



Written by [Bruce Walker](#) on May 31, 2012

June 1, 1812: Prelude to the War of 1812

Two hundred years ago, on June 1, 1812, James Madison presented to Congress a variety of difficulties with Great Britain arising out of the Napoleonic Wars in Europe. The address included a variety of issues, including the impressment of American sailors into the British Navy and the violation of the rights of American merchant vessels to engage in trading as ships of a neutral nation. Behind his words was also the lingering suspicion that after retaining Canada in the War of U.S. Independence, Britain sought to impose at least an hegemony over our new nation (which was the way that the British empire often operated in the subsequent century).



The War of 1812 was notable in American history for many reasons. Our national anthem, the Star Spangled Banner, was penned by Francis Scott Key during the Battle of Fort McHenry in Baltimore. The Battle of New Orleans was such a stunning blow to British military power that, even though formally fought after peace, the effect was permanently to dissuade Britain from any military designs on our young nation. The U.S.S. *Constitution* engaged one of the most powerful British frigates of the day and was thereafter known as “Old Ironsides,” and the war that has sometimes been called the “Second Revolutionary War” reaffirmed the true independence of our nation.

The War of 1812 was also the first “declared war” in our nation’s history. Under Jefferson, our young Navy had fought the Barbary Pirates and stopped the demand for tribute, which is duly noted in the Marine Corps Hymn, which sings of “... the shores of Tripoli,” a key city in North Africa held by those pirates. The Revolutionary War was declared, of course, in the Declaration of Independence, but this was not under our Constitution or even under the Articles of Confederation, but by a loose confederation of 13 independent states.

In fact, in the long history of our nation’s battles, there have been only five “declared” wars: the War of 1812, the Mexican-American War, the Spanish-American War, the First World War, and the Second World War. One might put an asterisk by that last war. FDR after Pearl Harbor asked Congress in his “Day of Infamy” address to “... declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7, 1941, a state of war has existed between the United States and the Japanese Empire.” Three days later, Hitler (committed to an alliance with Japan and Italy by the 1940 [Tripartite Pact](#)) declared war on the United States.

Roosevelt was emphatically not asking Congress to decide whether to go to war with the Axis Powers. He had been systematically moving our nation in that direction since early 1940. Roosevelt was rather asking Congress to rubber stamp his prior policies, which contributed to the surprise attack by Japan on our forces in Hawaii and the Pacific Basin. The intention of the Founding Fathers, that war decisions were the exclusive province of Congress, had been set aside.



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Since the United States declared war on German allies Bulgaria, Hungary, and Romania on June 5, 1942, Congress has not been asked to [declare war](#), unless one counts the rather generic declaration by Congress after the 9/11 attacks or the votes of Congress prior to Desert Storm or Operation Iraqi Freedom. The movement of war-making powers from Congress to the Presidency has de facto been completed: the President has effectively used American military power, outside of direct attack on our nation proper, and the declarations of war or authorizing the use of military power have been limited by the actions of the President.

In the War of 1812, President Madison did not even formally ask Congress for a declaration of war on [June 1, 1812](#). He instead gave an address to Congress in which he outlined the nature of the problems our nation faced defending its sovereign rights. Toward the end of his address, Madison noted:

Whether the United States shall continue passive under these progressive usurpations and these accumulating wrongs, or, opposing force to force in defense of their national rights, shall commit a just cause into the hands of the Almighty Disposer of Events, avoiding all connection which might entangle it in the contest or views of other powers, and preserving a constant readiness to concur in an honorable reestablishment of peace and friendship, is a solemn question *which the Constitution wisely confides to the legislative department of government*. [Emphasis added.]

Madison recognized that Congress alone had the power to declare war and that he could only advise. It was Congress, after several days of debating, some of it behind closed doors, which decided on the proper course. [The vote](#) was hardly a foregone conclusion. The House of Representatives voted 79 to 49 for a declaration of war against Britain and the Senate voted by an even closer 19 to 13 vote for a declaration of war. The vote was the closest declaration of war in our nation's history.

(Note: Here are the vote margins in other formal declarations of war by Congress, with the Senate vote and then the House vote. Mexican-American War: 40-2 and 173-14; Spanish-American War: 42-35 and 310-6; World War I: 74-0 and 365-1; World War II: 82-0 and 388-1.)

It might have been better if Congress had debated even longer. The Orders in Council, which was the most provocative aspect of British policy toward our nation, had been withdrawn in May 1812 by Lord Liverpool, the Prime Minister Spencer Perceval, who wanted a more conciliatory relationship with these United States. But the declaration at least provided a clear and constitutional decision on issues which merit a discussion of war.

What is also interesting is that Congress continued to make laws relative to the conduct of the war after the declaration. On July 6, 1812, Congress passed two laws: "An Act for the Safe Keeping and Accommodation of Prisoners of War" and "An Act to Prohibiting American Vessels from Proceeding to or Trading with the Enemies of the United States, and for Other Purposes." Eight months later, on March 3, 1813, Congress passed "An Act to Encourage the Destruction of Armed Vessels of War of the Enemy."

There is another aspect to the War of 1812 that reminds us how far our nation has drifted from the constitutional principles so familiar 200 years ago. While the war was being fought, there was a serious debate by New England states at the 1814 Hartford Convention about seceding from the United States. These states had voted against the declaration of war, called "Mr. Madison's War" in New England, and had refused to supply their state militia to the armed forces of the United States. Thirty-six years later, 11 states in the South also presumed to have the same right to secede, but after four bloody years that right would be considered dead.



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