



Opinions

Turns out 'But Gorsuch' was a good argument after all

by [Hugh Hewitt](#) June 27 at 12:57 PM

What will the #NeverTrump coalition in the Beltway (with an annex in New York) say now?

For a while, before tax cuts and regulatory reform boosted the economy, before defense spending increased, before Jerusalem was recognized as Israel's capital, and before a "maximum pressure" campaign led to a detente with North Korea, #NeverTrumpers were fond of mockingly summarizing Trump supporters' arguments as "But Gorsuch."

This bit of childish taunting always struck me as an unknowing admission of ignorance about the role assumed by the Supreme Court in modern American governance. Even when 21 appeals court judges took their seats — orchestrated by Senate Majority Leader Mitch McConnell and his Republican colleagues — still the one-note pundits played on, only louder: President Trump was so awful and evil, and conservatives who supported him had done so for one lousy seat on the Supreme Court.

The implication from all the noise and a thousands posts was that "Gorsuch" wasn't worth it. Now, after Justice Neil M. Gorsuch's first year on the court, it will be impossible to overstate what his confirmation has meant.

You can measure its significance in the left's serial outrage over the river of originalist decisions flowing from the Supreme Court this month. Bakers and florists — creative artists both — have robust First Amendment rights that must be protected against anti-religious bigots. Crisis pregnancy centers will be protected against pro-abortion zealots demanding posted notices advertising abortion services. State legislatures, not judges, remain empowered by the Constitution to draw legislative lines, and courts are limited in their jurisdiction to "cases and controversies," not crusades and academic fancies about the good and the just when it comes to gerrymandering. Workers may not have their paychecks looted by public employee unions without their consent. (Those [unions](#) donated \$64.6 million to candidates and causes in the 2016 election cycle, 90 percent to Democrats.) The president remains in charge of the nation's national security, and that extends quite obviously and necessarily to those who cross the country's borders.

That's just one June's work by the highest court. That quick summary doesn't assess the work already done or which will be done long into the future by the appeals courts even if the Supreme Court changes next year or the year thereafter.

McConnell's principled decision — after the death of Justice Antonin Scalia — to make the election a referendum on the future of the court and thus the country is now revealed as the single crucial decision of 2016. The left knows it. Principled conservatives know it. Some #NeverTrumpers may even admit it out loud, if they can overcome their aesthetic distaste for Trump and their glum separation from real influence in Washington.

2016 was always mostly about national security and the Supreme Court for "rule-of-law" conservatives, who count on the former to protect the Constitution and the latter to apply it and not their own preferences. As the significance of June's decisions is fully grasped — devastating blows to not just the purses of public employee unions but to the candidates and causes of the left that those purses routinely opened for — the small but fervent band of #NeverTrump stumpers will need some new jokes.

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