

American Federalism

Competition Among Governments

Thomas R. Dye
Florida State University



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Preface

In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

—James Madison, *Federalist*, Number 51

The founders of the American nation understood that democratic political processes alone could not be depended upon to restrain governmental power and protect the liberties of individuals. They believed that "auxiliary precautions" were essential in controlling government and restraining "unjust and interested" majorities. The founders also understood that written constitutional limits on government, "parchment barriers," would not enforce themselves and that the solution to controlling government power lay in creating "opposite and rival interests" within government itself. Federalism is not only competition between the national government and the states, the topic of most modern scholarship; it is also competition among state and local governments.

American Federalism: Competition Among Governments sets forth a theory of competitive federalism: the encouragement of rivalry among state and local governments to offer citizen-taxpayers the best array of public services at the lowest costs. It argues that eighty thousand governments are better than one—that intergovernmental competition was recognized by the founders as an auxiliary precaution against the monopoly abuse of power by a single centralized government. It develops arguments for truly federal, competitive, and decentralized government: greater overall satisfaction of citizen preferences, incentives for government to become efficient and provide good-quality services at their lowest costs, restraints on the size of the public sector and the tendencies of governments to oversupply goods and services, greater responsiveness to the policy preferences of consumer-taxpayers, restraints on the overall burdens of taxation and the imposition of nonproportional taxes, encouragement of economic growth, and experimentation in policies designed to improve the well-being of citizens.

Competitive federalism is different from past popular conceptualizations of federalism, most of which focused on nation-state relationships rather than competition among state and local governments. Federalism is not merely

decentralized national government, and it is certainly not an effort to achieve cooperation among national, state, and local governments in carrying out national policy.

Competitive federalism requires that state and local governments have significant and independent responsibilities for the welfare of people living in their jurisdictions. These governments cannot be truly competitive if the federal government determines national priorities and assigns responsibility to state and local governments for policy implementation. Nor can state and local governments be truly competitive if the costs of their decisions can be externalized—shifted through federal grants-in-aid to the national government and to taxpayers throughout the nation. Competitive federalism requires that voter-taxpayers within the states bear the burdens, as well as the benefits, of their own choices.

This book shows that state and local government is still a significant sector of the economy and responsive to the demands of citizen-taxpayers. It argues that in the performance of their major functions, especially education, state and local governments are generally responsive to demands of consumer-taxpayers. Despite a nationalization of the economy, policy differences among the states are not diminishing; both the benefits and burdens of government vary considerably from state to state. Political competition within the states is shown to have little policy relevance. Even in competitive states, a change in party control of state government seldom results in significant policy alterations. Competitive federalism operates independently of the types of political systems within the states to insure responsiveness.

The book also shows that public policy in the states makes a difference in the economic well-being of their citizens. Both the taxing and spending decisions of these governments have economic consequences—identifiable effects on the personal income of individuals. The wealth of states, like the wealth of nations, is affected by government policies.

The book concludes with a discussion of the values of federalism and intergovernmental competition, the implication of competitive federalism for public policy, and specific constitutional and legislative prescriptions designed to strengthen competitive federalism in the U.S. system of government.

The ideas set forth in this book challenge fifty years of scholarship on American federalism. The academic euphemisms used to legitimize centralized government—"partnership," "cooperation," "sharing"—are explicitly rejected in favor of the founders' original notion of encouraging "opposite and rival interests" within the structure of government. Many in the academic establishment will feel threatened by ideas that challenge centralized monopoly government, and many political scientists will feel uncomfortable with ideas derived from market analogies. Indeed, the "public choice" model, which inspires much of the analysis in this book, will confound those who

confuse rational choice with conservatism. But we hope that even the most devoted centralists will at least consider the arguments set forth here and allow their students to confront them. We hope to convince readers that our notion of competitive federalism better reflects the founders' original concept of American federalism than most current scholarship on the topic.

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American Federalism

1

Federalism as Competition

I put for a general inclination of all mankind, a perpetual and restless desire for power after power, that ceaseth only in death.

—Thomas Hobbes, *Leviathan*, 1651

The very principle of constitutional government requires it to be assumed that political power will be abused to promote the particular purposes of the holder; not because this has always been so, but because it is the natural tendency of things, to guard against which is the especial use of free institutions.

—J.S. Mill, *Considerations on Representative Government*, 1861

Chaining Leviathan

All governments, even democratic governments, are dangerous. They wield coercive power over the whole of society. They tax, penalize, punish, limit, confine, order, direct, and regulate. They seize property, restrict freedom, and even take lives, all under the claim of legitimacy. Governments expect people to accept these vexations as rightful. Thomas Hobbes justified the creation of such a dangerous institution by arguing that it was the only alternative to anarchy—a war of all against all, “where every man is enemy to every man” and life is “solitary, poor, nasty, brutish and short.” Only the “continual fear and danger of violent death” justified the establishment of a Leviathan.

Democracy offers little protection to individuals. The founders of the American nation were acutely aware of the vulnerability of the individual to majority rule: “Such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property and have in general been as short in their lives as they have been violent in their deaths” (*Federalist*, Number 10). We do not have to view popular majorities as incurably “factious,” “mischievous” “passionate,” or selfish, as the founders did. It is a sufficient worry that the awesome powers of government may be abused by selfish majorities. The Constitution itself, by specifically denying some powers to the majority, is evidence that the founders understood that “republican principles” alone could not restrain government.

Yet we must still be concerned with the “general inclination of all mankind” for power (Hobbes) and with the “natural tendency” of political power

“to be abused to promote the particular purposes of the holder” (J.S. Mills). Like Adam Smith, we may acknowledge that our butcher and our baker are benevolent people, but we would still feel more secure if the marketplace were organized so that their self-interest coincided with the public good. So also in government: we may acknowledge that great wisdom resides in the American people and that statesmen frequently pursue the public welfare without regard to personal gain. But we would still feel more secure if government were organized so that official pursuit of self-interest coincided with the public good.

Democratic political processes alone cannot restrain Leviathan. The founders understood that “republican principles,” while they should be nurtured and cherished, would not be sufficient in themselves to protect individual liberty. Periodic elections, party competition, voter enfranchisement, and political equality may function to make governing elites more responsive to popular concerns, but these processes do not protect minorities or individuals, “the weaker party or an obnoxious individual,” from government deprivations of liberty or property. Indeed “the great object” of constitution writing was to preserve popular government and at the same time to protect individuals from “unjust and interested” majorities. “A dependence on the people is, no doubt, the primary control of government; but experience has taught mankind the necessity of auxiliary precautions” (*Federalist*, Number 51).

“Opposite and Rival Interests”

Among the most important “auxiliary precautions” the founders devised to control government is federalism, which they viewed as a source of constraint on Leviathan. Governments and government officials were seen as likely to act in their own self-interest:

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgement, and not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? (*Federalist*, Number 10)

Therefore constitutional arrangements must be devised so that the personal interest of government officials coincides with the interest of society.

The solution to the problem of adjusting the self-interests of government officials to interests of the larger society is competition. Rather than rely on

the “better motives” of statesmen, the founders sought to construct a governmental system incorporating the notion of “opposite and rival interests.” Governments and government officials can be constrained by competition with other governments and other government officials:

Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? (*Federalist*, Number 51)

Constitutional limits on governmental power do not enforce themselves. Regardless of how explicitly a constitutional protection may be stated in a document, it will not give much protection to individuals unless government officials are provided with personal motives to enforce it. Those motives must be supplied by constitutional arrangements that encourage competition within and among governments. The solutions the founders advanced were federalism and the separation of powers within the national government:

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself. (*Federalist*, Number 51)

Federalism is the creation of “opposite and rival” interests among governments. Understanding U.S. federalism is recognizing the paramount importance of competition among governments. Federalism is not only competition between the national government and the states, the topic of most modern scholarship and federalism; it is also competition between the states. Indeed, it is also, by extension, competition among the nation’s eighty-three thousand local governments. The founders themselves recognized the importance of “the system of each state within that state” as a component of federalism (*Federalist*, Number 33).

Federalism in Search of a Definition

Federalism has fallen on hard times. It has lost its meaning in American politics not only as a result of centralizing tendencies in government but also as a result of the failure of scholars to nourish the idea of it. A survey of contemporary scholarship on the topic concludes that “the theory of federalism has fallen into disrepair” (Beam, Conlan, and Walker, 1983). Indeed, the no-

tion of federalism has fallen on such hard times that some leading scholars have urged its replacement with simple descriptions of “intergovernmental relations” (Wright 1978). Rather than search for a viable analytic or normative model of federalism, it seems easier to provide empirical descriptions of current relationships among national, state, and local governments.

The centralizing forces in the American political system have discouraged all but the most devoted scholars of federalism. Political scientist Daniel Elazar laments:

We have moved to a system in which it is taken as axiomatic that the federal government shall initiate policies and programs, shall determine their character, shall delegate their administration to the states and localities according to terms that it alone determines, and shall provide for whatever intervention on the part of its administrative agencies as it deems necessary to secure compliance with those terms. . . . Not only has the Constitutional theory of federalism been replaced by a half-baked theory of decentralization, but it is a vulgar and, at times, vicious theory as well. (Elazar 1980, pp. 84–85, 86)

Federalism is not merely a decentralized national government. Although it is undoubtedly true that decentralization makes government more manageable and assists in the implementation of national policy, federalism is not the existence of administrative units of the national government. The states are not “middle managers” (Elazar 1981b).

Federalism is not intergovernmental relations. It is not an effort to achieve cooperation between the national government and state and local governments in carrying out national policy. Regrettably the disciplines of political science and public administration have generally treated federalism as an administrative problem to be overcome in the implementation of national policy. Federalism is equated with efficient government administration, with improving the management of federal programs. But federalism is not an administrative or managerial concept.

Federalism is not representation of state or local units of government in the national government. This is the definition of federalism implicit in the U.S. Supreme Court’s *Garcia* decision (1985): a federal system is one in which the legislature of the national government is composed of individuals elected from subnational units of government. There are few governments in the world that are not federal by such a vacuous definition.

State and local governments are political systems, not administrative units of the national government. Their primary function remains political, not managerial. Daniel Elazar has endeavored to preserve our understanding of federalism by stressing the states’ role as “polities.” Consider his definition of federalism: “The mode of political organization that unites smaller *polities* within an overarching political system by distributing power among general

and constituent governments in a manner designed to protect the existence and authority of both national and subnational political systems enabling all to share in the overall system’s decision-making and executing processes” (Elazar 1966, p. 2). His key descriptive term for state and local governments is “polities”; the principal task of these units is to govern, not simply administer or manage programs devised by the federal government.

Political scientist Paul E. Peterson has provided an excellent starting place for rebuilding a meaningful notion of federalism: “Federalism is a system of government in which powers are divided between higher and lower levels of government in such a way that both levels have a significant amount of separate and autonomous responsibility for the social and economic welfare of those living within their respective jurisdictions” (Peterson 1981, p. 67). Moreover, says Peterson, the responsibilities of the subnational governments must include, at a minimum, the recruitment of their own political and administrative leaders and the power and responsibility to tax their citizens to provide whatever services their citizens demand. We would add another minimal condition: the autonomy of the subnational governments must be given exceptional legal protection, such as a written constitution that cannot be amended without the consent of both national and subnational populations. In other words, subnational governments cannot be dependent on the national government politically or financially if the system is to retain a genuine federal character.

Federalism must grant some political and financial independence, some responsibility for deciding about policy and paying for these policy decisions, to state and local governments if they are to be truly competitive. These governments must be able to pursue a range of public policies, to provide a variety of public services, and to vary the level of these services. The costs of these policy decisions must be borne by the people in these jurisdictions. State and local governments cannot be truly competitive if the national government determines national priorities and treats state and local governments as administrative units, assigning them responsibilities for policy implementation. Nor can state and local governments be truly competitive if the costs of their decisions can be externalized—shifted to the national government and to taxpayers throughout the nation. Competition requires that voter-taxpayers within states and communities bear the burdens as well as the benefits of their own choices.

Federalism in Search of a Theory

Federalism is a defense against tyranny. The political argument for it centers on preventing the abuse of power. Creating “opposite and rival interests”

within government protects minorities and individuals from abuse by particular governing elites or popular majorities, either within the states or in the nation as a whole. A federal system, with many rival and competitive governments, better protects individual liberty than a single government.

But to defend against tyranny, governments within a federal system, all eighty-three thousand of them, must indeed be rivals. Only a truly competitive federalism offers protection against abusive government. Most of the models of federalism advanced in the scholarly literature of modern political science, either as descriptions of the historical evolution of federalism in the United States or as normative ideals for a federal system, are noncompetitive and offer little protection against tyranny.

Dual Federalism

Consider, for example, the model of dual federalism, which was said to describe federal-state relations during the nation's first hundred years. In this model, states and nation, functioning in the same territory, divide governmental functions. The national government deals exclusively with its enumerated powers in Article I, section 8, principally national defense, international affairs, money and credit, and foreign and interstate commerce, and the states deal with the most important domestic issues, including education, welfare, health, and criminal justice.

This was the founders' understanding of federalism, as evidenced, for example, in Madison's explanation:

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the States. (*Federalist*, Number 45)

Under the federal system contemplated by the Constitution, the states would "form distinct and independent portions of the supremacy, no more subject within their respective spheres to the general authority than the general authority is subject to them within its own sphere" (*Federalist*, Number 39). Even Alexander Hamilton, an ardent spokesman of national power, acknowledged that "the state governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, *exclusively* delegated to the United States" (*Federalist*, Number 32). In 1871 the U.S.

Supreme Court in *Tarbel's Case* defined American federalism in this same fashion:

There are within the territorial limits of each state two governments, restricted in their sphere of action, but independent of each other, and supreme within their respective spheres. Each has its separate departments, each has its distinct laws, and each has its own tribunals for their enforcement. Neither government can intrude within the jurisdiction of the other or authorize any interference therein by its judicial officers with the action of the other.

If taken seriously, however, "dual federalism" would prevent competition between the national and state governments. In this "layer cake" model (Grodzins 1966), each level of government would exercise unchecked power in its own policy domain. However, we know that in fact this model never described federal-state relations well. From the earliest days, the national government involved itself in public activities reserved to the states and people (Elazar 1962).

Cooperative Federalism

The model of cooperative federalism, which was said to describe federal-state relations in the first half of the twentieth century, at least allowed for the possibility of federal-state rivalry. This "marble cake" federalism mixed federal and state policy responsibilities: "As the colors are mixed in a marble cake so functions are mixed in the American federal system" (Grodzins 1966, p. 265). Yet even in this model of shared nation-state responsibilities, the normative bias was clearly toward cooperation rather than competition—and the cooperation expected of states and communities was in achieving goals determined by the national government. Congress acknowledged it had no direct constitutional power to regulate public health, safety, or welfare. It therefore relied upon its power to tax and spend for the general welfare to establish a system of financial rewards and punishments—giving or withholding grants-in-aid—in order to achieve national goals. The normative bias of this model was toward cooperation; rivalry or competition from state and local governments was viewed as parochial, backward, unresponsive, or worse.

Centralized Federalism

Centralized federalism drops all pretense to federal, state, and local sharing in policymaking for the nation. When President Lyndon B. Johnson launched the Great Society in 1964, the federal government assumed the power to define national problems and set national goals in virtually all areas of public

policy: education, health, and welfare, water and air pollution, consumer safety, home insulation, noise abatement, highway beautification, and even metric conversion. This model of "federalism" is indistinguishable from a centralized government. State and local governments are viewed as administrative instruments of the national government. If flexibility is permitted at all, it is only better to implement national goals in a local environment. Congress legislates directly on whatever matter it chooses, without regard to its enumerated powers and without even pretending to rely on financial incentives. As for the cake analogies, one commentator observed: "The frosting had moved to the top, something like a pineapple upside down cake" (Reese 1979, p. 78).

Liberal scholars rushed to defend this theory of federalism. James Sundquist (1969) of the Brookings Institution explained that "the nation for decades has been steadily coalescing into a national society" (p. 10); "the Great Society is, by definition, one society; the phrase is singular, not plural" (p. 12); and effective governance requires "close federal supervision and control to assure that national purposes are served" (p. 3).

Not much is left of federalism under such a theory, but the proponents of this view still claim the federalism label. Their claim rests on the representational idea: the United States is said to retain a federal system because national officials—the president, through the operation of the electoral college, and the Congress, through the allocation of two Senate seats per state and the appointment of representatives to states based on population—are selected from subunits of government.

Representational Federalism

The U.S. Supreme Court appears to have adopted this notion of "representational federalism." According to the Supreme Court's *Garcia* decision (1985), there are no constitutionally protected powers of the states, no "a priori definitions of state sovereignty," no "discrete limitations on the objects of federal authority," other than the provision granting the states a role in the selection of Congress and the president. (The constitutional provisions specifically dealing with the federal division of powers and with federal representation are shown in table 1–1.) The Court rhetorically endorsed a federal system but left it up to the national Congress, rather than the Constitution or the courts, to decide what powers the states and the national government should exercise. But if federalism is to be retained, the Constitution, not the Congress, must divide powers. "The states role in our system of government is a matter of constitutional law, not legislative grace." And the courts must interpret the Constitution, protecting the powers of the states and defining the powers of the national government. In the words of the Supreme Court's dissenting members in *Garcia*, "The extent to which the states may exercise

Table 1–1
Federalism in the Constitution

| <i>Guarantees to the States</i> | <i>Limits on the States</i> |
|--|---|
| 1. General | |
| Powers not delegated to the U.S. by Constitution, or prohibited by it to the states, are reserved to the states (Amend. X) | States cannot enter into treaties, alliances, or confederations (Art. I, sec. 10) |
| States cannot be sued by citizens of another state or a foreign nation (Amend. XI) | No separate coinage (Art. I, sec. 10) |
| No division or consolidation of states without state legislative consent (Art. IV, sec. 2) | No interstate or foreign compacts without congressional consent (Art. I, sec. 10) |
| Republican form of government (Art. IV, sec. 2) | Constitution, all laws and treaties made under it, to be the supreme law of the land, binding on every state (Art. VI) |
| Protection against invasion (Art. IV, sec. 2) | Slavery forbidden (Amend. XIII) |
| Protection against domestic violence on application of proper state authorities (Art. IV, sec. 2) | All state legislative, executive, and judicial officers and state representatives in Congress to be bound by Constitution (Art. IV) |
| 2. Military | |
| Power to maintain militia and appoint militia officers (Art. I, sec. 8, Amend. II) | No letters of marque and reprisal (Art. I, sec. 10) |
| | No maintenance of standing military forces in peacetime without congressional consent (Art. I, sec. 10) |
| | No engagement in war without congressional consent, except for the purpose of repelling invasion (Art. I, sec. 10) |
| | Congress may provide for organizing, arming, and disciplining the militia when it is not in federal service and for governing it when it is in federal service (Art. I, sec. 8) |
| 3. Commerce, Money, and Taxation | |
| Equal apportionment of direct federal taxes (Art. I, sec. 2, 9) | No levying of duties on vessels of other states (Art. I, sec. 9) |
| No federal export duties (Art. I, sec. 9) | No legal tender other than gold or silver (Art. I, sec. 10) |
| No preferential treatment for ports of one state (Art. I, sec. 9) | No impairment of obligations of contracts (Art. I, sec. 10) |
| Reciprocal full faith and credit among states for public acts, records, and judicial proceedings (Art. IV, sec. 1) | No levying of import or export duties without consent of Congress except the levying of reasonable inspection fees (Art. I, sec. 10) |
| Reciprocal privileges and immunities for citizens of the several states (Art. IV, sec. 2) | No tonnage duties without congressional consent (Art. I, sec. 10) |

Table 1-1 continued

| <i>Guarantees to the States</i> | <i>Limits on the States</i> |
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| 4. Justice | |
| Federal criminal trials to be held in state where crime was committed (Art. III, sec. 2) | No bills of attainder (Art. I, sec. 10) |
| Extradition for crimes (Art. IV, sec. 2) | No ex post facto laws (Art. I, sec. 10) |
| Federal criminal juries to be chosen from state and district in which crime was committed (Amend. VI) | Supreme Court has original jurisdiction over all cases in which a state shall be a party (Art. III, sec. 2) |
| Federal judicial power to extend to controversies between two or more states, between a state and citizens of another state when state is plaintiff, and between foreign nation or its citizens, with original jurisdiction vested in the Supreme Court (Art. III, sec. 2) | Judges in every state bound by the Constitution and all laws and treaties made under it, notwithstanding the constitutions or laws of any state (Amend. VI) |
| | No denial of life, liberty, or property without due process of law (Amend. XIV) |
| | No denial of equal protection of state laws to person within its limits (Amend. XIV) |
| | No abridgement of privileges and immunities of U.S. citizens (Amend. XIV) |
| 5. Representation | |
| <i>Congress</i> | |
| Members of House of Representatives chosen by voters, those qualified to vote for most numerous house of state legislature in the several states (Art. I, sec. 2) | Representatives must be 25 years old and U.S. citizens for seven years (Art. I, sec. 2) |
| At time of election, representatives must be inhabitants of states from which they are elected (Art. I, sec. 2) | Senators must be 30 years old and U.S. citizens for nine years (Art. I, sec. 3) |
| Representatives to be apportioned among the states according to population every ten years (Art. I, sec. 2) | Congress may make or alter regulations as to the times, places, and manner of holding elections for senators and representatives (Art. I, sec. 4) |
| State executive has authority to fill vacancies (Art. I, sec. 2) | Each house shall be the judge of the elections, returns, and qualifications of its own members, shall punish its members for disorderly behavior, and shall expel a member by two-thirds vote (Art. I, sec. 5) |
| Each state shall have at least one representative (Art. I, sec. 2) | Basis for appointment of representation in House of Representatives may be reduced proportionate to state deprivation of the right to vote of otherwise qualified citizens (Amend. XIV, sec. 2) |
| Senate shall be composed of two senators from each state (Art. I, sec. 8) who are chosen by the people qualified to vote for the most numerous house of the state legislature (Amend. XVII), with vacancies to be filled as prescribed by state legislation (Amend. XVII) | Without express consent of two-thirds of Congress, states cannot be represented by persons who have taken an oath to support the Constitution and have since engaged in insurrection (Amend. XIV, sec. 3) |
| At time of election, senators must be inhabitants of the states from which they are chosen (Art. I, sec. 3) | |

Table 1-1 continued

| <i>Guarantees to the States</i> | <i>Limits on the States</i> |
|---|---|
| Times, places, and manner of holding elections for senators and representatives shall be prescribed for each state by its legislature (Art. I, sec. 4) | |
| No state to be deprived of equal representation in the Senate without its consent (Art. V) | |
| President | |
| To be selected by the electors of the several states, with each allotted a number of electors equal to the total number of its senators and representatives (Art. II, sec. 1) | Congress may determine the time of choosing electors and a uniform day on which they shall cast their votes (Art. II, sec. 1) |
| Each state to have one vote if presidential election is decided in House of Representatives (Art. II, sec. 1) | |
| Approval of presidential appointees by the Senate as Congress shall prescribe (Art. II, sec. 2) | |
| Amendments to Constitution | |
| Amendments must be ratified by three-fourths of the states (Amend. V) | |
| Amendments can be proposed by two-thirds of the states (Amend. V) | |
| Voting | |
| | on grounds of race, color, or previous condition of servitude (Amend. XV, sec 1) |
| | Cannot be denied or abridged on account of sex (Amend. XIX, sec. 1) |
| | No poll tax may be levied as requirement to vote in federal elections (Amend. XXIV) |
| | Cannot be denied or abridged for citizens 18 years of age or older on account of age (Amend. XXIV) |
| Foreign Affairs | |
| Treaties must be ratified by two-thirds of Senate (Art. II, sec. 2) | Treaties binding on states as supreme law of the land (Amend. VI) |
| Appointment of foreign service officers subject to Senate confirmation (Art. II, sec. 2) | |