



Fight the Caricature of Clarence Thomas's Views

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Justice Clarence Thomas has been predictably but erroneously pilloried for writing in his *Dobbs* concurrence that other precedents—including the rights to contraceptives, same-sex marriage and consensual gay sex—ought to be reversed. But that's not quite what he wrote ([“Abortion Goes Back to the People,”](#) Review & Outlook, June 25).

Instead, Justice Thomas noted that those precedents relied on the doctrine of substantive due process, which he and many legal scholars believe to be incoherent. Alternatively, the justice would inquire whether those same rights might be upheld under the Privileges or Immunities Clause of the 14th Amendment, something that libertarians have been advocating for decades.

In other words, Justice Thomas didn't assert that the rights themselves have no constitutional pedigree, but rather that the underlying cases securing those rights should be revisited because of their faulty legal rationale.

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