

All three branches of US government are coequal. But one more coequal than the other two



by Lev Tsitrin

Colorado Supreme Court's bumping Trump from off the Colorado ballot proved – as was to be expected – a bonanza to the talking heads; New York's so-called "public" radio station WNYC, for instance, dedicated to it [a full third of its morning politics show](#). The host, Brian Lehrer, invited his favorite legal analyst Elie Mystal to split hairs over a bunch of legal aspects of the decision – state versus federal jurisdiction, originalism versus Living Constitution, self-executing Constitutional amendments versus those requiring Congressional action, the legal definition of the Officer of the United States for the purposes of immunity versus the

purposes of disqualification for sedition, the political wisdom of the decision versus its legal rightness. And so on, and so forth – an endless flow of passionate words interrupted by questions from Brian, and from the callers.

Naturally, I also called in; though two of my phone numbers – as well as my email addresses – are blocked by WNYC (all listeners are equal, but some are less equal than the others), one phone number isn't. I passed on to the screener a childishly naive question – at least compared to the sophisticated issues that were made simple, to the admiration of the listeners, by Mr. Mystal's legal erudition and logic. The judicial branch, as I learned from suing a bunch of federal judges for fraud, had given itself a right to act from the bench "maliciously and corruptly" (in *Pierson v Ray*) – thus granting legality to judicial illegality. But given that all branches of the government are coequal – i.e. the executive is no different in terms of rights from the judiciary, this principle should equally apply to the executive branch, too. So doesn't it follow from *Pierson v Ray* that Trump, even if he engaged in sedition, is not subject to the constitutional amendment blocking him from office? Judges' right to be "malicious and corrupt" renders what is illegal, legal, and given that co-equality of branches renders Trump's rights coequal to judges' rights, it makes Trump's illegal actions legal – it absolves Trump, just as it absolves judges from the consequences of judicial swindling, even while acknowledging it.

All questions aired on WNYC being equal, some questions are less equal than others – so Brian, as is his habit, didn't take mine.

But this does not mean that Trump's lawyers shouldn't use this argument in court – the legal question being, are all branches of government coequal, or not? If the answer is "yes," then guess what – it follows with inexorable logic that Trump cannot be punished for the events of January 6, irrespective

of his level of engagement.

And if the answer is a “no” – than one branch is more coequal than the other two. Let’s than see how the public takes it. That will be a very interesting segment, Brian Lehrer and Elie Mystal. May be you will even take my call?

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