

# 1812: Congress's First Declaration of War Under the Constitution

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## ~~War Powers~~ The Constitutional Context for Declaring War

Instructions: Analyze and discuss the following excerpts from the Constitution. Select a spokesperson to report your discussion to the class.

### The Constitution of the United States

#### Article I, Section 8

The Congress shall have Power To...

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress...

#### Article II, Section 2

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States

1. To which branch of government did the Founders assign the power to declare war?
2. What role did the Founders assign to the President in declaring war?
3. What roles did the Founders give to Congress and the President in prosecuting a war after the declaration? Overall, to which branch did the Founders assign more power over questions of war? Explain your answer.
4. To what extent does this division of war power reflect the Founders concept of separation of powers?
5. How are the constitutional war-related roles of Congress and the President different from one another?

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### Handout 1:

#### President James Madison's Third Annual Message to Congress (excerpt)

November 5, 1811; Records of the United States Senate,  
National Archives Building, Washington, D.C.

Full online transcript: <http://millercenter.org/president/speeches/detail/3613>

In calling you together sooner than a separation from your homes would otherwise have been required I yielded to considerations drawn from the posture of our foreign affairs, and...to the probability of further developments of the policy of the belligerent powers toward this country which might the more unite the national councils in the measures to be pursued.

At the close of the last session of Congress it was hoped that the Government of Great Britain [would] repeal its orders in council, and thereby authorize a removal of the existing obstructions to her commerce with the United States.

Instead of this reasonable step toward satisfaction and friendship between the two nations, the orders were, at a moment when least to have been expected, put into more rigorous execution...

In the unfriendly spirit of those disclosures indemnity and redress for other wrongs have continued to be withheld, and our coasts and the mouths of our harbors have again witnessed scenes not less derogatory to the dearest of our national rights than vexation to the regular course of our trade.

Under the ominous indications which commanded attention it became a duty to exert the means committed to the executive department in providing for the general security...In this disposition is included a force consisting of regulars and militia, embodied in the Indiana Territory and marched toward our northwestern frontier. This measure was made requisite by several murders and depredations committed by Indians....

I must now add that the period is arrived which claims from the legislative guardians of the national rights a system of more ample provisions for maintaining them. Notwithstanding the scrupulous justice, the protracted moderation, and the multiplied efforts on the part of the United States we have seen that the British cabinet perseveres not only in withholding a remedy for other wrongs, so long and so loudly calling for it, but in the execution, brought home to the threshold of our territory, of measures which under existing circumstances have the character as well as the effect of war on our lawful commerce.

With this evidence of hostile inflexibility in trampling on rights which no independent nation can relinquish, Congress will feel the duty of putting the United States into an armor and an attitude demanded by the crisis, and corresponding with the national spirit and expectations....

I can not close this communication without expressing my deep sense of the crisis in which you are assembled, my confidence in a wise and honorable result to your deliberations, and assurances of the faithful zeal with which my cooperating duties will be discharged, invoking at the same time the blessing of Heaven on our beloved country and on all the means that may be employed in vindicating its rights and advancing its welfare.

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~~Washington~~:

### Document Study—President James Madison's Third Annual Message to Congress

Instructions: Answer the following questions about President James Madison's Third Annual Message to Congress. Select a spokesperson to report your discussion to the class.

1. Identifying key evidence in the text:
  - a. On what occasion was the President writing to Congress?
  
  
  
  
  
  
  
  
  
  
  - b. What facts related to foreign affairs did he convey?
  
  
  
  
  
  
  
  
  
  
  - c. What was the President asking Congress to do?
  
2. Determining the central ideas:
  - a. To what long-term historical situation was the President referring?
  
  
  
  
  
  
  
  
  
  
  - b. Why would the President say that Congress was most the appropriate body to address this issue?
  
3. Identifying the logic of the argument:
  - a. According to the President, why was the present moment more urgently calling for action than prior moments?
  
  
  
  
  
  
  
  
  
  
  - b. What consequences of inaction did the President imply?

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4. Taking stock of the vocabulary used in the document: Define the following words and phrases:
  - belligerent powers
  
  - neutral commerce
  
  - rigorous execution
  
  - edicts
  
  - ominous
  
  - depredations
  
  - scrupulous justice
  
  - protracted moderation
  
  - legislative guardians
  
5. Understand how a text presents information:
  - a. Approximately how much of the information presented in the message was factual and how much was intended to persuade readers to act?
  
  
  - b. Provide examples of each.
  
6. Identify point of view:
  - a. According to the President's message, how dangerous was the national situation?
  
  
  - b. How strongly did the President feel about the issue? Provide two examples of language the President used to convey his point of view.

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### Handout 2: Congressional Debate on Declaring War in 1812

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| A. | <p>REPORT OF THE HOUSE COMMITTEE ON FOREIGN AFFAIRS: To sum up, in a word, the great causes of complaint against Great Britain, your committee need only say—That the United States as a sovereign &amp; independent power, claim the right to use the ocean, which is the common &amp; acknowledged highway of nations, for the purposes of transporting, in their own vessels, the products of their own soil, and the acquisitions of their own industry, to a market in the ports of friendly nations: and to bring home, in return, such articles as their necessities or convenience may require—always regarding the rights of belligerents, as defined by the established laws of nations. Great Britain, in defiance of this incontestable right, captures every American vessel bound to, or returning from, a port where her commerce is not favoured; enslaves our seamen; and, in spite of our remonstrances, perseveres in these aggressions. November 29, 1811</p> |
| B. | <p>REP. PETER PORTER: “We were a young nation, and he hoped we cherished a little pride and spirit, as well as a great deal of justice and moderation. Our situation was not unlike that of a young man just entering into life, and who, if he tamely submitted to one cool, deliberate, intentional indignity, might safely calculate to be kicked and cuffed for the whole of the remainder of his life; or, if he should afterwards undertake to retrieve his character, must do it at ten times the expense which it would have cost him at first to support. We should clearly understand and define those rights which as a nation we ought to support, and we should support them at every hazard.<br/><i>Annals of Congress</i>, December 6, 1811</p>  |
| C. | <p>REP. JOHN RANDOLPH: “If you go to war it will not be for the protection of, or defense of your maritime rights. Gentlemen from the North have been taken up some high mountain and shown all the kingdoms of the earth; and Canada seems tempting to their sights...Agrarian cupidity, not maritime rights, urges the war. Ever since the report of the Committee on Foreign Relations came into the House, we have heard but one word like the whip-poor-will, but one eternal monotonous tone—Canada! Canada! Canada!...It is to acquire a prepondering northern influence that you are to launch into war.”<br/><i>Annals of Congress</i>, December 16, 1811</p>  |
| D. | <p>CITIZENS OF ANNE ARUNDEL COUNTY, MD:<br/>To the Honorable The Congress of the United States<br/>...It is urged, that war is the only recourse now remaining to vindicate our national honor and restore our national rights. Honor is an indefinite term: applied to individuals it is frequently considered as paramount to the duties of religion morality and law...If such is its meaning when applied to nations, we protest against it; the United States are, in the aggregate, a moral and religious people; they have not made honor an object of their federal compact; it is a term nowhere found in the instrument; the constitution speaks of common defense and repelling invasions, but offensive war, or the invasion of other countries never, we believe, was contemplated by those who framed or ratified it..<br/>Signed by Charles Carroll of Carrollton and 41 others, June 13, 1812</p>   |
| E. | <p>SEN. OBADIAH GERMAN: “I will first call the attention of the Senate to the ability and strength of the nation we are about, by this bill, to declare war against. Gentlemen ought to recollect, that Great Britain has been almost constantly engaged in war for twenty years past against one of the most powerful nations that ever existed...Is Great Britain less powerful now, than she was twenty years ago? No, sir, the constant warfare has increased her powers instead of diminishing them.”<br/><i>Annals of Congress</i>, June 13, 1812</p>   |

For Handout #2 - Summarize each statement in 2-3 sentences. Then, state if they are in support of the war or against the war

A.

B.

C.

D.

E.