Commentary...

The attempted murder of the First Amendment

By Jim Cornelius Editor in Chief

The president is a man of tremendous and highly sensitive ego, and he feels himself under constant and bitterly unfair attack.

The world is full of tumult and Fake News.

The year is 1798.

The French Revolution has plunged Europe into bloody conflict. The fledgling United States is itself embroiled in an undeclared maritime shooting war with revolutionary France, after refusing to pay off its own Revolutionary War debt. After all, that money was owed to the old French monarchy, not to the revolutionary government, oui? The U.S. is also back to trading with Great Britain, with whom revolutionary France is at war.

It's a tense international scene, and President John Adams and his administration see threats everywhere especially from immigrants. The Jeffersonian Republicans are sympathetic to the French Revolution – and Alexander Hamilton thinks they are "more Frenchmen than Americans.'

Faced with a hostile Republican press coming after him with hammer and tongs, Adams lashes out against "false, scandalous and malicious writing.'

The administration and the Federalist majority in Congress are pushing through measures to protect the country from the threat of un-American ideas infiltrating the culture, and the undermining of government dignity and authority by a scurrilous press.

Over the course of two months in the summer, the Federalists would pass a series of measures collectively known as the Alien and Sedition Acts.

Recent immigrants to America's shores were perceived as favoring Jeffersonian politics, so the Naturalization Act increased residency requirements for U.S. citizenship from five to 14 years. The Alien Enemies Act allowed the government to arrest and deport all male citizens of an enemy nation during wartime; the Alien Friends Act allowed the president to deport any non-citizen suspected of peacetime plotting against the government.

The Sedition Act criminalized "fake news" - defined as "false, scandalous and malicious writing" against Congress or the president. Of course, then as now, the problem was who got to decide what is false, scandalous and malicious, and, then as now, the answer was often simply, "anything that the president doesn't like."

The Act also made it illegal to conspire "to oppose any measure or measures of the government.'

Thus one set of Founding Fathers sought to strangle in its crib the most fundamental right enumerated in the U.S. Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The Federalists themselves seemed to recognize that they were violating their own principles — the Sedition Act was given a sunset clause allowing it to expire at the end of Adams' first (and as it turned out, only) term.

Treating the abridgement of the First Amendment as an emergency measure didn't pacify the opposition. Jefferson and Madison drafted the Virginia and Kentucky Resolutions, which argued that the federal government did not have the authority to enact laws not specified in the Constitution and that the sovereign states had the right to nullify wrongful laws.

Journalists and publishers were jailed under the Sedition Act. The principle of judicial review of the constitutionality of laws passed by Congress had not yet been established, so there wasn't much recourse. Except that rage over the Alien and Sedition Acts helped Jefferson oust Adams from office in 1800, an election so bitter that 2016 pales in comparison.

It was a close call for the First Amendment, and it wouldn't be the last. The powerful don't like to be criticized or held to account, and, especially in times of national

emergency, the impulse is strong to shackle liberty in the name of security.

The parameters and the value of "free speech" have never been a settled issue in the United States of America — not in 1798 and not in 2019. It's perilous to take the First Amendment for granted — and always a worthy endeavor to examine it. Citizens 4 Community and The Nugget are sponsoring a forum on the First Amendment on Thursday, October 24, at Sisters Fire Hall. The event begins at 5:30 p.m. All Jeffersonians and Hamiltonians — and anyone else — are welcome to join in.

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