William H. Rehnquist, 1924-2005

By Andrew Tan

Now that the dust has settled and a new Chief Justice presides over the U.S. Supreme Court, LawCrossing looks back on the life and career of the late William H. Rehnquist, whose opinions, policies, and legal beliefs have affected and will affect many attorneys for years to come.

Chief Justice William H. Rehnquist died at age 80 last month at his home in Virginia. He left a legacy of a leader who slowly led the U.S. Supreme Court toward more conservative policies.

William Hubbs Rehnquist, who had served for the past 19 years as Chief Justice of the U.S. Supreme Court, was born in 1924 in Milwaukee, WI.

During World War II, Rehnquist served as a weather observer in the Army Air Corps in North Africa. After the war, Rehnquist attended Stanford University, where he earned both his B.A. and M.A. in Political Science. He later obtained a second M.A. in Government from Harvard. In 1952, he graduated first in his class from Stanford Law School and was in the same class as Sandra Day O'Connor, who graduated third. From February 1952 to June 1953, Rehnquist served as a law clerk for Justice Robert Jackson in Washington, DC.

Following his clerkship, Rehnquist married Natalie Cornell and moved to Phoenix, AZ, where he worked in private practice. He was very active in the Republican Party, speaking out against liberal legislature, and later became legal counsel for Barry Goldwater’s 1964 presidential campaign. In 1968, Rehnquist returned to Washington, where he served as Assistant Attorney General of the Office of Legal Counsel.

Rehnquist’s primary task as Assistant Attorney General was to work with the Attorney General and Deputy Attorney General to screen for potential candidates to replace retiring Supreme Court Justice John Marshall Harlan. Ironically, Rehnquist was nominated by Nixon because no compromise on a suitable candidate could be reached. The Senate confirmed Rehnquist, amid criticisms of his political views and inexperience, in a 68-26 vote; and on January 7, 1972, he and Justice Lewis F. Powell, Jr., joined the Supreme Court.

As an associate justice, Rehnquist followed a strict interpretation of the Constitution that favors states’ rights and limited federal judicial power. He also disagreed with his fellow justices that the Equal Protection Clause of the Fourteenth Amendment extended to discrimination against illegitimate children, resident aliens, and women by the states. Rehnquist’s strict interpretation of separation of federal and state powers can be found in the his attempt to convince the Court that *Mapp v. Ohio* (1961), a case that made the rule excluding illegally seized evidence from admission to trial applicable to states, should be overturned. In *Roe v. Wade* (1973), Rehnquist dissented because he believed the majority’s conclusion was not solidly based on the terms of the Constitution. He wrote, “To reach its result, the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment.” Even though Rehnquist’s conservatism frequently resulted in being the lone dissenter in the earlier part of his tenure on the Court, his dissents influenced later majority opinions.

In 1986, President Reagan nominated Rehnquist to replace Chief Justice Warren Burger, who was retiring from the Supreme Court. Again, there was much debate in the Senate over his confirmation because of his right-wing stance on a number of issues, mainly race. Nevertheless, he was confirmed on September 17, 1986, by a vote of 65-33.

As Chief Justice, Rehnquist was aided immensely by his 14 years of experience as an associate justice. He was able to obtain a high level of agreement with the other justices and manage the Court effectively. Despite leading a conservative 5-4 majority, Rehnquist occasionally sided with the more liberal justices. For example, in *Nevada Dept. of Human
Resources v. Hibbs (2003), Rehnquist voted with the liberal majority in its ruling, giving a state worker the right to sue Nevada officials under the Family and Medical Leave Act for refusing to grant him time to care for his ailing wife.

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