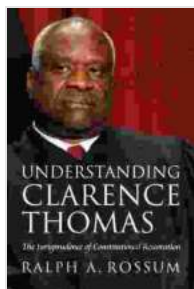


Understanding Clarence Thomas: The Jurisprudence of Constitutional Restoration

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Understanding Clarence Thomas: The Jurisprudence of Constitutional Restoration by Ralph A. Rossum

★★★★☆ 4.6 out of 5

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Clarence Thomas is one of the most influential and controversial justices to serve on the Supreme Court of the United States. Appointed by President George H.W. Bush in 1991, Thomas has consistently championed a conservative philosophy of constitutional interpretation known as originalism. Originalism holds that the Constitution should be interpreted in

accordance with the original intent of the Framers. Thomas has also been a strong advocate for federalism, free speech, and religious liberty.

This article will explore the jurisprudence of Clarence Thomas, focusing on his commitment to originalism, federalism, free speech, and religious liberty.

Originalism and the Framers' Intent

Originalism is a method of constitutional interpretation that seeks to determine the original meaning of the Constitution based on the text, history, and structure of the document. Originalists believe that the Constitution is a fixed document that should not be reinterpreted based on the evolving social and political values of the times.

Thomas is a staunch originalist. He believes that the Constitution is a "superstatute" that should be interpreted in the same way as any other law. In his view, the original intent of the Framers is the best guide to the meaning of the Constitution.

Thomas's commitment to originalism has led him to dissent in several cases involving hot-button social issues. For example, in *Lawrence v. Texas* (2003), Thomas dissented from the Court's holding that the Texas sodomy law was unconstitutional. Thomas argued that the Framers would have considered sodomy to be a crime and that the Court should not have overturned the Texas law.

Thomas's originalism has also led him to support the Second Amendment right to bear arms. In *District of Columbia v. Heller* (2008), Thomas wrote the majority opinion holding that the Second Amendment protects an

individual's right to keep and bear arms for self-defense. Thomas argued that the original meaning of the Second Amendment is clear: it protects the right of individuals to own guns for self-defense.

Federalism and the Limits of Federal Power

Federalism is a system of government in which power is divided between a central government and several regional governments. The United States is a federal republic, meaning that the federal government has limited powers and the states retain all other powers.

Thomas is a strong advocate for federalism. He believes that the federal government should be limited to its enumerated powers and that the states should retain the authority to regulate their own affairs.

Thomas's commitment to federalism has led him to dissent in several cases involving the Commerce Clause. The Commerce Clause gives Congress the power to regulate interstate commerce. However, Thomas has argued that the Commerce Clause is not a blank check for Congress to regulate any activity that it wants.

In *Gonzalez v. Raich* (2005), Thomas dissented from the Court's holding that Congress could regulate the cultivation of marijuana for medical purposes. Thomas argued that the Commerce Clause does not give Congress the power to regulate activities that are purely intrastate.

Thomas's commitment to federalism has also led him to support the Tenth Amendment. The Tenth Amendment reserves all powers not delegated to the federal government to the states and the people. Thomas believes that

the Tenth Amendment is a vital part of the Constitution because it protects the states from federal encroachment.

Free Speech and the Marketplace of Ideas

The First Amendment to the Constitution protects freedom of speech. This means that the government cannot censor or punish speech simply because it is offensive or unpopular.

Thomas is a strong advocate for free speech. He believes that the First Amendment is essential to a free and democratic society.

Thomas's commitment to free speech has led him to dissent in several cases involving the First Amendment. For example, in *Hill v. Colorado* (2000), Thomas dissented from the Court's holding that a Colorado law criminalizing the use of cross-burning as a bias-motivated intimidation was unconstitutional. Thomas argued that the First Amendment does not protect speech that is intended to intimidate or threaten others.

Thomas's commitment to free speech has also led him to support the rights of students to speak freely on school grounds. In *Hazelwood School District v. Kuhlmeier* (1988), Thomas joined the majority opinion holding that a school district could censor a student newspaper article that was critical of the school administration. However, Thomas wrote a concurring opinion in which he argued that the school district's censorship was unconstitutional because it was based on the content of the article.

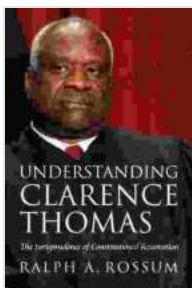
Religion and the Establishment Clause

The First Amendment to the Constitution also contains an Establishment Clause, which prohibits the government from establishing a religion or

favoring one religion over another.

Thomas is a strong advocate for religious liberty. He believes that the government should not interfere with the free exercise of religion.

Thomas's commitment to religious liberty has led him to dissent in several cases involving the Establishment Clause. For example, in *McCreary*



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