

Dr. Maddox is No. 1. Jeffrey Levi—do you pronounce it Levi or Levy?

Mr. LEVI. Levi.

The CHAIRMAN. And Ms. Shields. All right. Those who are not here on panel eight, we will give them the opportunity to submit a written statement for the record, if they care to do so.

Dr. Maddox, you may proceed and you have 3 minutes. We will put your entire statements into the record if you have a written statement.

TESTIMONY OF PANEL CONSISTING OF DR. ROBERT L. MADDOX, EXECUTIVE DIRECTOR, AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE; JEFFREY LEVI, EXECUTIVE DIRECTOR, NATIONAL GAY & LESBIAN TASK FORCE; AND KAREN SHIELDS, BOARD CHAIR, NATIONAL ABORTION RIGHTS ACTION LEAGUE

Dr. MADDOX. Mr. Chairman and Senators, I am Robert Maddox, the executive director of Americans United for Separation of Church and State. We have more than 50,000 members from every possible walk of life in America. We at Americans United believe that religious liberty is the pre-eminent liberty of the American republic, the benchmark of all other civil liberties.

We believe that the constitutional guarantee of religious freedom through the separation of church and state is the single most important contribution this country has made to Western civilization during these past two centuries.

On the basis of that, we respectfully suggest that the Senate ask itself some serious questions as it considers the nomination of Mr. Justice Rehnquist to be Chief Justice of the United States.

While we recognize his qualifications, we have grave questions about his stand, his consistent stand throughout all of his public career, particularly his time on the Court in terms of religious liberty and the separation of church and state.

Mr. Rehnquist has consistently denigrated the idea of the separation of church and state. He said the wall idea by Mr. Jefferson is a "useless metaphor" and should be completely "abandoned," to quote Mr. Rehnquist. This reasoning deeply disturbs me. The idea of the separation of church and state has stood us in very good stead for 200 years and plus. It has provided for the most vigorous religious community, at least in the Western world, if not in the entire world; in large measure because of this healthy separation between church and state. And we fear that Mr. Rehnquist would destroy not only the wall, but would destroy the very idea of separation of church and state itself.

The establishment and free exercise clauses of the First Amendment are the co-guarantors of religious freedom. Mr. Rehnquist has, in our view, a very poor understanding and appreciation of the establishment clause, even from time to time advocating that government find ways to fund religion.

But as bad as the establishment clause is, our studies have shown that he is worse when it comes to the free exercise clause. Careful legal studies done by our counsel and others indicate that Mr. Rehnquist, in his consistent view that the State ought to have

its way over all other individual and civil liberties, would just in practicality obliterate the free exercise clause and would make it virtually impossible for an individual to bring a case before a Federal court of any level—much less the Supreme Court—under the free exercise clause.

He would absolutely destroy the free exercise. It is apparent that he would substantially reduce the importance and impact of both of the religion clauses, but particularly the free exercise clause. Under him it would be virtually impossible for an individual to win a case over the State.

As the late, great Senator Sam Ervin said,

If any provision in the Constitution can be said to be more precious than the others, it is the provision of the First Amendment which undertakes to separate church and state by keeping government's hands out of religion and by denying to any and all religious denominations any advantage from gaining control of public policy or the public purse. This is so,

Mr. ERVIN said,

Because the history of nations makes this truth manifest. When religion controls government, political freedom dies. And when government controls religion, religious freedom perishes.

We think Mr. Rehnquist would deal a near mortal blow to the religion clause of the First Amendment.

Thank you, Sir.

[Statement follows:].