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Search and Seizure

William R. Wilson Jr.

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BOOK REVIEW

Search and Seizure. By John Wesley Hall, Jr.† Lawyer's Co-operative Publishing Company, Rochester, New York—Bancroft-Whitney Company, San Francisco, California. 1982. 768 pp. \$67.50.

*William R. Wilson, Jr.**

I hope John Wesley Hall, Jr. has not written a masterpiece on the art of hunting dinosaurs. He indicates in his preface that he does not think so. With characteristic trial lawyer confidence, he chose to ignore predictions that the fourth amendment will be rendered impotent by Court decisions. Given the current philosophy of several Supreme Court Justices, some are not so sanguine about the future of the exclusionary rule, and none but the most naive would argue that the fourth amendment is naught but for this evidentiary rule.

Be that as it may, Hall has given the legal profession a seven hundred page masterpiece on this fifty-four word segment of the Bill of Rights. His book will be of inestimable value to professors, students, practicing lawyers and, hopefully, to the bench.

The Preface gives the reader a good road map to commence a journey through the treatise and a good sense of the scholarly yet practical treatment John Hall has given the subject.

In six major parts, each exhaustively researched and succinctly reported, Hall explores the full range of fourth amendment issues.

The historical overview of the fourth amendment covered in Part One will do more than satisfy one's curiosity. It helps one realize that a specific prohibition against unreasonable searches and seizures was of burning importance to our founding fathers. The abuse of the writs of assistance and general warrants helped stir the colonies to revolution, and, later, the fourth amendment was adopted in an attempt to curb such abuses.

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Part Two inspects the precise interest protected by the fourth amendment—the current reasonable expectation of privacy standard enunciated in *Katz v. United States*¹—and explores the law of consent searches and the renewed interest in the inapplicability of the amendment to numerous circumstances.

Part Three, the heart of the treatise, undertakes black-letter law discussions of major substantive issues. From the obvious topics—probable cause, warrant requirements and the exceptions, exigent circumstances and “stop and frisk”—to the not-so-obvious—administrative searches and subpoenas duces tecum—they are all there, and their tenets are thoroughly explored.

Part Four addresses the procedural issues pertinent to a search and seizure problem, and Part Six carries this discussion to its logical extension on the subject of trial tactics and judicial review. Part Five is a good sounding on all aspects of the exclusionary rule itself.

The book gives the garden variety, black-letter rules to be sure; but it also carefully explores the not-so-common questions which law students and practitioners face from time to time. For example, in Chapter Three one can get a firm grasp of the expanded notion of “curtilage” under current case law.²

The book is a valuable tool from whatever perspective you approach the fourth amendment. The practitioner is treated to numerous “checklists,” handy for both analyzing and presenting his or her case. Law professors and the bench have a well-written tome clarifying murky waters.

Obviously it will bring immediate relief to the practitioner who is often faced with the awesome task of jumping from one source to another in an attempt to commence his refined research in a specific case.

For the general practitioner, who, in the past, has been in dire need of general reference material when facing a search and seizure question, Mr. Hall's book is the only crap game in town. Fortunately, the refined, thorough scholarship makes the book a major contribution to this large area of procedural, substantive and evidentiary law.

1. 389 U.S. 347 (1967).

2. J. HALL, SEARCH AND SEIZURE §§ 3:21, :22 (1982).