

Allow Me to Retort by Elie Mystal

Elie Mystal is a graduate of Harvard College and Harvard Law School. He is justice correspondent for “The Nation” (a publication), has a podcast and is often seen on MSNBC.

The goal of “Allow Me To Retort” is to point out how the Constitution, written by our founders in the 1700’s, are interpreted even today, to ignore women and Blacks for the benefit of white men. All men and women should be able to enjoy the rights, protections and privileges that the Constitution provides. It should not exclude some of us. Mystal, in Allow Me to Retort takes a hard look at the Constitution and its amendments. “There is no law or piece of legislation that conservatives on the Supreme Court cannot limit, frustrate, or outright overturn. There is no constitutional amendment that conservatives cannot functionally ignore. There is no principle that conservatives cannot ruin. Without commanding a single troop or passing a single bill, a conservative Supreme Court is not a check on the other branches of government, but a check on progress itself. We can move only as far and as fast as the nine unselected and unaccountable justices on the Court allow us to.”

We have all seen examples of this originalist thinking recently and in the past as constitutional articles and amendments have been manipulated and interpreted according to decisions made in the 1700s when the Constitution and first 10 Amendments were written. Roe vs Wade was overturned, corporations and PACS have been allowed to donate large sums of money to

campaigns through the recently created Citizens United. All citizens have the right to vote. But voting power has been suppressed by closing poll locations and moving fewer polls to far off locations, requiring ID's of citizens to vote, limiting polling hours, etc. Gerrymandering has been used to give districts the advantage for one party.

It is unconstitutional to stop somebody because of their race. But, "in a 1989 case...the Court ruled that a police officer's use of force must be judged from the officer at the scene of the crime or altercation." "the thing about the Constitution, many of the rules, rights, prohibitions, and concepts are actually pretty decent. The problem is they've never been applied to all the people living here." The originalists in the court (quote) "use the very same legal arguments that have been used to justify slavery, segregation, and oppression for four hundred years...and tell you it's the only "objective" way of interpreting the law."

Elie Mystal has his own suggestions for modifying the court. He suggests that instead of lifetime tenure, we impose term limits. He proposes rotating terms of 18 years so that no judge would serve more than that limited time. As stated in the Constitution currently "judges serve while in "good Behavior". The term good behavior has come to mean life. Mystal also suggests packing the court with either 19 or 29 judges as the court is not mandated to have 9 judges. Currently there is a liberal group in Congress trying to promote increasing the court to 13 judges. If passed this may be a first step. "Adding more

justices is a way to depoliticize the entire nomination process.”
Our hope is in the future.