

## ACS v. Federalists

April 17, 2006

With Samuel Alito's confirmation as a Supreme Court Justice, some pundits predict that we may be witnessing the final act in a great drama that has riveted the nation for decades. Fifty years ago the Supreme Court's decision in *Brown v. Board of Education* placed the courts at the forefront of the struggle for social justice, and there they remained, largely unchallenged, for three decades. But then, during the Reagan Administration, a conservative legal movement symbolized by (but not limited to) the Federalist Society rapidly rose to prominence. Its agenda was clear: Government—all government, but especially the courts—must be hobbled and the struggle for social justice initiated by *Brown* halted. Now, with Alito joining fellow conservative John Roberts on the Court, some on the right seem to believe that their great project is nearing completion.

They are, however, dead wrong. Justices Roberts and Alito will take an already conservative court even further to the right, but the struggle for social justice will go on. And I am pleased to report that a new force—full of energy and optimism and new ideas—has entered the fray on the side of those who are committed to our founding values of liberty, equality and justice. It is the American Constitution Society for Law and Policy (ACS), which employs many of the undeniably successful techniques perfected by the Federalist Society, but in pursuit of liberal ends.

When I joined many others to help found ACS five years ago, I had high hopes for its potential, but even I have been astonished by its explosive growth and its increasing influence on the nation's legal scene. ACS rapidly made extensive progress in matching the Federalist Society's network of chapters, with thousands of members now organized in student chapters at 142 law schools and lawyer chapters in twenty-one major cities in both blue and red states nationwide. ACS has, as you might expect, a strong presence at Harvard, Yale and Stanford, but it also has active chapters at Brigham Young, Arkansas and Washington and Lee. The lawyer chapters (to which many nonlawyers belong) are not only in New York, Boston and the Bay Area but also Dallas, Atlanta and Nashville.

To truly appreciate the diversity and energy of the ACS network, you should attend its annual convention (the next one will take place June 16–18 in Washington, DC). More than 1,000 judges, government officials, lawyers, academics, law students and other interested—and interesting—people

will come together to discuss, debate and make plans to work together. Past speakers have included Supreme Court Justices Ruth Bader Ginsburg and Stephen Breyer, Senators Hillary Rodham Clinton and John Edwards, Representative John Lewis (news, bio, voting record) and Professor Laurence Tribe. You will be struck, as I am when I speak at ACS events across the country, by the large numbers of extremely bright, highly energetic young people who are active in the organization.

ACS understands, as the Federalist Society does, the power of organizing linked to the generation and dissemination of ideas. It is this dynamic—of people coming together to write, argue and put ideas to the test, thereby attracting more people interested in developing those ideas—that gives these organizations their effectiveness. This networking function matters greatly because, as the saying goes in Washington, “people are policy.” This is especially true with respect to lifetime appointments to the federal courts. It is no coincidence that Justices Roberts and Alito got their start on the front lines of the legal wars of the Reagan Administration. As one Federalist Society stalwart recently told the *New York Times*, their ascension to the Court “is a Reagan personnel officer's dream come true.” Now, finally, ACS is building the same sort of network for liberals.

The people and the ideas come together in ACS's multiyear “Constitution in the 21st Century” project, in which experts from across the legal profession work on the development and articulation of a compelling liberal vision of law and policy. It is structured around six initial issue groups: Access to Justice, Constitutional Interpretation and Change, Criminal Justice, Democracy and Voting, Equality and Liberty, and Separation of Powers and Federalism. By sponsoring major public events—such as former Vice President Al Gore's powerful recent speech on domestic surveillance and executive power—and by publishing short, persuasive papers, these groups will direct their work at the media and the public as well as the legal profession and decision-makers.

ACS's goals are ambitious but attainable. Those who would despair of our success need only think of the small band of legal conservatives of twenty-five years ago—their ideas then scorned by academics, ignored by judges and unknown to the public—who persevered to build a powerful movement and reshape our world according to their notions. If you seek their works, look around you. Our work is just beginning. Don't just stand there—join us.

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