

The real thing

Since the Bill of Rights was ratified in 1791, two years after the United States Constitution, the people of the United States have amended their Constitution only seventeen times. The first since the Bill of Rights, ratified in 1795, the 11th amendment gave the states immunity from suit. Since then, six amendments, the 12th, 17th, 20th, 22nd, 25th, and 27th, altered the terms of office of federal officials or the manner of their election or of the increasing of their salaries. Another five amendments, the 15th, 19th, 23rd, 24th, and 26th, expanded the right to vote. In the aftermath of the Civil War, the 13th amendment outlawed slavery and the 14th gave us due process of law and the equal protection of the laws. The 16th amendment gave us the income tax. The only amendment that restricted personal freedom was the 18th – “prohibition” – which was repealed by the 21st.

The 18th amendment was an anomaly. Besides being the only one to be repealed and the only one to cause misery and violence, it was the only amendment that did not address the structure of a republican form of government. It was social legislation that did not belong in the Constitution.

To the great credit of the American people, no amendment has ever restricted political freedom or touched any of the guarantees of the Bill of Rights except to expand them.

The amendment that is now proposed to ban the desecration of the American Flag as a political statement would be the first to lop off a corner of the Bill of Rights. It would be only the second attempt to contaminate the constitution with social legislation.

In many parts of the world, political systems are thought to be so fragile that it is considered necessary to limit freedom in order to protect it. In some countries it is said that some political parties must be outlawed so that others may flourish, and some ideas and symbols forbidden so that others may be “freely” expressed.

The American theory is that freedom is not the child of tyranny, democracy will win in a free marketplace of ideas, and the cure for speech we oppose is more free speech, not less. Democracy is not sustained by suppressing ideas underground where they grow crooked and unopposed, but by exposing them to the light of day. Blessed with a durable democracy safe from demagogues, Americans speak and breathe free.

Alas, some Americans have little faith in America. American democracy, they contend, is too fragile for certain ideas and symbols. After two centuries, according to a majority of our House of Representatives, our old and feeble democracy is too weak to defend itself against a few miscreants burning a flag in an alley. We must limit freedom in order to protect it.

What Americans have to fear most are 435 Congressmen burning the Constitution on the floor of Congress. In disrespect for what the American Flag stands for, their act is no idle protest. It’s the real thing.