



## THE AMERICAN POLITICAL SYSTEM (2)

### 1. American Specificities

- a- Federalism
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- a- The Electoral System
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## 2. American Specificities

In this section, I mean to *stress* the aspects of the American political life with which you may not be so familiar because they differ from other democracies. For instance, I will not *ponder on* how a law is passed, because it is rather similar to what you know from the French system<sup>1</sup>. However I'd like to *dwell on* "specificities" of the American system which often constitute the background of political debates and that students fail to identify when asked to *comment on*<sup>2</sup> a text. Among them, federalism and what it *entails* on the one hand, and the role of the Supreme Court in American history and current debates, on the other.

### a- Federalism

It is essential that you should fully *grasp* the *fallouts* of federalism, particularly *insofar as* it is not a system you are so familiar with. Each state has a three-branch government, collects its own taxes, votes its own laws and manages education, police, social affairs. As a result, the death penalty, for instance, may or may not be implemented in each state.

Numerous political debates can be understood in the light of the competition that exist between the states and the State. Do remember that American citizens are very sensitive to these issues : the protection of the rights of the state is parallel to the American principle of individualism. To them, the federal state should not intervene in areas linked with individual rights—hence, the refusal to implement any kind of control on the Internet network, in the name of the 1<sup>st</sup> Amendment. Likewise, Americans'd rather trust their state in matters linked with everyday lives, moral issues etc. In US mainstream politics, there is a fundamental distrust of the federal state.

An important reference: the **10<sup>th</sup> Amendment** provides that any power not explicitly granted to the Federal State –in the Constitution- is automatically that of the states and the citizens.

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<sup>1</sup> I feel that I should *qualify* this statement. I am merely justifying what I chose to concentrate on. Of course, in the passing of a law too, there are American specificities, such as the practice of filibustering or the involvement of lobbies. So please be subtle with what you make of my statements.

Filibustering is a way for Senators to delay a vote. Indeed, only when all those who wish to express themselves about a bill have done so, can the vote take place. Therefore, on controversial bills, the vote can be postponed if long speeches follow one another. = faire de l'obstruction parlementaire.

I will address the issue of lobbies in next month's presentation.

You can find a summary of the American legislative process on the following website:  
[http://www.house.gov/house/Tying\\_it\\_all.html](http://www.house.gov/house/Tying_it_all.html)

<sup>2</sup> Please be careful : to comment **ON** a text, **ON** an issue

The most famous example of an open conflict between the State and a or several states dates back to the 19<sup>th</sup> Century and **the Civil War**<sup>3</sup>. In 1861, eleven states decided to leave the union because they could not accept the project to abolish slavery: they created the Confederacy<sup>4</sup>, and a civil war followed between the South and the Abolitionist North. The outcome of the war was the defeat of the South and the 13<sup>th</sup> Amendment in 1865. To this day, part of the South still feels wronged by the Federal State.

Method: I am not merely quoting the Civil War, I am using this example as an illustration of the conflict between the Federal State and the states. Students often throw a vague allusion in the middle of their written or oral presentations: you must use the examples you pick, they must serve your demonstration.

Try to find out what issues within the current debates in the US are relevant to this question of federalism and the tensions it *triggers*.

A few years ago, the Clinton administration decided to send back Elian –a young Cuban boy whose mother had died at sea when trying to reach America on a boat people- to his father in Cuba, in spite of his Miami family's desire to keep him, and against the Florida court's decision to grant this American family custody of the child. In that case, the federal state contradicted a Florida decision. As a response, the local forces refused to implement the Washington decision and the federal troops had to be sent.

Closer to us, there is a recurrent debate in the US about stem cell research. The White House, and especially the conservative, religious Attorney General, John Ashcroft, is sympathetic to a complete ban of such research. George Bush even issued an order that restricted the use of federal money for it. However, in September 2003, Governor Gray Davis, from California, signed a Bill that allowed California's scientists to use embryonic stem cells in research. Again a state has acted against the federal government's line.

2004 Update:

You may quote the example of the unusual 2003 recall election in California as an illustration of the very different systems and laws implemented in each of the 50 states.

2005 Update:

The current debate in the US about gay marriage is also a compelling example. As each state is free to legislate as they want as long as it does not breach on the Constitution, several of them, such as New Hampshire or California already grant gay couples a civil union or the right to adopt. In so far as the Bush administration is morally conservative and dedicated to fight such gay rights in keeping with its millions of religious voters (Bush was reelected thanks to the Evangelist but also Catholic vote), Bush has proposed to pass a new Amendment to the Constitution that would prohibit such gay unions on a national scale. In that case, the individual states would no longer be free to legislate on the issue.

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<sup>3</sup> The very name given by Americans to what the French call "La guerre de Sécession" is telling: the federal union was under threat.

<sup>4</sup> Those in favour of slavery i.e. the Southern states = the Confederacy. Vocabulary: the confederate army, the confederate flag.

### **b- The Supreme Court**

Because it rules on whether laws and justice decisions are respectful of the constitution, the Supreme Court has had an influence in American history through particularly important rulings.

#### **1896 : Plessy vs<sup>5</sup> Ferguson**

The Supreme Court rules that whites and blacks are "separate but equal". This allowed an official segregation to go on in the South until the 1950s and the Civil Rights movement.

#### **1954 : Brown vs Board of Education of Topeka, KS**

It overrules the 1896 decision. School segregation is considered unconstitutional. Here again, the federal troops had to intervene to protect black children who went to formerly white schools because the local authorities refused the Supreme Court decision.

#### **1973 : Roe vs Wade**

Abortion is made legal (or possible –each state then decides)

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<sup>5</sup> Vs. = versus. All these Supreme Court rulings necessarily come from a trial, as the Supreme Court acts as the last Court of Appeal in the country.

2005 Update:

Here are two impending<sup>6</sup> Supreme Court decisions that may change American laws:

**The Bipartisan Campaign reform Act of 2002**

This bill is known as the McCain-Feingold act. It was passed by Congress in 2002 and challenged in the Supreme Court as unconstitutional. To its opponents it infringes upon the 1<sup>st</sup> Amendment: to them, limiting political candidates' money equals limiting their freedom of speech. The case is known under: "McConnell v. FEC"

On Dec 10, 2003 by a 5-4 majority, the American Supreme Court upheld<sup>7</sup> the restrictions.

They were implemented during the 2004 presidential campaign. Paradoxically, this campaign was the most expensive ever in American history. Both candidates increased their spending by 30% compared to 2000. But under the new law, they had to make all donations public, and corporations were limited in their funding. In this campaign, individuals gave a lot to the candidates, especially through the use of the Internet.

**Gerrymandering**

It is the name given to "redistricting" i.e. the fact that local Congress has the right to reorganize the constituencies. Supposedly this is the better fit the population's evolution. Actually it is used by parties to increase the chances of their candidates to be elected in a given constituency.

The Court is now to examine a Pennsylvania voters' complaint about partisan redistricting. The fact the justices accepted to take the case is significant. It is known as: "Vieth v. Jubelirer".

**Bush's second term and the Supreme Court**

A very important issue to be addressed soon is the fact that several Justices in the Supreme Court are over 65 and may resign any time soon. William H. Rehnquist, 80 years old, who suffers from cancer, should be the first to leave. The fact that President Bush will appoint several new Justices in the four years to come is decisive: the Court is likely to rule on issues like abortion, the death penalty, gay rights, religion in the public sphere and in public schools especially, and whether the Court is moderate as it is now or more conservative might change America.

Remember that it was the Supreme Court that, in 1954, decided to put an end to the segregation of blacks.

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<sup>6</sup> Impending: imminentes

<sup>7</sup> to uphold: maintenir, confirmer / to overrule: renverser