

**Rebecca E. Zietlow** is professor of law at the University of Toledo College of Law.

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## ENFORCING EQUALITY

Congress, the Constitution, and the Protection of Individual Rights

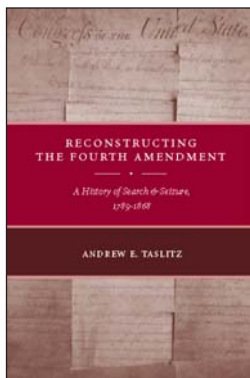
Rebecca E. Zietlow

In *Enforcing Equality*, Rebecca E. Zietlow assesses Congress's historical role in interpreting the Constitution and protecting the individual rights of citizens, provocatively challenging conventional wisdom that courts, not legislatures, are best suited for this role.

Specifically focusing on what she calls "rights of belonging"—a set of positive entitlements that are necessary to ensure inclusion, participation, and equal membership in diverse communities—Zietlow examines three historical eras: Reconstruction, the New Deal era, and Civil Rights era of the 1960s. She reveals that in these key periods when rights of belonging were contested and defined, Congress has played the role of protector of rights at least as often as the Supreme Court has adopted this role.

*Enforcing Equality* also engages in a sophisticated theoretical analysis of Congress as a protector of rights, comparing the institutional strengths and weaknesses of Congress and the courts as protectors of the rights of belonging.

With the recent new appointments to the Supreme Court and Congressional elections in November 2006, this timely book argues that individual rights are best enforced by the political process because they express the values of our national community, and as such, litigation is no substitute for collective political action.



**Andrew E. Taslitz** is professor at Howard University School of Law. He is the author of five books, including *Constitutional Criminal Procedure and Rape and the Culture of the Courtroom* (NYU Press, 1999).

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## RECONSTRUCTING THE FOURTH AMENDMENT

A History of Search and Seizure, 1789–1868

Andrew E. Taslitz

"A remarkable accomplishment. Taslitz presents what is one of the most radical challenges to standard constitutional thinking—not just about searches and seizures but also about the interpretation of the fourteenth amendment as a protection of individual rights—in recent literature." —H. Jefferson Powell, Duke Law School

The modern law of search and seizure permits warrantless searches that ruin the citizenry's trust in law enforcement, harms minorities, and embraces an individualistic notion of the rights that it protects, ignoring essential roles that properly-conceived protections of privacy, mobility, and property play in uniting Americans. Many believe the Fourth Amendment is a poor bulwark against state tyrannies, particularly during the War on Terror.

Historical amnesia has obscured the Fourth Amendment's positive aspects, and Andrew E. Taslitz rescues its forgotten history in *Reconstructing the Fourth Amendment*, which includes two novel arguments. First, that the original Fourth Amendment of 1791—born in political struggle between the English and the colonists—served important political functions, particularly in regulating expressive political violence. Second, that the Amendment's meaning changed when the Fourteenth Amendment was created to give teeth to outlawing slavery, and its focus shifted from primary emphasis on individualistic privacy notions as central to a white democratic polis to enhanced protections for group privacy, individual mobility, and property in a multi-racial republic.