

This Former Justice Served as Kavanaugh's 'First Judicial Hero'

President Trump's Supreme Court nominee, Judge Brett Kavanaugh, has stated that Chief Justice William Rehnquist was "his first judicial hero."

Rehnquist served on the Supreme Court of the United States as an associate justice from 1972 to 1986 and as chief justice from 1986 until his death in 2005. He was often the "lone dissenter" during the 1970s, but the legal reasoning in many of his dissents eventually became the majority opinion.

In his 2017 speech, "From the Bench: The Constitutional Statesmanship of Chief Justice William Rehnquist" presented for a Constitution Day lecture, he said that during Rehnquist's tenure, "the Supreme Court unquestionably changed and became more of an institution of law, where its power is to interpret and to apply the law as written, informed by historical practice, not by its own person and policy predilections."

While he attended Yale Law School, Kavanaugh made notes to himself about the assigned reading: "Agree with Rehnquist majority opinion. Agree with Rehnquist dissent. Agree with Rehnquist analysis. Rehnquist makes a good point here. Rehnquist destroys the majority's reasoning here." He said, "In class after class, I stood with Rehnquist. That often meant in the Yale Law School environment of the time that I stood alone."

While a first-year law student, he read Rehnquist's law review article published in the Texas Law Review, entitled "The Notion of a Living Constitution." He says "it's impossible to overstate the significance to me and how I first came to

understand the role of a judge in our constitutional system. The article stood then as a lonely voice against the vision of the Supreme Court that was being promoted by most Supreme Court justices and by virtually all law professors at the time.” Kavanaugh goes on to state that “Rehnquist’s article is one of the most important legal articles of all time.”

Rehnquist’s law review article argued that “a freewheeling, nonelected judiciary is quite unacceptable in a democratic society.” Kavanaugh, like Rehnquist, believes that the three branches of government must remain separate and not intrude on the authority of the other. Judges may not fashion new law even when pressured by popular opinion.

Kavanaugh said, “Rehnquist believed that the constitutional principles do not change absent amendment.” He also believes that “changes to the Constitution and laws are to be made by the people through the amendment process and, where appropriate, through the legislative process—not by the courts snatching that constitutional or legislative authority for themselves.” In his lecture, Kavanaugh stated that “judges are confined to interpreting and applying the Constitution and laws as they are written and not as we might wish they were written. ...”

“Judge Brett Kavanaugh exhibits the kind of judicial philosophy that everyone should embrace. Judges are to interpret the law, not make it,” said Liberty Counsel Founder and Chairman Mat Staver. “When judges usurp the authority of the people to amend the Constitution or of the legislative branch to pass laws, the Republican form of representative government is upset and individual liberties are threatened.”
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