

mere fact that you don't review those rights in the same way doesn't mean they don't exist, and it does not mean that they are not important.

However, I think what we do recognize in this society is that there are some rights that we value that are so deeply embedded in our society, at the core of our society, such as our first amendment rights, that we will review with a different standard. But to review it as a different standard in no way says these rights are unimportant. It recognizes our political process.

The CHAIRMAN. Will the Senator yield on my time?

Senator METZENBAUM. Of course.

The CHAIRMAN. Professor Macedo has come up several times. I have raised him. And I would like for the record to read a letter I received from Professor Macedo on Friday afternoon. I am sure he wouldn't mind. And this is his book. He said I kept holding up Epstein's book. I might as well hold up his book. [Laughter.]

It says, "Dear Senator Biden: Many thanks for giving me 15 minutes of fame, as Andy Warhol promised. Quite apart from this, though, it might be hard to profess objectivity now"—that is not relevant.

He said, "I could not agree more that the natural law issue is worth pursuing and have been a bit disappointed by Judge Thomas' vagueness." I might note parenthetically I have been very happy with that.

As a token of my appreciation, I wanted to offer a few pieces of work to you and your staff. The article, "The Right of Privacy: A Constitutional Moral Defense" is pretty clear and straightforward, I think, on the question of why something like natural law is inescapable in constitutional adjudication, as you have said at the hearings. I send along the book.

Then I want to read from just one paragraph of the article he sent along to make sure everything is clear in the record as to why both Senator Metzenbaum and I are pursuing this about Dr. Macedo. This is Steve Macedo's article, "Economic Liberty and the Future of Constitutional Self-government," sent to me Friday by Professor Macedo, and it is Macedo, M-a-c-e-d-o. He says:

The future economic liberty under the Constitution depends on the viability of the double standard—

his words, the double standard—

that has for nearly half a century characterized judicial interpretations of our fundamental law. The modern court applied a searching level of scrutiny to challenge laws that interfere with a list of preferred freedoms, including liberties associated with speech, religion, and privacy, or that involve discrimination against discrete and insular minorities. At the same time, and despite the Constitution's several explicit supports for economic freedom, laws interfering with economic liberties and property rights are typically subjected to a lax test designed to establish only the merest rational basis exists for the law in question. In applying this double standard, as I shall explain at greater length below, the modern court ignores the Constitution's support for economic liberty, disparages close connections between economic and other forms of freedoms, and invests legislators with unwarranted measures of trust, trampling at the core ideal of our constitutional regime the aspiration of reasonable self-government.

Now, the judge knew and I knew and everyone else knew why I asked that question, because Professor Macedo believes that the standard—which I understand you have no quarrel with and

accept, that has been around for half a decade, as he points out, is one that we should continue.

Judge THOMAS. That is right.

The CHAIRMAN. He believes it is one we should jettison. That was the reason for the questions and the reason why I appreciate—whether I agree with it or not—your answer distinguishing the fact that you do not agree with Macedo that we should jettison this double standard, as he called it. Am I correct?

Judge THOMAS. Right.

The CHAIRMAN. I thank the Chair, and I ask unanimous consent that the letter to me be introduced in the record as if read.

[The letter follows:]