**Unit IV, District Question #2 -** June 2014

*How and why has presidential power expanded since the ratification of the Constitution?*

* *How have wars, emergencies, and the media contributed to the expansion of presidential powers?*
* *How have the other branches of government responded to the expansion of presidential power? Do you think they have done so adequately? Explain.*

**P1.** Professor Leonard Levy wrote in Original Intent and the Framer's Constitution that on June 1, 1787, the delegates at the convention brought up a proposal that the government it was trying to frame should have "a national Executive." Delegates supported the proposal, but one after another said the executive must not make policy on war and peace. Charles Pinckney of South Carolina was for "a vigorous Executive but was afraid the Executive powers...might extend to peace and war which would render the Executive a Monarchy of the worst kind."

**P2.** It is difficult, if not impossible, to determine the original intent of the 37 signers and numerous delegates to the state ratifying conventions. However, we do know they wanted more than a servant of Congress because the office is independently elected and holds the powers given in Article 2 section 2. The extent of their power has expanded through the Executive Powers Clause in Article 2 Section 1. Throughout the past 200 years, the president had gained more power than the Framers envisioned in both domestic policy and, especially, in foreign affairs. Over time Presidents have acquired informal powers, such as the power to issue executive orders, executive agreements and to assert executive privilege. These powers have clearly given the President an advantage in carrying out his policy goals.

**P3.** War is the central issue when it comes to examining how well the Framers' hopes for the power or our presidents have been realized. The Framers did not assign outright power on matters of war and peace to anyone branch of government. Article 1, Section 8 gives Congress the right to "declare war" yet Article II Section 2 assigns to the president the role of the Commander in Chief. The power of the president is expanded during times of national security crisis This was seen when President Lincoln was able to suspend Habeas Corpus rights during the Civil War crisis, President Roosevelt interned Japanese-Americans, and President Truman did not seek congressional authorization before sending troops to Korea.

**P4.** The media has also affected the president's use of executive power. One of the president's most important resources for leading is public support. The media plays a vital role in the president maintaining the "bully pulpit." The White House has gone to great lengths to encourage the media to project a positive image of the president. On the other hand, without the investigative reporting of the Washington Post, the tenure of President Nixon might have continued long before his resignation. The press can be a potent check on the presidency.

**P5.** Article I, Sections 2 and 3 act to limit the power of the president by giving the House of Representatives the power of impeachment, and the Senate the ability to try them and remove them from office. The House also holds the power of the purse. For example, when President Lyndon Johnson requested emergency aid in Vietnam, the House refused the request. The President also must share the treaty making power with the Senate. As part of its Legislative power, both chambers of Congress investigate allegations of presidential wrongdoings as they did in the Watergate and Iraqgate affairs.

**P6.** Through its power of judicial review, the Supreme Court can strike down presidential actions as the Court did in 1952 in *Youngstown Sheet and Tube v. Sawyer,* in 1974 in U*nited States v. Nixon,* and in 2008 in *Boumediene v. Bush*. However, the Court deferred to the president in the field of foreign policy when it decided *United States v. Curtiss Wright* in 1936. Earlier this year, 2014, the Supreme court also made a ruling on *Noel Canning v. NLRB* that also judges the president’s powers.

**P7.** In conclusion, Congress and the Court have responded adequately to the problem of the expansion of presidential power. The Framers truly devised an elegant system of checks and balances to keep the institutions in alignment. As Clinton Rossiter once said, “The real power of Congress is essentially negative in character.” It is the power to say no. And the real power of the federal courts, too, is to say no. In the long run, however, it is up to we the people to act as the ultimate check on presidential power every time we vote.

**P8.** Thank you for your time, we are now eager to answer your questions.