

**COMMENTARY**

# Bill of Rights faces serious tests

Search, seizure interpretations differ broadly

By Hasan Jafri  
Emerald Contributor

1991 marks the bicentennial of the Bill of Rights, the 10 amendments to the U.S. Constitution that protect individuals against government intrusion.

In 1791 the Bill of Rights guaranteed the people free speech, free press, free exercise of religion, restrictions on the power of police to search homes and due process of law, to name a few.

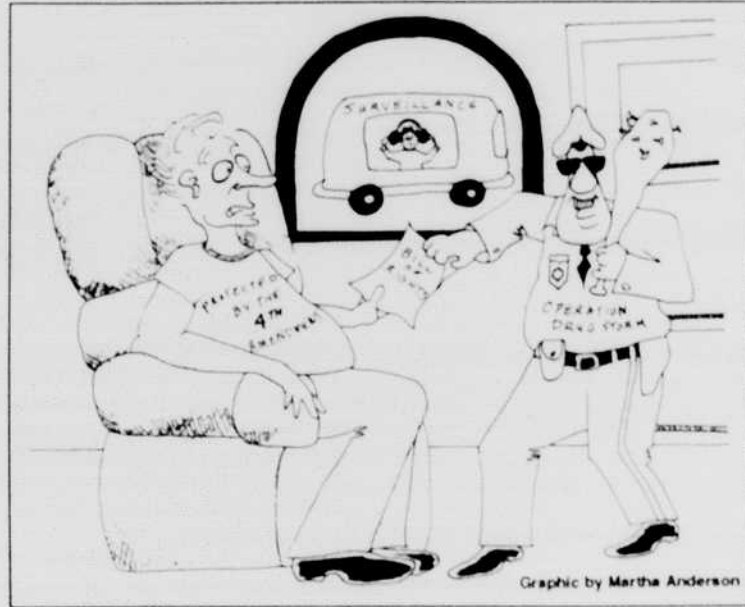
Two hundred years later, according to some observers, the Bill of Rights is losing its powers.

Indeed, the Bill of Rights has seen some serious tests recently. The Supreme Court ruled that flag burning is a legitimate form of political expression protected by the First Amendment.

However, the highest court of the land decided that using peyote in Native American religious ceremonies is not protected the First Amendment. The court also held that random drug testing of public employees did not violate the search and seizure protection of the Fourth Amendment.

Some observers view these actions as a broad interpretation of the Bill of Rights, while others view them as curtailments of individual freedoms.

"I would say there is serious erosion of rights," said Stevie



Graphic by Martha Anderson

Remington, executive director of the Oregon chapter of the American Civil Liberties Union. "They are cutting back on decisions that are 50 years old."

Tom Coffin, a Eugene federal prosecutor who teaches law at the University, sees it differently.

"The Bill of Rights is alive," Coffin said. "If something is alive, it breathes, it exhales and inhales. There is expansion and contraction. There is a certain mindset that the Bill of Rights is to expand civil liberties, and anything else is contrary to it."

David Schuman, a constitutional law professor at the University, said Americans are not particularly fond of the Bill of Rights.

"I think Americans have a strange relationship with the

Bill of Rights," he said. "On one hand, they worship the crowning achievement of the American democratic experiment."

"On the other hand, I think that if the people could vote thumbs up or down on a proposition to repeal the Bill of Rights, they will vote in favor of repealing it."

The most serious erosion, Schuman said, is in the Fourth Amendment, which protects individuals from unnecessary search and seizure. The Fourth Amendment has come to be identified with criminals who are caught with evidence, especially in the war against drugs, he said.

In a 1989 Gallup poll, 79 percent of those surveyed responded

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