June 29, 1793

...The objections in question fall under three heads—

1. That the Proclamation was without authority.
2. That it was contrary to our treaties with France.
3. That it was contrary to the gratitude which is due from this to that country; for the succours rendered us in our own Revolution.
4. That it was out of time & unnecessary...

The true nature & design of such an act is—to make known to the powers at War and to the Citizens of the Country, whose Government does the Act that such country is in the condition of a Nation at Peace with the belligerent parties, and under no obligations of Treaty, to become an associate in the war with either of them; that this being its situation its intention is to observe a conduct comfortable with it and to perform towards each the duties of neutrality; and as a consequence of this state of things, to give warning to all within its jurisdiction to abstain from acts that shall contravene those duties, under the penalties which the laws of the land (of which the law of Nations is a part) annexes to acts of contravention.

This, and no more, is conceived to be the true import of a Proclamation of Neutrality...

It will not be disputed that the management of the affairs of this country with foreign nations is confided to the Government of the UStates.

It can as little be disputed, that a Proclamation of Neutrality, where a Nation is at liberty to keep out of a War in which other Nations are engaged and means so to do, is a usual and a proper measure. Its main object and effect are to prevent the Nation being immediately responsible for acts done by its citizens, without the privity or connivance of the Government, in contravention of the principles of neutrality...

The inquiry then is--what department of the Government of the UStates is the proper one to make a declaration of Neutrality in the cases in which the engagements [of] the Nation permit and its interests require such a declaration.

A correct and well informed mind will discern at once that it can belong neit[her] to the Legislature nor Judicial Department and of course must belong to the Executive.

The Legislative Department is not the organ of intercourse between the United States and foreign Nations. It is charged neither with making nor interpreting
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Treaties. It is therefore not naturally that Organ of the Government, which is to pronounce the existing condition of the Nation, with regard to foreign Powers, or to admonish the Citizens of their obligations and duties as founded upon that condition of things. Still less is it charged with execution and observance of those obligations and those duties.

It is equally obvious that the act in question is foreign to the Judiciary Department of Government. The province of that Department is to decide litigations in particular cases. It is indeed charged with the interpretation of treaties; but it exercises this function only in the litigated cases; that is where contending parties bring before it a specific controversy. It has no concern with pronouncing upon the external political relations of Treaties between Government and Government. This position is too plain to need being insisted upon.

It must then of necessity belong to the Executive Department to exercise the function in question—when a proper case for the exercise of it occurs.

It appears to be connected with that department in various capacities, as the organ of intercourse between the Nation and foreign Nations—as the interpreter of the National Treaties, in those cases in which the Judiciary is not competent, that is in the cases between Government and Government—as the power, which is charged with the Execution of the Laws, of which Treaties form a part—as that Power which is charged with the command and application of the Public Force.

This view of the subject is so natural and obvious—so analogous to general theory and practice—that no doubt can be entertained of its justness, unless such doubt can be deduced from particular provisions of the Constitution of the United States.

Let us see then if cause for such doubt is to be found in that constitution.

The second Article of the Constitution of the United States, section 1st, establishes this general Proposition, That “The EXECUTIVE POWER shall be vested in a President of the United States of America.”

The same article in a succeeding Section proceeds to designate particular cases of Executive Power. It declares among other things that 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, that he shall have power by and with the advice of the senate to make treaties; that it shall be his duty to receive ambassadors and other public Ministers and to take care that the laws be faithfully executed.

It would not consist with the rules of sound construction to consider this enumeration of particular authorities as derogating from the more
comprehensive grant contained in the general clause, further than as it may be coupled with express restrictions or qualifications...The different mode of expression employed in the constitution in regard to the two powers the Legislative and the Executive serves to confirm this inference. In the article which grants the legislative powers of the Governt. the expressions are--“All Legislative powers herein granted shall be vested in a Congress of the UStates;” in that which grants the Executive Power the expressions are, as already quoted “The EXECUTIVE PO\(WER\) shall be vested in a President of the UStates of America.”

The enumeration ought rather therefore to be considered as intended by way of greater caution, to specify and regulate the principal articles implied in the definition of Executive Power; leaving the rest to flow from the general grant of that power, interpreted in conformity to other parts [of] the constitution and to the principles of free government.

The general doctrine of our Constitution is that the EXECUTIVE POWER of the Nation is vested in the President; subject only to the exceptions and qu[a]lifications which are expressed in the instrument.

Two of these have been already noticed-- the participation of the Senate in the appointment of Officers and in the making of Treaties. A third remains to be mentioned the right of the Legislature “to declare war and grant letters of marque and reprisal.”

With these exceptions the EXECUTIVE POWER of the Union is completely lodged in the President. This mode of construing the Constitution has indeed been recognized by Congress in formal acts, upon full consideration and debate. The power of removal from office is an important instance.

And since upon general principles for reasons already given, the issuing of a proclamation of neutrality is merely an Executive Act; since also the general Executive Power of the Union is vested in the President, the conclusion is, that the step, which has been taken by him, is liable to no just exception on the score of authority...

If the Legislature have a right to make war on the one hand--it is on the other the duty of the Executive to preserve Peace till war is declared; and in fulfilling that duty, it must necessarily possess a right of judging what is the nature of the obligations which the treaties of the Country impose on the Government; and when in pursuance of this right it has concluded that there is nothing in them inconsistent with a state of neutrality, it becomes both its province and its duty to enforce the laws incident to that state of the Nation. The Executive is charged with the execution of all laws, the law of Nations as well as the Municipal law, which recognises and adopts those laws. It is consequently bound, by faithfully executing the laws of neutrality, when that is the state of the Nation, to avoid
giving a cause of war to foreign Powers…

It deserves to be remarked, that as the participation of the senate in the making of Treaties and the power of the Legislature to declare war are exceptions out of the general “Executive Power” vested in the President, they are to be construed strictly—and ought to be extended no further than is essential to their execution…

In this distribution of powers the wisdom of our constitution is manifested. It is the province and duty of the Executive to preserve to the Nation the blessings of peace. The Legislature alone can interrupt those blessings, by placing the Nation in a state of War…

That clause of the constitution which makes it his duty to “take care that the laws be faithfully executed” might alone have been relied upon…

The President is the constitutional EXECUTOR of the laws. Our Treaties and the laws of Nations form a part of the law of the land. He who is to execute the laws must first judge for himself of their meaning. In order to the observance of that conduct, which the laws of nations combined with our treaties prescribed to this country, in reference to the present War in Europe, it was necessary for the President to judge for himself whether there was any thing in our treaties incompatible with an adherence to neutrality. Having judged that there was not, he had a right, and if in his opinion the interests of the Nation required it, it was his duty, as Executor of the laws, to proclaim the neutrality of the Nation, to exhort all persons to observe it, and to warn them of the penalties which would attend its non observance.

The Proclamation has been represented as enacting some new law. This is a view of it entirely erroneous. It only proclaims a fact with regard to the existing state of the Nation, informs the citizens of what the laws previously established require of them in that state, & warns them that these laws will be put in execution against the Infractors of them.

PACIFICUS.