

CONSTITUTIONAL LAW
CASES, HISTORY, AND
DIALOGUES
THIRD EDITION
2008 SUPPLEMENT

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MATTHEW  BENDER

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PREFACE TO THE 2008 SUPPLEMENT

Despite early signs of a new commitment to minimalism and unanimity, the Roberts Court continues to reflect its predecessor's sharp ideological split. This has resulted in narrow majorities staking out starkly contrasting positions on basic issues, most notably in *Gonzalez v. Carhart* (restrictions on "partial birth" abortions), *Parents Involved v. Seattle School District No. 1* (school districts' voluntary use of race to achieve racial balance) and *District of Columbia v. Heller* (the meaning of the Second Amendment). All three of these cases require longer-than-normal excerpts, in the first two of these cases to reveal the depth of the Justices' disputes over the meaning of foundational precedents (respectively, *Casey v. Planned Parenthood* and *Brown v. Board of Education*), and in *Heller* to give the student a fuller taste of the sources and methods a court uses when deciding a case based on originalist methodology.

The work necessary to read these excerpts repays the student, not just in the form of a better understanding of current black-letter law, but in an appreciation of the contested nature of basic constitutional principles and interpretive methods. The Court's continued disagreement over these basic principles and methods should make clear that, while certain cases are acknowledged as foundational and while the constitutional text is clearly ultimately authoritative, their legal meaning is constantly evolving.

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