



October 4, 2018

Key Vote YES on the Nomination of Judge Brett Kavanaugh to the Supreme Court

On behalf of FreedomWorks' activist community, I urge you to contact your senators and urge them to vote YES on the nomination of Judge Brett Kavanaugh to the U.S. Supreme Court. Judge Kavanaugh is a worthy nominee who will interpret the Constitution as written and stop unconstitutional government expansion.

FreedomWorks' activists drove nearly two million messages to senators, urging them to swiftly confirm this highly-qualified jurist. With the nomination of Judge Kavanaugh, the U.S. Senate has the opportunity to tip the balance of the High Court towards textualism for the next generation. This is a uniquely important time in our nation's history.

The American Bar Association (ABA), hardly a bastion of conservatism, gave Kavanaugh a "well-qualified" rating. "Well-qualified" is the ABA's highest possible rating for a member of the bench. This indicates that he has maintained the "highest standards with respect to integrity, professional competence and judicial temperament."

Judge Kavanaugh's record suggests he might be a Justice in the mold of the late Justice Antonin Scalia. Scalia's son, Eugene, said of Kavanaugh, "He is one of our best judges and would be an outstanding nominee." On the D.C. Circuit Court of Appeals, some of Kavanaugh's eloquent dissents would signal to Scalia during his time on the bench that the High Court should take up a case, especially regarding unconstitutional regulations.

Judge Kavanaugh will be a fierce fighter against the abysmal principle of *Chevron* deference. This is the wrong-headed approach that suggests courts should defer to the judgment of government agencies when interpreting statutes under their jurisdiction. Kavanaugh calls *Chevron* "an atextual invention by courts" and "in many ways... nothing more than a judicially orchestrated shift of power from Congress to the Executive Branch." We need a jurist who is willing to vehemently defend separation of powers, one of the bedrocks of our Republic.

When it comes more broadly to the rampant expansion of the unconstitutional regulatory state, Judge Kavanaugh is perhaps second to none in standing up for the Constitution. According to

Kavanaugh, if Congress hasn't yet opined on a matter of deep economic significance, any regulation relating to that matter should be presumed unconstitutional. He recognizes that lawmaking, under Article I of the Constitution, was delegated to Congress, not unelected executive branch bureaucrats.

It is worth acknowledging the concerns that FreedomWorks has regarding Judge Kavanaugh's demonstrated views on warrantless and expansive surveillance and its relationship with Americans' Fourth Amendment right to privacy. However, Judge Kavanaugh has expressed a desire that all judges decide cases on their constitutional merit, rather than their personal preference. Despite those concerns, Judge Kavanaugh's overarching view of the Constitution is impressive and makes him more than deserving of a seat on the highest court in the land.

FreedomWorks will count the vote of Judge Kavanaugh's confirmation when calculating our Scorecard for 2018 and reserves the right to score any related votes. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes Members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized, flowing script.

Adam Brandon
President
FreedomWorks