



Federalist 78

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Background Info

- Written by Alexander Hamilton
- Expounded on Judicial branch
- Insisted on independent judiciary separate from legislative and executive



Grounds on which Judicial Branch is least powerful

- Has no control of the “strength or of the wealth” of society
- It is most difficult for the judicial branch to check the other branches and defend itself from their checks
- It is least dangerous to the “political rights of the constitution”



Relative impotence of the judiciary

Hamilton was careful to point out the relative impotence of the judiciary in order to:

- Argue for more judicial power
 - Judicial review
 - Judges' life tenure
- Insist on independent judiciary



Power to void legislative acts contrary to Constitution

- As a strong proponent of the court's power, Hamilton believed the Supreme Court should have the right to declare an act of Congress unconstitutional
- Believed that “without this, all the reservations of particular rights or privileges would amount to nothing.”
- To limit power of legislative officials
 - Can't go beyond powers of constitution
- Constitution should be considered “a fundamental law” and thus, needs to be enforced (by judges)



Judiciary independence in constitutional government

Hamilton considers the independence of the judiciary to be essential to a constitutional government because:

- ensures the judicial branch cannot be overpowered
- protects personal liberties



Judges' life tenure

Hamilton supported the idea of judges having life tenures with the arguments:

- Contributes to stability of the judiciary
- Gives judges incentive to perform an arduous job



Additional Sources

Serow, Ann Gostyn., and Everett Carll. Ladd. *The Lanahan Readings in the American Polity*. fifth ed., Lanahan Publishers, 2016.

“The Federalist Papers - Congress.gov Resources -.” *Congress.gov*, www.congress.gov/resources/display/content/The_Federalist_Papers#TheFederalistPapers-78.

Hamilton, Alexander. “The Federalist Papers Essay 78 Summary and Analysis.” *GradeSaver: Getting You the Grade*, www.gradesaver.com/the-federalist-papers/study-guide/summary-essay-78.