

For the first time in two generations, thanks to the actions of the Roberts Court, we risk unraveling the progress my friend JOHN LEWIS fought for alongside so many others during the civil rights movement.

During his confirmation hearing, I asked Judge Gorsuch about the Shelby County decision, since he often explained the constraints on his approach to judicial decision making in terms of the separation of powers. He said several times that judges make terrible legislators, that courts lack the staff, capacity, and training to do the kind of factfinding that is an essential part of the legislative process. Yet, when I asked him whether the Court's decision in Shelby County raised the kinds of concerns he had noted about the limits of judges as policymakers and legislators, he declined to answer.

But this is about more than Judge Gorsuch's refusal to answer. It is about more than the narrow view he expressed of the role of a judge or, particularly, a Justice—a narrow view that is not a reflection of the real world. Both the process and the outcome in Shelby County and in Citizens United raised exactly the kinds of concerns that make it so important for the Senate to understand Judge Gorsuch's judicial philosophy before putting him on the Supreme Court. Judge Gorsuch would become part of a newly empowered 5-to-4 conservative majority on the Roberts Court, which has been anything but restrained in moving the law for the benefit of corporations and against individual rights.

Taken together, these two decisions, Citizens United and Shelby County, have made it harder for millions of

Americans to have their voices heard in our election process and their votes counted at the ballot box. Since Citizens United, the floodgates have opened to unfettered corporate money in our elections. Since Shelby County, 13 States have enacted laws placing limitations on voting. Many of these are in States that would have been prevented from doing so in the first place before the Court gutted section 5 of the Voting Rights Act. After Shelby County, these States could pass such laws, and they did, disenfranchising tens of thousands of voters in the process.

My Democratic colleagues and I asked Judge Gorsuch many questions to try to understand his pattern of narrowly interpreting laws meant to protect individual rights or worker safety in ways at odds with the law's purpose. For example, the narrow interpretation Judge Gorsuch took on the Individuals with Disabilities Education Act, IDEA, would have left Luke Perkins and thousands of special needs children like Luke without a chance to make educational progress. His interpretation was so at odds with the purpose of the IDEA law that the Supreme Court unanimously rejected and criticized Judge Gorsuch's narrow standard in a case they decided just a few weeks ago.

Time and again, Judge Gorsuch threw up his hands and told us that if we disagreed with this narrow reading of the relevant law, that Congress should do better. In his view, the problem was not the Court—which he seemed to cast as an innocent bystander—but, rather, the way Congress had written the law.

By tilting the political playing field so heavily toward corporations and un-

fettered dark money and against individuals, the Roberts Court has impacted the composition of who is in Congress. The Court has made it even harder for Congress to take meaningful action to, say, pass laws to protect workers' safety or the access of students with special needs to an education. In turn, these decisions have had a real-world impact by changing who gets to participate in the political process and therefore who gets elected and who has input on the kinds of laws that are passed—and, of course, who gets nominated to the U.S. Supreme Court.

The actions of the Roberts Court in Citizens United and Shelby County make clear the stakes of the Gorsuch nomination. They make clear what the Senate Republicans had in mind in their unprecedented and arrogant refusal to consider President Obama's nomination of Merrick Garland to the Supreme Court. They wanted, instead, a Justice like Judge Gorsuch who would continue the rightward march of the 5-to-4 conservative majority on the Roberts Court. And the United States Senate should not allow this brazen gambit to succeed.

I urge my colleagues to oppose this nomination.

I yield the floor.

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RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 10 a.m. tomorrow.

Thereupon, the Senate, at 11:28 p.m., recessed until Thursday, April 6, 2017, at 10 a.m.