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Chief Justice of Texas Supreme Court, is remarkable for many reasons. A Republican in the most Republican state in the Union, a black man in a state dominated by white conservatives, he has nonetheless been a dogged voice on behalf of Texas poorest and least powerful litigants. He has also been a consistent critic of the dubious way in which Texas selects and retains its judges through a series of judicial elections that are unabashedly partisan.

When Jefferson returned to private practice, leaving his post on the highest civil court in Texas nine years after he was appointed its chief by Governor Rick Perry. I recently interviewed him by telephone on a series of issues. First up was the notion of judicial elections. Here's a slightly edited version of our lengthy conversation (the first of a series I'll be posting here at The Atlantic over the next few weeks). Jefferson remarks aren't just notable for their candor about the structural failure of the state's judicial campaigns.

They also shed valuable insight into the motivations behind that failure and explain why things aren't likely to change anytime soon. Cohen: Now that you are off the bench, what are you willing to say about the process of judicial campaigns in Texas? Jefferson: I've been talking about this for a long time. And I am not the first one. Republican or Democrat Chief Justices for the last 30 or 40 years have been calling on the legislature to change the way judges come to the bench in Texas. It is a broken system. We shouldn't have partisan elections.

I do not like the concept of a Republican or Democratic Judge. I think fundraising undermines the confidence in a fair and impartial judicial system. So I would change it completely if I were king. The sad reality, given the

system that we have, is that if a judge wants to remain on the bench they have to find a way to reach the voters. And the only way to do that in Texas is in the media market. If you are running a statewide campaign, there are about 26 million people in Texas. You have Houston, Dallas, San Antonio, and Austin, and all are major media markets.

Even to mail campaign literature, you've got to spend hundreds of thousands of dollars. So I don't defend the system. I would want to change it. But I think there are ways to run a campaign even with this unfortunate regime that we have that respects the role that judges must play as impartial arbiters. And so in my campaigns, I tried to treat it as a civics education. Most Texans don't understand that there are two high courts. There is a Supreme Court of Texas that hears civil cases only. And there is a Court of Criminal Appeals, the highest court for criminal matters.

So I talk to them about the kinds of cases the court hears, how important they are to the lives of everyday citizens. I talk somewhat about my philosophy, how I approach cases. I talk about things like reforms that we've managed to achieve in Texas in civil and criminal administration of justice. That's how I campaign. Cohen: How do lawmakers justify their reluctance to change ought to be accountable. They'll say, "What if the judge is lazy or corrupt or doesn't have the intellect to do the job? Shouldn't the voters have an opportunity to take them out of office? But] the truth is that this notion of accountability doesn't work because the voters don't know the judges and they can't be expected to know the judges. In your free time one day, take a look at the ballot in Harris County?? that's Houston?? in a presidential year. If you look at that ballot, there will be several pages of judges who are
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standing for election, from the Supreme Court, Court of Criminal Appeals
There are district court Judges, county court Judges, probate Judges,
municipal court Judges. In that one year in Harris County, there are probably
60 or 70 edges on that ballot.

The voters have no clue about the experience or background of these
candidates for office, and so what happens in Texas is that voters
increasingly ' Tote based upon partisan affiliation. And we have the ability to
straight-ticket vote here and so, in 2008, when I was on the ballot, it was
McCain versus Obama, and Republicans in Texas by a large margin voted for
McCain but they voted straight- ticket. So they voted McCain and every
single Republican down the ballot. And in Harris County that year, Obama
was extraordinarily popular so they voted for Obama ND every Democrat
down the ballot.

I won [my] election easily, [but] in Houston there was almost a complete
sweep of Republican Judges they were replaced by Democrats. That makes
no sense. These votes are not based upon the merits of the ledge but on
partisan affiliation and if its not party affiliation it's the sound of your name. I
said that almost all the Republican Judges in Harris County lost?? well, there
Newer three exceptions. And in each of those cases, the Democratic
candidate had an ethnic-sounding name. That's no way to differentiate
among candidates.

And if it's to partisan affiliation or the sound of your name, it's how much
money you can raise ?? which, as I said, undermines confidence in impartial
Justice. So the accountability doesn't work. The only thing I want to mention

is that it is not just the legislators that {oh have to think about. There are political parties. The Harris County Democrats, they say: " Well, we're doing fine. We don't want to change. We're winning now. " There are thousands of Judges who breathe life into the party and they are winning, so they don't want to change it when they are winning. And Republicans, we are winning tideway, we don't want to change it.

So that's one of the problems. The other one is that we have all these professional consultants who work for the Senate and the House and the executive branch who make their livings on competitive elections. They work for these representative and senators and they have their ear. So that's another problem. Ere self-perpetuating system Jefferson describes supports those within it at the expense of the people of Texas. It is a system whereby Judges are placed upon the bench not because they are the smartest or wisest in their communities but because hey share a political belief with the most constituents in those communities.