

BEYOND CONCEPT

超越概念——高等院校英语专业系列教材


总主编 ◎ 何其莘 [美] 杨孝明



SOCIETY & CULTURE OF THE UNITED STATES

美国社会与文化

主 编 ◎ 王建平

 中国人民大学出版社

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中国人民大学出版社
• 北京 •

图书在版编目 (CIP) 数据

美国社会与文化 / 王建平主编. —北京: 中国人民大学出版社, 2012.10

(超越概念)

高等院校英语专业系列教材

ISBN 978-7-300-16220-1

I. ①美… II. ①王… III. ①英语-阅读教学-高等学校-教材 ②美国-概况 IV. ①H319.4: K

中国版本图书馆 CIP 数据核字 (2012) 第230265号

超越概念——高等院校英语专业系列教材

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Meiguo Shehui yu Wenhua

出版发行 中国人民大学出版社

社 址 北京中关村大街 31 号

电 话 010-62511242 (总编室)

010-82501766 (邮购部)

010-62515195 (发行公司)

网 址 [http:// www. crup. com. cn](http://www.crup.com.cn)

[http:// www. ttrnet. com](http://www.ttrnet.com) (人大教研网)

经 销 新华书店

印 刷 北京鑫丰华彩印有限公司

规 格 200 mm × 252 mm 16 开本

印 张 23.75

字 数 589 000

邮政编码 100080

010-62511398 (质管部)

010-62514148 (门市部)

010-62515275 (盗版举报)

版 次 2012 年 10 月第 1 版

印 次 2012 年 10 月第 1 次印刷

定 价 43.00 元

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序 言

《美国社会与文化》是一本全面、系统地介绍美国社会的英语教科书，旨在帮助英语专业学生和英语读者了解美国社会与文化的概貌，如地理、历史、政治、经济、法律、社会生活、宗教信仰和传统文化等方面的基本知识。同时，学生通过阅读课文、完成各种练习，可达到提高英语水平的目的。本书以大量的事实和数据介绍美国的制度、结构、机制、政策的发生和演变，详尽阐述了美国人最重要的社会价值观念，并从文化史的角度探究其形成、变迁和表现。读者既可从中获得关于美国社会与文化方面的新信息和新知识，又可以了解这些价值观的历史形成和演进脉络。这一历史视野贯穿在每个单元之中，把脉美国社会、政治、经济和文化机制的历史成因，以便使学生对历史、现状和未来有一个全方位的认识。

历史与现实相结合的原则应该说是贯穿在本书编写过程中的一条主线，即在考察美国的社会体制、运行机制和现实问题时，力求从历史的角度对这些体制、机制和问题的形成给予评述。例如，在世界近代史上，美国的立国和发展堪称独特。如何看待美国民族国家发展的历史轨迹？美利坚民族的特性是什么？在当下，哪些是美国面临的问题？这些问题有着怎样的历史渊源？回答这些问题都需要一个历史的视野。因此，本书不仅是综合性的，还是批评性和历史性的，因为历史可以为解读美国的现实问题提供一个深度坐标。也正因如此，本书的另一个目的，是在提供广泛的知识性信息的同时，试图对美国社会与文化进行一次批评性、历史性的评述，阐述美国社会与文化的发生、发展以及现存或历史的问题。在如此框架之下，由于各个单元所讨论的问题相互之间有着密切的关联性，因此本书的内容具有明显的跨学科性质，覆盖范围包括历史、文化、社会、经济、法律、宗教、政治、哲学等领域，也涉及伴随美国社会发展的一些社会制度、行为模式和信仰体系等。

本书由 16 个教学单元组成，分别讨论美国的政府制度、宪法与修宪、政党与利益集团、选举与竞选、法律制度、国内经济、福利制度、移民与多元化、种族与族裔、宗教信仰、教育体制、印刷媒体、电子媒体、电影产业、美国历史、对外政策等专题。每个单元又分为 4 或 5 个部分，针对不同专题进行深入、详细的讨论。这些专题覆盖面广、思想性强，选文具有一定深度。在专题设计上，力求透过现象见本质，以拓宽学生的文化视野，增强学生对美国社会文化发展史和现实问题的深入理解。同时，每个单元还附有思考题、参考书目、推荐网址和术语索引。这些思考题都有一定难度和代表性，涉及美国研究领域的关键性问题，不仅可以帮助教师检验学生对文章内容的理解，供学生在课堂上讨论，同时学生通过这些问题，可以举一反三，引发对相关问题的深入思考和探讨，提高思辨、分析和表达能力。术语索引部分按照字母顺序排列，这些条目在文中首次出现时用粗黑斜体，以提示读者在本章后的术语索引中查询。在本书的最后，我们还选编了部分美国历史上的重要文献，这些文献都曾在本书不同单元中被多次提及和讨论，按照其撰写年代的时间顺序排列，以供读者方便之用。

随着全球化的迅速推进和我国英语教育的快速发展,“以技能为导向”的教材模式及教学理念已经难以满足社会和时代发展的需要。本书力求更新和突破传统教学理念,尝试对“英语国家概况”教材结构本身进行突破,向专题化和问题领域发展,扩展学生关于英语国家文化的知识、思辨能力和问题意识,以满足新时代的要求。在过去半个多世纪里,随着中美两国之间关系的发展,“美国学”也逐渐成为一门“显学”。与其他学科不同的是,这个领域中既有越来越多的专业人士,也有相当数量的非专业人士。自20世纪70年代末至今,中美关系跌宕起伏,在中美两国的交往与合作日趋密切和频繁的同时,摩擦和冲突也不可避免,这就要求我们更加深入地了解美国,认识美国。中美关系的历史和现实也对我们关于美国社会与文化的知识结构提出了更新和更高的要求。这些都是编者在本书的编写过程中着重考虑的问题。

最后,关于本书的编写,笔者要感谢香港大学美国研究中心主任 Priscilla Roberts 教授、Staci Ford 教授、美国加州大学洛杉矶分校 K. K. Cheung 教授、美国俄亥俄大学美国研究所主任 Richard Horwitz 教授、美国三一大学 Paul Lauter 教授对本教材的编写提供的宝贵建议和支持。

王建平

2012年8月



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CHAPTER ONE

SYSTEM OF GOVERNMENT



I. OVERVIEW

The federal government of the United States is the central government entity established by the United States Constitution, which shares sovereignty over the United States of America with the governments of the individual U.S. states. For official purposes in U.S. courts, the government is sued (and sues others) as “the United States of America.” The government of the United States is based on a written constitution, which consists of a Preamble, seven Articles, and 27 Amendments. From this document, the entire federal government was created. It is a living document whose interpretation has changed over time. The amendment process is such that while not easily amended, U.S. citizens are able to make necessary changes over time.

The United States is a federal system. This means that power is divided between a central/national government and the states. The national government is referred to as the Federal

Government. The U.S. federal regime dates from 1790 and is considered to be the first modern national federation in the world. Even so, the details of American federalism have been debated since the establishment and ordination of the Constitution, with some parties arguing for expansive national powers, while others have narrowly and strictly interpreted the Constitution's enumeration of the national government's powers.

Since the U.S. Civil War, the powers of the federal government have generally expanded greatly, although there have been periods when states' rights proponents have succeeded in limiting federal power through legislative action, executive prerogative or by constitutional interpretation of the courts. The seat of the federal government is in the District of Columbia.



II. THE CONSTITUTION: FOUNDATION AND PRINCIPLES

The United States Constitution is built on six basic principles. These are deeply ingrained in the mindset and landscape of the U.S. Government.



Popular Sovereignty

This principle states that the source of governmental power lies with the people. This belief stems from the concept of the social contract and the idea that government should be for the benefit of its citizens. If the government is not protecting the people, it should be dissolved. Popular sovereignty is the political principle that the legitimacy of the state is created by the consent of its people, who are the source of all political power. The American Revolution marked a departure in the concept of popular sovereignty as it had been discussed and employed in the European historical context. With their Revolution, Americans substituted the sovereignty in the person of King George III, with a collective sovereign—composed of the people. Thenceforth, American revolutionaries generally agreed and were committed to the principle that governments were legitimate only if they rested on the sovereignty of the people. This idea—often linked with the notion of the consent of the governed—was not invented by the American revolutionaries. Rather, the consent of the governed and the idea of the people as a sovereign had clear 17th and 18th century intellectual roots in English history. It is closely associated with Republicanism and the social contract philosophers, among whom are Thomas Hobbes, John Locke and Jean-Jacques Rousseau. Popular sovereignty expresses a concept and does not necessarily reflect or

describe a political reality. It is often contrasted with the concept of parliamentary sovereignty, and with individual sovereignty. Benjamin Franklin expressed the concept when he wrote, "In free governments, the rulers are the servants and the people their superiors and sovereigns."



Limited Government

Limited government is a government in which anything more than minimal governmental intervention in personal liberties and the economy is generally disallowed by law, usually in a written constitution. It is related to free market libertarianism and classical liberalism and some tendencies of liberalism and conservatism in the United States. The theory of limited government contrasts, for example, with the idea that government should intervene to promote equality and opportunity through regulation of property and wealth redistribution. This definition is generally assumed by those who identify "limited government" with "small government."

The meaning of limited government is most easily grasped in contrast to the doctrine of the Divine Right of Kings. Under that doctrine, the king, and by extension his entire government, held unlimited sovereignty over its subjects. The king could do what he wanted to do to whomever he wanted to it whenever he chose. Limited government exists where some effective limits restrict governmental power. In Western civilization, the *Magna Carta* stands as the early exemplar of a document limiting the reach of the king's sovereignty.

Since the people give government its power, government itself is limited to the power given to it by them. In other words, the government does not derive its power from itself. It must follow its own laws and it can only act using powers given to it by the people. A limited government is a government that cannot interfere with personal liberties and individual rights much because it is against the law. The traditional American philosophy teaches that government must be limited in power if individual liberty is to be safeguarded, if each individual's God-given, unalienable rights are to be made and kept enduringly secure. This philosophy asserts that the self-governing people allow any government they may organize to possess, by grant from them, only the limited and few powers with which the people think the particular government may sensibly be entrusted in order to serve their purposes without endangering their rights—their liberties or freedoms. These powers constitute the "just powers" of government, as *The Declaration of Independence* phrases it. This is in keeping with the primary purpose for which the people organize governments: to make and keep these unalienable rights secure and most beneficial to themselves and to posterity.



Separation of Powers

As stated previously, the U.S. Government is divided into three branches so that no one branch has all the power. Each branch has its own purpose: to make the laws, execute the laws,

and interpret the laws. The term “*trias politica*” or “separation of powers” originated with the Baron de Montesquieu, an 18th century French social and political philosopher. His publication, *Spirit of the Laws*, is considered one of the great works in the history of political theory and jurisprudence, and it inspired the *Declaration of the Rights of Man* and the Constitution of the United States. Under his model, the political authority of the state is divided into legislative, executive and judicial powers. He asserted that, to most effectively promote liberty, these three powers must be separate and act independently. The framers of the Constitution decided to base the American governmental system on this idea of three separate branches: executive, judicial, and legislative. The three branches are distinct and have checks and balances on each other. In this way, no one branch can gain absolute power or abuse the power they are given. The Constitution contains no provision explicitly declaring that the powers of the three branches of the federal government shall be separated. James Madison, in his original draft of what would become the *Bill of Rights*, included a proposed amendment that would make the separation of powers explicit, but his proposal was rejected, largely because his fellow members of Congress thought the separation of powers principle to be implicit in the structure of government under the Constitution. Madison’s proposed amendment, they concluded, would be a redundancy.

The first article of the Constitution says “All legislative powers...shall be vested in a Congress.” The second article vests “the executive power...in a President.” The third article places the “judicial power of the United States in one Supreme Court” and “in such inferior Courts as the Congress...may establish.” Separation of powers serves several goals. Separation prevents concentration of power (seen as the root of tyranny) and provides each branch with weapons to fight off encroachment by the other two branches. As James Madison argued in *The Federalist Papers* (No. 51), “Ambition must be made to counteract ambition.” Clearly, the system of separated powers is not designed to maximize efficiency; it is designed to maximize freedom.



Checks and Balances



In order to further protect the citizens, the constitution set up a system of checks and balances. Basically, each branch of government has a certain number of checks it can use to ensure the other branches do not become too powerful. For example, the President can veto legislation, the Supreme Court can declare acts of Congress unconstitutional, and the Senate must approve treaties and presidential

appointments. The separation of powers, often if imprecisely used interchangeably with the *trias politica* principle, is a model for the governance of a state. In the United States Constitution, Article I Section 1 gives Congress only those “legislative powers herein granted” and proceeds to list those permissible actions in Article I Section 8, while Section 9 lists actions that are prohibited for Congress. The vesting clause in Article II places no limits on the executive branch, simply stating that, “The Executive Power shall be vested in a President of the United States of America.” The Supreme Court holds “The judicial power” according to Article III, and it established the implication of *judicial review* in *Marbury v. Madison*. The federal government refers to the branches as “branches of government,” while some systems use “government” to describe the executive. The executive branch has attempted to claim power arguing for separation of powers to include being the Commander in Chief of a standing army since the Civil War, executive orders, emergency powers and security classifications since WW II, national security, signing statements, and the scope of the unitary executive.



Judicial Review

This is a power that allows the Supreme Court to decide whether acts and laws are unconstitutional. This was established with *Marbury v. Madison* in 1803. Judicial review refers to the power of a court to review the constitutionality of a statute or treaty, or to review an administrative regulation for consistency with either a statute, a treaty, or the Constitution itself. In *Marbury v. Madison* (1803), the Supreme Court ruled that the federal courts have the duty to review the constitutionality of acts of Congress and to declare them void when they are contrary to the Constitution. *Marbury* was the first Supreme Court case to strike down an act of Congress as unconstitutional. Since that time, the federal courts have exercised the power of judicial review.

The Constitution does not expressly provide that the federal judiciary has the power of judicial review. Rather, the power to declare laws unconstitutional has been deemed an implied power, derived from Article III and Article VI. The provisions relating to the federal judicial power in Article III state:

The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.... The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority...In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall

have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Supremacy Clause of Article VI states:

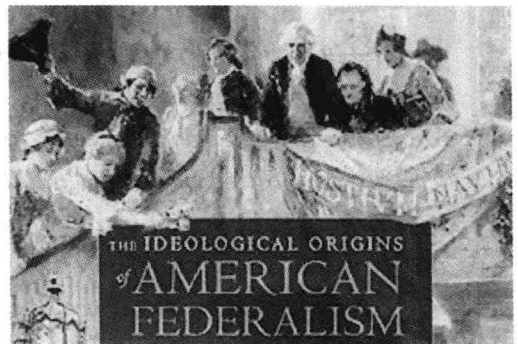
This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding...[A]ll executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution...

The power of judicial review has been implied from these provisions based on the following reasoning. It is the inherent duty of the courts to determine the applicable law in any given case. The Supremacy Clause says the Constitution is the “supreme Law of the Land.” The Constitution therefore is the fundamental law of the United States. Federal statutes are “the Law of the Land” only when they are “made in Pursuance” of the Constitution. State constitutions and statutes are valid only if they are consistent with the Constitution. Any law contrary to the Constitution is void. The federal judicial power extends to all cases “arising under this Constitution.” As part of their inherent duty to determine the law, the federal courts have the duty to interpret and apply the Constitution and to decide whether a federal or state statute conflicts with the Constitution. All judges are bound to follow the Constitution. If there is a conflict, the federal courts have a duty to follow the Constitution and to treat the conflicting statute as unenforceable. The Supreme Court has final appellate jurisdiction in all cases arising under the Constitution, so the Supreme Court has the ultimate authority to decide whether statutes are consistent with the Constitution.



Federalism

Federalism is a political concept in which a group of members are bound together by covenant (Latin: *foedus*, covenant) with a governing representative head. The term is also used to describe a system of the government in which sovereignty is constitutionally divided between a central governing authority and constituent political units (like states or provinces).



Federalism is a system in which the power to govern is shared between national and provincial/state governments, creating what is often called a federation. Proponents are often called federalists.

The principle of federalism is one of the most complicated foundations of the United States. This is the idea that the central government does not control all the powers in the nation. States also have powers reserved to them. This division of powers does overlap and sometimes leads to problems such as what happened with the response to Hurricane Katrina between the state and federal governments. Federalism in the United States is the evolving relationship between U.S. state governments and the federal government of the United States. Since the founding of the country, and particularly with the end of the American Civil War, power shifted away from the states and towards the national government. The concept of Federalism is one that underlies all concepts about the power of government in the American system. Federalism within the United States system is the balancing of power between a federal government and state governments. Within this system the federal government is superior to the state governments. For example, a state could not pass a law that directly contradicted a law passed on the federal level. Within these principles, power is divided among the federal and state governments. While each of the 50 states has its own constitution, all provisions of state constitutions must comply with the U.S. Constitution. For example, a state constitution cannot deny accused criminals the right to a trial by jury, as assured by the U.S. Constitution's 6th Amendment. Under the U.S. Constitution, both the national and state governments are granted certain exclusive powers and share other powers.

Under the Constitution, powers reserved to the national government:

- Print money (bills and coins)
- Declare war
- Establish an army and navy
- Enter into treaties with foreign governments
- Regulate commerce between states and international trade
- Establish post offices and issue postage
- Make laws necessary to enforce the Constitution

Exclusive powers of state governments:

- Establish local governments
- Issue licenses (driver, hunting, marriage, etc.)
- Regulate intrastate (within the state) commerce
- Conduct elections
- Ratify amendments to the U.S. Constitution
- Provide for public health and safety

Exercise powers neither delegated to the national government or prohibited from the states by the U.S. Constitution (For example, setting legal drinking and smoking ages.)

Powers shared by the national and state governments:

- Set up courts
- Create and collect taxes
- Build highways
- Borrow money
- Make and enforce laws
- Charter banks and corporations
- Spend money for the betterment of the general welfare
- Take (condemn) private property with just compensation



III. THE SYSTEM OF GOVERNMENT

The United States Constitution thus stipulated the functions of the three branches of government:

Article I - Section 1

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article II - Section 1

The executive Power shall be vested in a President of the United States of America. He shall hold his office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected.

Article III - Section 1

The judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

To prevent one branch from becoming supreme, protect the "opulent minority" from the

majority, and to induce the branches to cooperate, government systems that employ a separation of powers need a way to balance each of the branches. Typically this was accomplished through a system of checks and balances. Checks and balances allow for a system based on regulation that allows one branch to limit another, such as the power of Congress to alter the composition and jurisdiction of the federal courts.

Legislative (Congress)	Executive (President)	Judicial (Supreme Court)
<ul style="list-style-type: none"> • Passes bills; has broad taxing and spending power; controls the federal budget; has power to borrow money on the credit of the United States (may be vetoed by President, but vetoes may be overridden with a two-thirds vote of both houses). • Has sole power to declare war. • Oversees, investigates, and makes the rules for the government and its officers. • Defines by law the jurisdiction of the federal judiciary in cases not specified by the Constitution. • Ratification of treaties signed by the President and gives advice and consent to presidential appointments to the federal judiciary, federal executive departments, and other posts (Senate only). • Has sole power of impeachment (House of Representatives) and trial of impeachments (Senate); can remove federal executive and judicial officers from office for high crimes and misdemeanors. 	<ul style="list-style-type: none"> • Has all the Executive Power. • Commander-in-chief of the armed forces. • Preserves, protects and defends the Constitution. • Faithfully executes the laws of the Country. • Executes the instructions of Congress. • May veto bills passed by Congress (but the veto may be overridden by a two-thirds majority of both houses) • Executes the spending authorized by Congress. • Executes the instructions of Congress when it declares war or makes rules for the military. • Declares states of emergency and publishes regulations and executive orders. • Makes executive agreements (does not require ratification) and signs treaties (ratification requiring by two-thirds of the Senate) • Makes appointments to the federal judiciary, federal executive departments, and other posts with the advice and consent of the Senate; has the power to make temporary appointment during the recess of the Senate. • Has the power to Grant "Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment." 	<ul style="list-style-type: none"> • Determines which laws Congress intended to apply to any given case. • Exercises judicial review, reviewing the constitutionality of laws. • Determines how Congress meant the law to apply to disputes. • Determines how a law acts to determine the disposition of prisoners. • Determines how a law acts to compel testimony and the production of evidence. • Determines how laws should be interpreted to assure uniform policies in a top-down fashion via the appeals process, but gives discretion in individual cases to low-level judges. (The amount of discretion depends upon the standard of review, determined by the type of case in question.). • Federal judges.



The legislative Branch

Congress is the legislative branch of the federal government. It is bicameral, comprising the House of Representatives and the Senate. The House consists of 435 voting members, each of



whom represents a congressional district and serves for a two-year term. In addition to the 435 voting members, there are five non-voting members, consisting of four delegates and one resident commissioner. There is one delegate each from the District of Columbia, Guam, Virgin Islands, and American Samoa, and the resident commissioner is from Puerto Rico. House seats are apportioned among the states by population; in contrast, each state has two senators, regardless of population. There are a total of 100 senators, who serve six-year terms (one third of the Senate stands for election every two

years). Each congressional chamber has particular exclusive powers—the Senate must give “advice and consent” to many important Presidential appointments, and the House must introduce any bills for the purpose of raising revenue. The consent of both chambers is required to pass any legislation, which then may only become law by being signed by the President; if the President vetoes such legislation, however, both houses of Congress must then re-pass the legislation, but by a two-thirds majority of each chamber, in order to make such legislation law without the need for the President’s signature. The powers of Congress are limited to those enumerated in the Constitution; all other powers are reserved to the states and the people. The Constitution also includes the “Necessary and Proper Clause”, which grants Congress the power to “make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” Members of the House and Senate are elected by *first-past-the-post* voting in every state except Louisiana and Washington, which have runoffs.

Article I, Section 2, Paragraph 2 of the U.S. Constitution gives each chamber the power to “determine the rules of its proceedings.” From this provision were created congressional committees, which do the work of drafting legislation and conducting congressional investigations into national matters. The 108th Congress (2003—2005) had 19 standing committees in the House and 17 in the Senate, plus four joint permanent committees with members from both houses overseeing the Library of Congress, printing, taxation, and the economy. In addition, each house may name special, or select, committees to study specific problems. Today, much of the congressional workload is borne by subcommittees, of which there are some 150.

The United States Capitol is the seat of government for Congress. The Constitution grants numerous powers to Congress. Enumerated in Article I, Section 8, these include the powers to levy and collect taxes, coin money and regulate its value, provide for punishment for counterfeiting, establish post offices and roads, promote progress of science by issuing patents, create federal courts inferior to the Supreme Court, define and punish piracies and felonies, declare war, raise and support armies, provide and maintain a navy, make rules for the regulation of land and naval forces, provide for, arm, and discipline the militia, exercise exclusive legislation in the District of

Columbia, and to make laws necessary to properly execute these powers.

Congressional oversight is intended to prevent waste and fraud, protect civil liberties and individual rights, ensure executive compliance with the law, gather information for making laws and educating the public, and evaluate executive performance. It applies to cabinet departments, executive agencies, regulatory commissions, and the presidency. Congress' oversight function takes many forms:

- Committee inquiries and hearings;
- Formal consultations with and reports from the President;
- Senate advice and consent for presidential nominations and for treaties;
- House impeachment proceedings and subsequent Senate trials;
- House and Senate proceedings under the 25th Amendment in the event that the President becomes disabled or the office of the Vice President falls vacant;
- Informal meetings between legislators and executive officials;
- Congressional membership: each state is allocated a number of seats based on its representation (or ostensible representation, in the case of D.C.) in the House of Representatives. Each state is allocated two Senators regardless of its population. As of January 2010, the District of Columbia elects a non-voting representative to the House of Representatives along with American Samoa, the U.S. Virgin Islands, Guam, Puerto Rico, and the Northern Mariana Islands.



The Executive Branch

The executive power in the federal government is vested in the President of the United States, although power is often delegated to the Cabinet members and other officials. The President and Vice President are elected as running mates for a maximum of two four-year terms by the *Electoral College*, for which each state, as well as the District of Columbia, is allocated a number of seats based on its representation (or ostensible representation, in the case of D.C.) in both houses of Congress. The President is both the head of state and government, as well as the military commander-in-chief and chief diplomat. The President, according to the Constitution, must “take care that the laws be faithfully executed,” and “preserve, protect, and defend the Constitution.” The President presides over the executive branch of the federal government, a vast organization numbering about four million people, including one million active-duty military personnel. The forty-fourth and current president is

