Most radical Congress of our time

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In a September 1976 letter to a group of young lawyers, Justice William O. Douglas cautioned them that the Constitution and the Bill of Rights are not self-executing.

"As nightfall does not come all at once," he wrote, "neither does oppression. In both instances, there is a twilight. And it is in such twilight that we all must be aware of change in the air — however slight — lest we become unwitting victims of the darkness."

The current Congress is creating more than slight changes in the air of American liberty and justice. More than any other Congress in the nation's history, the radical Republican majority — unimpeded by the largely passive Democratic minority — has been subverting the Bill of Rights.

The 1798 Federalist Congress (the Alien and Sedition Acts), the 1918 Congress (the Sedition Act) and the Congresses which encouraged the Red Scare from the 1920s on have been dwarfed by this 104th Congress. The present damage is wider and deeper.

The House has made the Fourth Amendment meaningless by removing the rule that illegally obtained evidence cannot be admitted at trial. After the first of the year, the Senate, under the leadership of Orrin Hatch (R-Utah), will complete that job.

The House has so limited a convicted defendant's constitutional right to federal judicial review of state sentences that extensive additions to death rows will be necessary. The Senate will also soon bury this habeas corpus right.

The omnibus crime bill on the Senate's agenda allows expanded wiretapping by the FBI, whose judicious use of its powers has again been scarily documented in recent months.

And Congress is about to either abolish the Legal Services Corp. entirely or — while cutting its funds — prevent these lawyers for the poor from filing any class action suits or protecting various constitutional rights of their clients.

In the law, the poor will remain separate and immovably unequal — as the Christian Coalition, an enthusiastic lobbyist for the bill, applauds. Has Ralph Reed revised the Sermon on the Mount?

This is also the Congress that is so eager to speed executions that it is about to end federal financing for the 20 death penalty resource centers — Post-Conviction Defender Organizations — around the country. These centers are composed of attorneys — earning an average of $30,000 a year — all of whose clients are on death row. In addition, they recruit and train private attorneys from establishment firms who volunteer to take cases.

Esther Lardent of the American Bar Association has told the National Law Journal about the impact of regular resource center lawyers:

"For the first time in many cases you have a highly specialized lawyer up against a highly specialized prosecutor, both of whom do this work all the time. It's a level playing field that some prosecutors are not used to."

I have reported on cases taken by lawyers for the centers, and a significant number have resulted in longtime residents of death rows — eight, 10, 12 years — being saved from their last meal as evidence is found of their innocence or of rampantly unconstitutional behavior by prosecutors before and during their trials.

None of this record of restoring simple justice, and life, to some of the condemned has had any noticeable impact on most members of Congress. Bob Inglis (R-S.C.)l the main sponsor of the bill to cut off resource center funds, insists:

"We should not be spending federal dollars to subsidize think tanks run by people whose sole purpose is to concoct legal theories to frustrate the implementation of the death penalty."

Such legal theories as due process?

The government will save, says Congressman Inglis, $20 million a year by stopping the funds. A brave move to balance the budget.

Has Colin Powell anything to say about the present Congress' wide-ranging assaults on the Bilh of Rights? President Clinton has voiced no objections. And much of the press — especially television news — has allowed the twilight of freedom to darken.