

Federalist #78

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Federalism Summary

Federalism is the ideology in support of a strong central government, where many states unite under the rule of one government.



Federalist Essay #78

Hamilton's federalist essay describes the importance of a judicial branch, and the meaning behind the judicial review. He elaborates that the judicial branch is the weakest portion of the government, and explains why this is a problem.

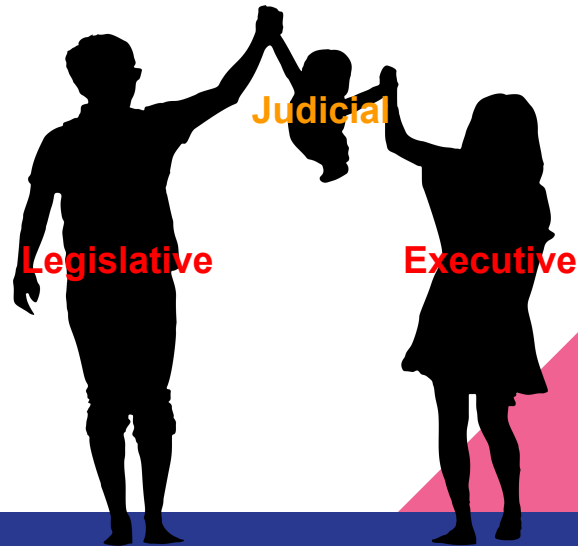


On what grounds does Hamilton argue that the Judicial department of the government is the least powerful branch of government?

The Judiciary Branch is argued to be the weakest department of government because it has no influence over the “sword and purse” meaning it has no influence over war or money. It can take no active resolution.



The Judicial Branch cannot defend from the other branches, and cannot successfully attack the other two branches either. The Judicial Branch is the “child” branch to the parents of the executive and legislative branch.

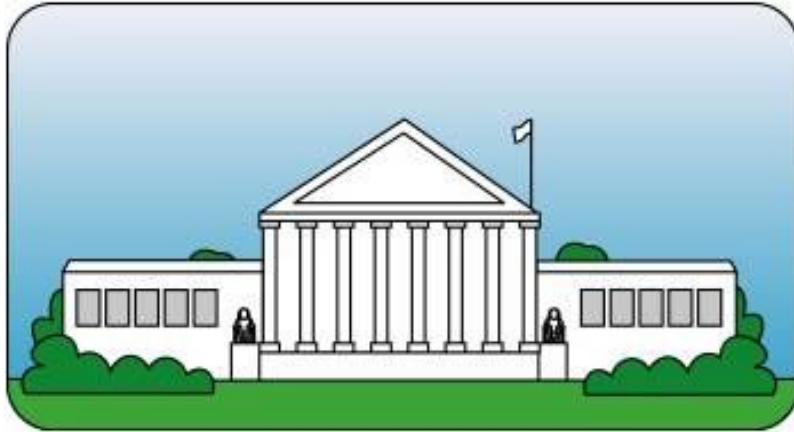


Why do you suppose that Hamilton was so careful to point out the relative impotence of the judiciary?

Hamilton emphasizes the impotency of the Judiciary branch in order to show a hole in the government that is in need of being filled. He describes the many things that this branch should have control over that they do not, and why this is important to fix.

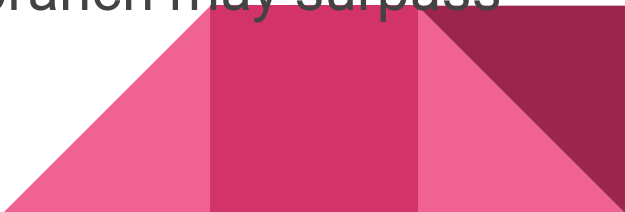


In describing the failure of the Articles of confederation, Hamilton talks about the need for a federal judiciary. He explains that the judiciary branch is much needed in order to balance the executive and legislative branch, and since it is so weak in this time period, it does not effectively fulfill this job.



What was Hamilton's position regarding the power of the judiciary to declare void any legislative acts that were contrary to the Constitution?

Hamilton's position regarding the power of the judiciary to declare void any legislative acts is that the power helps to maintain the superiority of the constitution. The constitution as well as the rights and the wills of the people should be what's most important no matter what, and this power of the judiciary branch makes sure that it remains that way. Without this the constitution might become inferior to the government, and the legislative branch may surpass its powers.



Hamilton still believes that the judiciary branch is the weakest branch but that it is important to ensure that the constitution remains the most important thing in our government. As well as that without this power the will of the people may become less of a priority.



Question 4: Why does Hamilton consider the independence of the judiciary to be a vital component of constitutional government

Hamilton states that individual liberty cannot be protected without an independent judiciary. He states that the restrictions of the constitution mean nothing unless they are enforced by an entity that is separated from legislature. This is to keep legislature from becoming too powerful, and to keep checks and balances in government.



Question 4 cont

Hamilton states that separation of judiciary is also essential to keeping parties from dividing the judicial branch which is common in legislature. He argues that the courts are an arbiter between the people and the government, so they must be separated from the main sections of government



Question 5: What arguments does Hamilton use to support life tenure for judges

Hamilton's arguments to support life tenure for judges one of them being that having a tenure frees judges from the political press that come from the legislative or executive.



For a judge this is a guard against unconstitutional laws

Hamilton then goes on to say that judges have lots of demands, this shows that only a few of men were able to become judges because of the ethical qualities.



End summary

Hamilton talks about the strengths and the downfalls of the judiciary branch. He focuses on the fact that the judiciary branch could use a lot of repair, but also on how some of its powers help to keep the government in check. He describes the need for a stronger judiciary branch in order to balance the other two main branches. His ideas are an honest description of the judiciary branch and are still relevant to this day.



Sources

<https://www.gradesaver.com/the-federalist-papers/study-guide/summary-essay-78>

The Lanahan Readings in the American Polity (Fourth Edition) By: Serow Ladd

