The CHAIRMAN. Mr. Levi, we will be glad to hear you.

STATEMENT OF JEFFREY LEVI

Mr. LEVI. Thank you, Mr. Chairman.

The National Gay & Lesbian Task Force joins its colleagues in the civil rights community in opposing the nomination of Justice William Rehnquist as Chief Justice.

Justice Rehnquist in his career on and off the bench has demonstrated a singular disregard for fundamental constitutional principles. He has approached major cases involving civil liberties and civil rights with one end in mind: The furtherance of his political and social agenda. In the process, he has disregarded—indeed, trampled upon—the constitutional rights of all Americans. This record of dangerous judicial activism should not be rewarded by elevation.

Gay and lesbian Americans have not been exempt from Justice Rehnquist's efforts to limit the rights of minorities. He has supported restrictions on the free speech and free association rights of gays and lesbians, and he has endorsed the denial of the right to privacy for homosexuals. These positions are threats to all Americans, not just homosexuals, because once we start making exceptions to fundamental constitutional rights for one group, it becomes increasingly easy to allow the Government to intrude on the freedoms of others.

In 1978, Justice Rehnquist dissented from a denial of cert in a case involving a gay student group at the University of Missouri. The University had refused recognition to the student group. The U.S. Court of Appeals for the Eighth Circuit, in a decision the Supreme Court chose to leave standing, said that the denial of recognition had violated the free speech and free association rights of the students. Justice Rehnquist did not see it that way at all. He said that simply because of their status—their being homosexuals—these students could be denied the right to free speech and free association. He likened the gathering of gay and lesbian students in a social and political organization to "those suffering from measles * * * in violation of quarantine regulations." He said that because Missouri had a sodomy law, the very act of assembly under these circumstances undercuts the significant interest of the State.

Our country has had a long tradition that conduct, not status, is punishable; it seems Justice Rehnquist would like to reverse that tradition. By the logic he expressed in this dissent, the State could restrict the association and speech rights of any group that might support directly or indirectly activity that is illegal.

Justice Rehnquist continued this attack on the fundamental rights of Americans, and in particular those Americans who happen to be gay or lesbian, in last month's decision in *Bowers* v. *Hardwick*. He joined in Justice White's majority opinion that is a rhetorical attack on homosexuals and homosexuality rather than a cogent legal analysis of the case presented to the Court. The Court ruled that homosexuals, simply because of their status, do not have a right to privacy in the conduct of their private, consensual sexual activities. Even though the law before the Court outlawed sodomy for homosexuals and heterosexuals, the Court focused only on ho-

mosexuals, using social and religious views rather than the law to justify their opinions.

This case raises fundamental issues for all Americans. If the Court can whittle away at the privacy rights of some, they can soon move on to reverse the trend to protection of privacy rights for all.

Mr. Chairman, my organization represents the 10 percent of the American population—and the 10 percent of your constituents—who are lesbian and gay. As citizens of this country, we ask for no special favors, merely the same fundamental constitutional rights that all Americans should have. Justice Rehnquist, on the basis of his record, would judge us and deny us our basic constitutional rights of free speech, free association, and privacy simply because of who we are. We are not the only minority group for whom such a record has been established by Justice Rehnquist, and there is no guarantee that this disregard for constitutional protections would not expand over time.

Justice Rehnquist has not been an impartial judge; he has demonstrated prejudice against significant portions of the American population in an ill-disguised attempt to impose his personal agenda—a most dangerous form of judicial activism.

The National Gay and Lesbian Task Force therefore urges this Committee to reject the nomination of William Rehnquist as Chief Justice of the United States.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

[Statement follows:]