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### The Federal Rules of Criminal Procedure

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## FEDERAL RULES OF CRIMINAL PROCEDURE

After the FEDERAL RULES OF CIVIL PROCEDURE (1938) established a uniform set of procedures for the trial of civil cases in federal courts, Congress authorized the SUPREME COURT to make rules for the trial of federal criminal cases as well. With two Justices dissenting, the Supreme Court adopted the rules in 1944 and submitted them to Congress, which, by silence, approved them.

Before adoption of the rules, the trial of federal criminal cases was regulated by a varying and uncertain mixture of state and federal rules. The first achievement of the Federal Rules was simplification and clarification. The second was uniformity: the same rules would govern the major aspects of federal criminal trials all over the country. The federal appellate courts would now need to know only one body of procedural law, and all federal defendants would now enjoy similar rights and bear similar burdens.

Certain of the changes worked by the rules—for example, the substitution of a simplified complaint for the

old, highly technical forms of INDICTMENT, and the consolidation of defense motions under a single heading—were clear gains by any measure. But probably the most significant achievement of the rules was to focus national attention on the regulation of the criminal process, which has consumed an enormous amount of professional and public attention ever since. Surely it was no accident that *McNabb v. United States* (1943), holding inadmissible a statement obtained from a suspect whom federal officers illegally detained, was decided while the rules were being considered; nor that *McNabb* was later reaffirmed in *Mallory v. United States* (1957) on the basis of Rule 5. (See MCNABB-MALLORY RULE.)

The rules have played a significant part in the expansion and clarification of defendants' rights: as an independent source of law, as a model for constitutional judgments, and as a means by which constitutional judgments could be elaborated. Two examples are illustrative. Rule 11, governing guilty pleas, was used as a guide in constitutional decision making and was itself amended to reflect and to elaborate case law. Rule 41, governing SEARCH WARRANTS, has likewise been modified to elaborate Supreme Court holdings, with respect, for example, to the permissible objects of search, and has also been used as a guide by the Court.

The administration, amendment, and interpretation of the Federal Rules have been heavily charged with constitutional significance, especially in a time of fundamental rethinking of the relation between government and the accused. For the most part this process has been carried on in a public and openminded way, largely immune from politically motivated oversimplifications.

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