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## Complete Manual of Criminal Forms, Federal and State. by F. Lee Bailey and Henry R. Rothblatt.

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## BOOK REVIEWS

COMPLETE MANUAL OF CRIMINAL FORMS, FEDERAL AND STATE. By F. Lee Bailey and Henry R. Rothblatt. Rochester, New York: The Lawyers Co-operative Publishing Company, 1968. 835 pages. \$35.00.

PAUL IVAN BIRZON\*

While a sense of modesty might cause the average author to flush at the suggestion that the word "complete" be permitted to characterize his product, in the instance of the work under review, the choice of title—if presumptuous—is at least reasonably accurate. Of course, there will be some among the approximately four thousand lawyers in the United States actively engaged in the practice of criminal law who will fail to find this collection of 1,079 forms to be *entirely* complete. Nevertheless, even they will be driven to conclude that it is the *most* complete manual of criminal law forms for the regrettable reason that competitors are almost nonexistent. Thus, the timeliness of this volume's appearance is of more than passing significance and in all likelihood is a reflection of the swiftly changing character of the criminal law.

By its landmark decision in *Mapp v. Ohio*,<sup>1</sup> the United States Supreme Court ignited a virtual revolution in the administration of criminal justice. With each historic decision that followed in quickening beat,<sup>2</sup> the shackles of antiquity were shorn and fresh, new-fledged concepts of procedural due process developed at a seemingly furious pace.

In addition to steadily narrowing the "gulf between the illusion and reality of constitutional principle,"<sup>3</sup> the application of federal law to the critical stages of state criminal proceeding, ranging in scope from investigatory detention<sup>4</sup> to post-conviction review,<sup>5</sup> achieved unprecedented uniformity.

As the shadow of the Warren Court lengthened its reach, an increasing measure of each criminal case submerged beneath the surface of the trial—in glacial style—and a new image of the criminal lawyer began to take form and emerge.

Highly specialized as a consequence of the multitude of decisions which rushed forth from courts on every appellate level and increasingly intellec-

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1. 367 U.S. 643 (1961).

2. United States v. Wade, 388 U.S. 218 (1967); *Miranda v. Arizona*, 384 U.S. 436 (1966); *Escobedo v. Illinois*, 378 U.S. 478 (1964); *Malloy v. Hogan*, 378 U.S. 1 (1964); *Aquilar v. Texas*, 378 U.S. 108 (1964); *Douglas v. California*, 372 U.S. 353 (1963); *Gideon v. Wainwright*, 372 U.S. 335 (1963).

3. Pye, *The Warren Court and Criminal Procedure*, 67 MICH. L. REV. 249 (1968).

4. *Davis v. Mississippi*, 394 U.S. 721 (1969).

5. *Townsend v. Sain*, 372 U.S. 293 (1963); *Fay v. Noia*, 372 U.S. 391 (1963).

tualized by the demands of complex constitutional concepts,<sup>6</sup> the modern criminal practitioner quickly recognized the need for less reliance on trial wizardry and more emphasis on pre-trial motion practice.

For him and his less experienced brethren at the bar, the journey into the forbidding wilds of the criminal law is made navigable and charted by scores of forms for notices, petitions, affidavits and orders relating to each stage of the proceeding.

Whether one requires a form as basic as a Letter Advising Defendant of Retainer<sup>7</sup> or as unlikely as a Petition For Permission For Incarcerated to Marry,<sup>8</sup> it is available in one of the four parts into which the *Manual* is divided.<sup>9</sup> Although there is a conspicuous leaning toward forms for use in federal proceedings, and the forms for use in state proceedings leave the reader uninformed as to the particular state in which it presumably has been tested, the *Manual* by and large accomplishes that which it represents in its Foreword; that is, to "help the practicing lawyer prepare his motions and orders quickly, efficiently" and "to meet the needs of both the experienced and inexperienced criminal practitioner." While flashes of imagination are not present in abundance, the sections devoted to pretrial discovery are enlightening and functional and reflect the art of careful yet bold preparation of a criminal case.

It is unfortunate that the authors elected to refrain from accompanying the bones of their forms with the needed flesh of textual material or commentary. Indeed, it may well be the case that the *Manual* represents the only publication in the field of criminal law which purports to instruct the profession without the use of a single case citation in all of its 736 pages of forms. Four research sources are used exclusively and appear at the head of each section and subsection.<sup>10</sup>

However, the foregoing is not serious enough to cast doubt upon the effectiveness of this enterprise. The *Manual* should be greeted hospitably by the practicing lawyer whose criminal law library is now not complete unless a copy graces its shelves.

6. See, e.g., Mishkin, *The High Court, The Great Writ, and the Due Process of Time and Law*, 79 HARV. L. REV. 56 (1965), and Schwartz, *Retroactivity, Reliability and Due Process: A Reply to Professor Mishkin*, 33 U. OF CHI. L. REV. 719 (1966).

7. P. 5.

8. P. 706.

9. Part One: Pretrial Proceedings; Part Two: Trial; Part Three: Posttrial Proceedings; Part Four: Other Particular Matters.

10. AM. JUR.; A.L.R. 2d and 3rd; AM. JUR. PROOF OF FACTS. (Perhaps not without design, they all share a common publisher with the *Manual*.)