



Kavanaugh would make a great justice

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Brett Kavanaugh is a great pick, even if an inside-the-Beltway double-Ivy swamp creature is a somewhat surprising choice for Donald Trump. Having spent a dozen years on the US Court of Appeals for the DC Circuit -- the second-highest court in the land -- Kavanaugh has been devoted to textualism and originalism. His opinions are scholarly and influential in the legal profession, often cited by the Supreme Court itself.

He's much like Justice Anthony Kennedy, for whom he clerked, in his dedication to the Constitution's structural protections for liberty. He believes that, as he put it at the White House ceremony announcing his nomination, "an independent judiciary is the crown jewel of our constitutional republic." His steadfast defense of civil rights, including the freedom of speech, and religion, and armed self-defense, are so important in these embattled times.

Perhaps most notably, Kavanaugh's willingness to push back on the excesses of the regulatory state make him a man for the moment. I hope that he joins Justices Gorsuch and Thomas in a project to make judges less deferential to administrative agencies.

More prosaically, Kavanaugh can differentiate between the hats he has worn as a judge, teacher, scholar, and political operator. He sees the judicial role as reading and applying the law, not being an agent for legislative or social change. While, if confirmed, there will be cases where the future Justice Kavanaugh and The Cato Institute do not see eye-to-eye -- he's not a libertarian -- I hope that in those politically sensitive times where Chief Justice Roberts may be inclined to tweak a law in order to save it, Kavanaugh will be more like Justice Scalia and let the political chips fall where they may.

There's no reason to delay Judge Kavanaugh a confirmation in the normal course and nothing in his record to justify the demagoguery he's already facing. I look forward to seeing him on the bench in the highest court in the land come October.

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