of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, see notes set out under section 81A of Title 28, Judiciary and Judicial Procedure, and preceding former section 21 of Title 48, Territories and Insular Possessions.

§ 3402. Rules of procedure, practice and appeal[1]

In all cases of conviction by a United States magistrate judge an appeal of right shall lie from the judgment of the magistrate judge to a judge of the district court of the district in which the offense was committed.

(June 25, 1948, ch. 645, 62 Stat. 831; Pub. L. 90–578, title III, § 302(b), Oct. 17, 1968, 82 Stat. 1116; Pub. L. 100–702, title IV, § 404(b)(2), Nov. 19, 1988, 102 Stat. 4651; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 18 U.S.C., 1940 ed., § 576a (Oct. 9, 1940, ch. 685, § 2, 54 Stat. 1059).

AMENDMENTS

1988—Pub. L. 100–702 struck out second par. which read as follows: ''The Supreme Court shall prescribe rules of procedure and practice for the trial of cases before magistrates and for taking and hearing of appeals to the judges of the district courts of the United States.''

1968—Pub. L. 90–578 provided that the appeal shall be of right, substituted ''a United States magistrate'', ''magistrate'', and ''magistrates'' for ''United States commissioners'', ''commissioner'', and ''commissioners'', respectively, and provided that the appeals be to the judge of the district court and not to the district court and that the rules of the Supreme Court relate to appeals to the judges of the district courts rather than to the district courts.

CHANGE OF NAME

''United States magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–702 effective Dec. 1, 1988, see section 407 of Pub. L. 100–702, set out as a note under section 2071 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of title 28, Judiciary and Judicial Procedure.

[1] Section catchline was not amended to conform to change made in text by Pub. L. 100–702.

CHAPTER 221—ARRAIGNMENT, PLEAS AND TRIAL

Sec.
3431. Term of court; power of court unaffected by expiration—Rule.
3432. Indictment and list of jurors and witnesses for prisoner in capital cases.
3433. Arraignment—Rule.
3434. Presence of defendant—Rule.
3435. Receiver of stolen property triable before or after principal.
3436. Consolidation of indictments or informations—Rule.
3437. Severance—Rule.
3438. Pleas—Rule.
3439. Demurrers and special pleas in bar or abatement abolished; relief on motion—Rule.
3440. Defenses and objections determined on motion—Rule.
3441. Jury; number of jurors; waiver—Rule.
3442. Jurors, examination, peremptory challenges; alternates—Rule.
3443. Instructions to jury—Rule.
3444. Disability of judge—Rule.
3445. Motion for judgment of acquittal—Rule.
3446. New trial—Rule.

§ 3431. Term of court; power of court unaffected by expiration—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Expiration of term without significance in criminal cases, Rule 45(c).

(June 25, 1948, ch. 645, 62 Stat. 831.)

REFERENCES IN TEXT

Rule 45(c) of the Federal Rules of Criminal Procedure, referred to in text, was rescinded Feb. 28, 1966, eff. July 1, 1966.

§ 3432. Indictment and list of jurors and witnesses for prisoner in capital cases

A person charged with treason or other capital offense shall at least three entire days before commencement of trial be furnished with a copy of the indictment and a list of the veniremen, and of the witnesses to be produced on the trial for proving the indictment, stating the place of abode of each venireman and witness, except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.

(June 25, 1948, ch. 645, 62 Stat. 831; Pub. L. 103–322, title VI, § 60025, Sept. 13, 1994, 108 Stat. 1982.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 562 (R.S. § 1033).

Words ''or other capital offense'' inserted after ''treason'' and ''jurors'' substituted for ''jury''. The concluding sentence ''When any person is indicted for any other capital offense, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial'' was omit-

ted. The change made by the revisers, permitting an additional day's preparation for trial in homicide, kidnapping, rape, and other capital cases seemed not unreasonable.

Words ''shall be delivered to him'', at end of section, were omitted as unnecessary.

Rule 10 of the Federal Rules of Criminal Procedure requires that the defendant in every case be given a copy of the indictment or information before he is called upon to plead. Thus there is no conflict between the rule and the revised section.

Minor changes in phraseology were made.

AMENDMENTS

1994—Pub. L. 103–322 inserted before period at end '', except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person''.

§ 3433. Arraignment—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Reading and furnishing copy of indictment to accused, Rule 10.

(June 25, 1948, ch. 645, 62 Stat. 831.)

§ 3434. Presence of defendant—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Right of defendant to be present generally; corporation; waiver, Rule 43.

(June 25, 1948, ch. 645, 62 Stat. 831.)

§ 3435. Receiver of stolen property triable before or after principal

A person charged with receiving or concealing stolen property may be tried either before or after the trial of the principal offender.

(June 25, 1948, ch. 645, 62 Stat. 831.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§101, 467 (Mar. 4, 1909, ch. 321, §§48, 288, 35 Stat. 1098, 1145).

Other provisions of sections 101 and 467 of title 18, U.S.C., 1940 ed., were incorporated in sections 641 and 662 of this title.

Necessary changes were made in phraseology.

§ 3436. Consolidation of indictments or informations—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Two or more indictments or informations triable together, Rule 13.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3437. Severance—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Relief from prejudicial joinder of defendants or offenses, Rule 14.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3438. Pleas—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Plea of guilty, not guilty, or nolo contendere; acceptance by court; refusal to plead; corporation failing to appear, Rule 11.

Withdrawal of plea of guilty, Rule 32.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3439. Demurrers and special pleas in bar or abatement abolished; relief on motion—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Motion to dismiss or for appropriate relief substituted for demurrer or dilatory plea or motion to quash, Rule 12.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3440. Defenses and objections determined on motion—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Defenses or objections which may or must be raised before trial; time; hearing; effect of determination; limitations by law unaffected, Rule 12(b).

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3441. Jury; number of jurors; waiver—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Jury trial, waiver, twelve jurors or less by written stipulation, trial by court on general or special findings, Rule 23.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3442. Jurors, examination, peremptory challenges; alternates—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Examination and peremptory challenges of trial jurors; alternate jurors, Rule 24.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3443. Instructions to jury—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Court's instructions to jury, written requests and copies, objections, Rule 30.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3444. Disability of judge—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Disability of judge after verdict or finding of guilt, Rule 25.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3445. Motion for judgment of acquittal—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Motions for directed verdict abolished.

Motions for judgment of acquittal adopted; court may reserve decision; renewal, Rule 29.

(June 25, 1948, ch. 645, 62 Stat. 832.)

§ 3446. New trial—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Granting of new trial, grounds, and motion, Rule 33.

(June 25, 1948, ch. 645, 62 Stat. 832.)

CHAPTER 223—WITNESSES AND EVIDENCE

Sec.
3481. Competency of accused.
3482. Evidence and witnesses—Rule.
3483. Indigent defendants, process to produce evidence—Rule.
3484. Subpoenas—Rule.
3485. Expert witnesses—Rule.