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**ESSAY**

**Adjudicating Dignity: Judicial Motivations and Justice Kennedy’s Jurisprudence of Dignity**

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Drawing primarily on scholarship concerning legal motivation and the decision-making of Supreme Court median justices, we use Justice Kennedy’s opinions as a case study to examine how institutional position on the Supreme Court allows median justices to look beyond policy goals and consider legal goals and motivations in their decision-making. We argue that Kennedy’s unique position on the Court as the median justice allows him to pursue legal considerations, including his seemingly idiosyncratic conception of dignity. Kennedy provides an example of how median justices can use their position to not only pursue policy and political outcomes, but also legal considerations through attempts to shape legal doctrine.

**ARTICLES**

**British Impeachments (1376 - 1787) and the Preservation of the American Constitutional Order**

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Impeachment is a British invention. It arose as one of a set of tools employed by Parliament in its long contest with the Crown over the reach of the monarch’s authority. British impeachment practice matters to Americans because the Founders’ understanding of British history influenced their decision to include impeachment in the American constitution and their conception of how impeachment fit in a balanced system of ostensibly co-equal branches. The Article traces the evolution of Parliament’s use of impeachment and of the categories of behavior it designated as impeachable. These included: armed rebellion and other overt treasons; common crimes like murder and rape; corruption (particularly the

abuse of office for self-enrichment); incompetence, neglect, or maladministration of office; and betrayal of the nation's foreign policy interests. Finally, although Parliament sometimes used impeachment for less dramatic ends, its one indispensable function was removal of officials whose behavior threatened the constitutional order by promoting royal/executive absolutism over representative institutions and the rule of law.

### **Abandoned or Unattended? The Outer Limit of Fourth Amendment Protection for Homeless Persons' Property**

*by Tim Donaldson*..... 793

Homelessness in America has become an epidemic problem. Homeless encampments can be found in public areas of almost every major city, and the resulting accumulation of waste, debris, and other items in those areas presents public health and safety concerns. Many cities have responded to those challenges by periodically clearing or cleaning campsites and must determine, often among tons of materials, what may be collected and discarded. This article reviews the constitutional treatment of abandoned property versus unabandoned property. It proposes guidelines for determining when unattended property left in public areas by homeless persons may be considered abandoned and beyond the scope of the Fourth Amendment's protection against unreasonable seizures.

### **NOTE**

### **Protecting Native Women from Violence: Fostering State-Tribal Relations and the Shortcomings of the Violence Against Women Act of 2013**

*by Dayna Olson* ..... 821

Native American women face violence at astronomically high rates compared to any other ethnic group in the United States. These staggering statistics are largely the result of conflicting criminal jurisdiction between tribal, state, and federal prosecutors. As a result, crimes of intimate partner violence that take place on tribal reservations often go unpunished, leaving these women with little to no recourse. In 2013, President Obama signed the reauthorization of the Violence Against Women Act. This landmark legislation created the Special Domestic Violence Criminal Jurisdiction, which gave Native American tribes the authority to prosecute a narrow set of non-tribal members for specific crimes of intimate

partner violence. While this enhanced jurisdiction modestly improved the lives of Native American women, this legislation imposes substantial limitations and, in effect, is only one small stepping-stone towards ensuring justice and safety for Native women. This Note posits that increasing state and tribal collaboration to “fill in the gaps” left behind by VAWA would be far more beneficial to Native women, both to skirt some of the constitutional pitfalls of VAWA, and to provide the justice that is so urgently needed.

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