San Diego Superior Court candidates are backed by pastors, gun enthusiasts, and opponents of abortion and same-sex marriages.”



Such opinions are anathema to the political establishment, which is why the “district attorney and nearly every judge on the bench are endorsing incumbents” (quoting the AP) targeted by the conservative Christian group, [Better Courts Now](#). The San Diego County Bar Association has also given three of the four incumbents its highest rating while disparaging their Better Courts Now opponents, yet another sign that the Better Courts Now folks are on the right track.

Better Courts Now, says the AP, “was the brainchild of Don Hamer, San Diego County’s late Zion Christian Fellowship pastor who campaigned locally for California’s ban on gay marriage, Proposition 8, and vetted the candidates before he died of a heart attack in March.” After Hamer’s death, continues the report, his “fellow Pastor Brian Hendry and other supporters have carried on his legacy, launching the mostly online campaign to replace the incumbent judges — all Democrats — with Christian conservatives.”

The establishment is feigning astonishment that anyone would attempt to influence judicial policy via the ballot box. For example, San Diego County District Attorney Bonnie Dumanis told the AP, “Any organization that wants judges to subscribe to a certain political party or certain value system or certain way of ruling to me threatens the independence of the judiciary.”

This apparently was said with a straight face in California, the state where federal judges, to choose just one example, overrode the express wishes of the electorate in striking down 1994’s Proposition 187, which would have denied various government benefits to illegal aliens. Judges, it seems, are free to disregard the results of a constitutional referendum process if they disagree with those results, but voters are never to attempt to change the makeup of the judiciary in order to make it conform to *their* vision for the state.



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"An effective way in driving policy is to try to influence who is on the courts in a state, particularly the highest court, the supreme court," Adam Skaggs, counsel for the Brennan Center for Justice at the New York University school of law, told the AP. "It's cause for concern because Americans expect courts to be places where people get a fair trial." The Brennan Center is named for former U.S. Supreme Court Justice William Brennan, the man who was so concerned about being fair and upholding the law that in 1973 (*Roe v. Wade*) he joined the court's majority in striking down the abortion laws of all 50 states based on a "penumbra" nowhere in evidence in the U.S. Constitution.

Much as the political establishment would like people to think otherwise, all decisions about who is seated on the bench, whether by appointment or by election, are political in nature. Everyone recognizes that is the case with, for instance, presidential appointees to federal courts — hence the heated battles in the Senate over Supreme Court nominees. It is just as true with elected judges. If that were not so, then no one would contribute to judicial candidates' campaigns. Why contribute if not to assist the candidate in getting elected in hopes of obtaining rulings the contributor likes? What the establishment fears is not politically oriented judges *per se* but politically oriented judges who will not rule in favor of leftist policies.

It is comforting to believe, as the Better Courts Now critics would have it, that a judge can be completely impartial, but that simply is not the way humans are made. Everyone has his own biases, and while a judge should do his best not to let his biases influence his rulings, there are instances where a judge's ideology is going to be a determining factor in the outcome of a case. A judge who, let us say, is opposed to the criminalization of marijuana is likely to choose the most lenient sentence permitted by law for a marijuana offender before his bench. A Christian judge might indeed, as one of the incumbent judges suggested to the AP, rule in favor of a churchgoing spouse and against a non-churchgoing spouse in a custody dispute, *ceteris paribus*. One would expect a militant atheist, conversely, to rule in favor of the non-churchgoing spouse. This is precisely why knowing a potential judge's ideology and background prior to an election is crucial.

It is not as if the courts have exactly been models of impartiality over the last several decades. Federal courts, in addition to legalized abortion, have brought us forced busing of students to achieve judges' arbitrary levels of school integration; state-sponsored affirmative action; the taking of private property by government for private, rather than public, use; and countless strained interpretations of the Commerce Clause of the Constitution such that Congress can regulate anything that is deemed to "affect" interstate commerce, including the growing of wheat on one's property for one's own consumption. Federal, state, and local courts routinely side with the government against private citizens. Family courts are heavily biased against men. Divorces are handed out like free samples at Costco.

"We believe our country is under assault and needs Christian values," Craig Candelore, one of the Better Courts Now candidates, said to the AP. "Unfortunately, God has called upon us to do this only with the judiciary." For this the AP cites unnamed critics who "say the campaign ... threatens ... the separation of church and state." Of course, there is no such separation enshrined in American law; there is only the requirement, at least at the federal level, that the government neither establish a religion nor prohibit its free exercise. Nothing prohibits Christians or Jews or Muslims or atheists from participating in the political process. One may agree or disagree with the specific aims of the Better Courts Now organization, but one cannot deny that they have every right to field candidates for office and to attempt to unseat those judges with whom they disagree. The Left has been doing this for years



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by stealth. Bringing it out into the open may offer the Right the best chance of turning things around.

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