



Federalist #78

By Alexander Hamilton



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Summary Page

Alexander Hamilton states the necessity of an independent judiciary in The Federalist 78. He points out that, contrary to popular belief, the Judicial Branch was by far the weakest; saying “{Judicial Branch} is beyond comparison the weakest of the three departments of power.” He then defends the independence of the Judiciary so it can check the power of the other branches, be impartial, and serve as an intermediate between the people and the legislature. Lastly Alexander Hamilton, supports the lifetime appointment of Federal Judges, claiming that they must be impartial and uphold the Constitution.

Purpose of the Federalist #78

- To compare the Judicial branch to the Legislative and Executive
- To declared why there should be an independent judiciary
- To defend the lifetime term of a federal judge

Judicial vs. Legislative and Executive

According to Hamilton the Judicial branch was the weakest of the three.

Legislative- “The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated.”

Executive- “The executive not only dispenses the honors but holds the sword of the community”

Judicial- “ The judiciary on the contrary, has no influence over either the sword or the purse; no direction either of the strength or the wealth of the society, and can take no active resolution whatever. It can be truly said to have neither FORCE nor WILL but merely judgment.”

Consequences of Judiciary Being the Weakest

1. It can never successfully attack the other branches.
2. It can never endanger the general liberty of the people.
3. It must be independent to not be overpowered or influenced by the other branches.

Reasons for an Independent Judiciary

- 1) To be fully impartial and uninfluenced by other branches or parties
- 2) To judge constitutionality
- 3) To check the powers of the other branches
- 4) To serve as an intermediate between the people and legislative branch

Hamilton- “Courts were designed to be an intermediate body between the people and the legislature in order, among other things, to keep the latter within the limits assigned to their authority”

Lifetime Appointment of a Judge?

“If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against Legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty.”

- 1) They must impartial to political atmospheres
- 2) Their only job is to defend and uphold the Constitution
- 3) Don't represent the people but rather the Constitution
- 4) They are highly qualified individuals