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From the SelectedWorks of Seth Barrett Tillman

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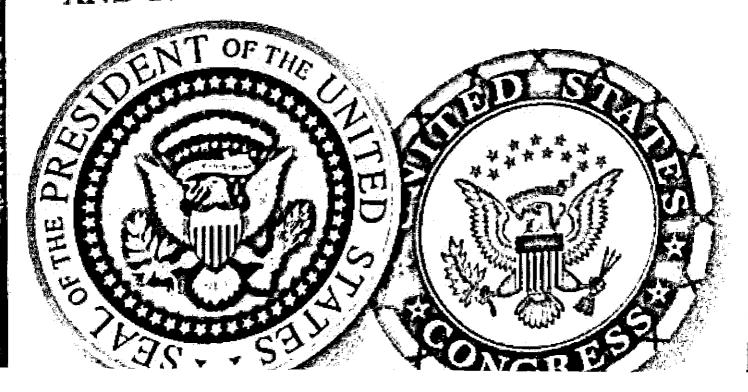
Extract from J. David Alvis et al., The Contested Removal Power, 1789-2010 (University Press of Kansas 2013), citing Bailey-Tillman Exchange on Federalist No. 77

Seth Barrett Tillman



THE CONTESTED REMOVAL POWER, 1789–2010

J. DAVID ALVIS, JEREMY D. BAILEY, AND F. FLAGG TAYLOR IV



2013)

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meated as executive prerogatives by British commentators. Then himselver bearing and James Madison, The Pacificus-Helvidius Debates of 17970 1994 ed Monroe house Com dianapolis: Liberty Fund, 2007), 63. It is also important to posted the than the posterior occurs right after Madison denies the applicability of the 1759 is marred define to the 1793 question about neutrality.

65. Ibid.

66. Ibid., 951.

67. lbid.

68. Ibid., 954-955.

69. "Federalist No. 77." 115.

70. See Alexander Hamilton and James Madison. The Face frame from the face from the face of the face o (3)-(34.

71. John Yoo, for example, argues that Hamilton abuneed in person of the power in The Federalist No. 69 in order to make the Learning and which have the moderates. John Yoo, The Powers of Was and Peace The Commission of Sain After 9/11 (Chicago: University of Chicago Press, 2004, 321 100 of Hamilton's change of heart, see Jack Rakove, Original Meaning the Control of the fred A. Knopf, 1996), 287.

72. Seth Barret Tillman, "The Puzzle of Federalm bes -- " How of home of home and Public Policy (2010): 149-167.

73. William Smith (S.C.) to Edward Rushedge, June 21, 1967, to Life fill on Corre spondence, 832.

74. "Federalist No. 70," 472.

71. Ibid.

76. "Federalist No. 71," 481.

77. "Federalist No. 72," 488.

78. Ibid., 487.

79. Ibid.

80. Ibid., 488.

81. "Federalist No. 77." 515.

82. Ibid., \$15-516.

84. Harold Syrett, ed., The Papers of Alexander Hamilton (New York, Cakazina Una-

versity Press, 1962), 4: 164.

o. THERE ... Debaus 11. 959.

39. Ibid., 20, 29.

39. Ibid., 31-33.

40. 1bid., 50-52.

41. Seth Barrett Tillman, "The Puzzle of Hamilton's Federalist No. 77," Harvard Journal of Law and Public Policy 33 (2010): 166-167. For the traditional view, see the notes in Harold C. Sryett and Jacob E. Cooke, eds., Papers of Alexander Hamilton, 27 vols. (New York: Columbia University Press, 1961-1987), 4: 290.

42. Hamilton, "Pacificus" No. 1, ed. Morton J. Frisch, The Pacificus-Helvidius Dehates of 1793-1794: Toward Completion of the American Founding (Indianapolis: Lib-

erry Fund, 2007), 13.

43. Hamilton, "Letter from Alexander Hamilton, Concerning the Public Conduct and Character of John Adams, Esq. President of the United States," October 24, 1800,

Papers of Alexander Hamilton, 25: 169, 214-215.

44. Hold., 214, emphasis added. Notice that this passage undermines Seth Barrett Tillmuch's argument about Hamilton's use of displace in Federalist No. 77. It is clear that dies are cannot mean replace here because the president may not replace without the supports of the Senate, precisely the inverse of Tillman's reading of Federalia No. 77. See Chapter 1: "The Decision of 1789."

43. This pours is reinforced by consideration of the context: Adams did not appoint her own cabinet but instead retained Washington's cabinet; the men Adams fired were biantalism's cronies and were from Adams's perspective undermining presidential

alitherity.

46. This was itself a departure from another passage in The Federalist, where Hamilnon had observed that the written opinions clause was a "mere redundancy" because it grew from the right of "the office." Federalia, No. 74. Cooke, 500.

47. Papers of Alexander Hamilton, 251 216, 222, 226-227.

43. Lucius Junius Brutus [pseud.], Examination of the President's Reply to the New-Haven Remonstrance with an Appendix Containing the President's Inaugural Speech, the Remonstrance and Reply: Together with a List of Removals from Office and New Appointments Made Since the Fourth of March, 1801 (New York: George F. Hopkins, 1801).

49. Papers of Alexander Hamilton, 25: 418-419.