



Congratulations, Neil Gorsuch

Published on *Show-Me Institute* (<https://showmeinstitute.org>)



By: Patrick Ishmael

Earlier today the U.S. Senate confirmed the Supreme Court nomination of Judge Neil Gorsuch. Gorsuch's impeccable credentials and sterling jurisprudence serve as an unambiguous example of the sort of judges we want to have on the highest court in the land, and the lowest courts. That Gorsuch was only approved after the Senate majority had to break a filibuster of his nomination should disturb every member of the legal profession and every believer in good governance. Indeed, the political litmus test advanced in the U.S. Supreme Court confirmation process of recent decades has done much to undermine the public's sense that our courts are fair and impartial. The use of the "nuclear option" to break the most recent political impasse was the logical and necessary last act of that unfortunate trajectory.

Legislative tradition is important and ought to be asserted symmetrically. But legislators should not allow "tradition" to be used asymmetrically as an excuse either for interminable legislative inaction, or as a pretense to subvert the will of a supermajority, as is being done, for example, in the Missouri Senate. Justice Gorsuch's nomination should have proceeded without the threat of a filibuster and consistent with substantive Senate tradition, and his seat on the Court merited a breaking of the filibuster that had been undertaken against it.

Likewise, the pursuit of the People's business in Missouri should not be stopped for "tradition's sake" by lax acceptance of the legislative priorities of a superminority. It was a mistake for senators in the U.S. Senate to abuse the filibuster to try to stop Gorsuch; that same mistake is now being made in the Missouri Senate -- and it should not be sustained.

About the Author



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