
State v. Agnew.

STATE V. AGNEW.

INDICTMENT: *Signature to indorsement.*

The statutory provision that the indorsement, "a true bill," on indictments, shall be signed by the foreman of the grand jury, is directory, and where such signature is omitted, objection to the irregularity is waived unless made before pleading.

APPEAL from *Logan* Circuit Court.

H. F. THOMASON, Judge.

Agnew was indicted and on trial for the sale of intoxicating liquors without a license. After the evidence for the State had been closed, and while a witness for the defense was being examined, the court discovered that the indorsement, "A true bill," on the back of the indictment had not been signed by the foreman of the grand jury. The court thereupon, on its own motion, discharged the jury and dismissed the cause on the ground that there was no indictment upon which the defendant could be convicted. The State excepted and appealed.

Section 2102 Mansfield's Digest provides that where an indictment is found "it must be indorsed 'a true bill,' and the indorsement signed by the foreman."

W. E. Atkinson, Attorney General, for appellant.

1. While in England the indorsement "*Billa Vera*," signed by the foreman of the grand jury, is absolutely essential, with us the matter is a form; the statute is directory merely, and any objection to it may be waived. 14 *Mo.*, 94; *Morris (Iowa)*, 332; 1 *Nott & McCord*, 256; 6 *Iredell* 440. If the record shows the finding or return into court of the indictment, it will render the indorsement unnecessary, as this sufficiently authenticates the indictment. 6 *Ire.*, 440; 24 *Tex.*, 135; 33 *ib.*, 444; 23 *ib.*, 599; 21 *Cal.*, 372-3.

Even where the indorsement and signature are held requisite, the objection must be taken in the preliminary stage of

the proceedings. 47 Mo., 274; 10 Minn., 223, and cases *supra*.

See, also, 28 Ark., 411; 33 *id.*, 174. Defendant should have been held to answer a new indictment any way. *Mansf. Dig.*, 2158.

PER CURIAM: The provision that the foreman of the grand jury shall sign the indorsement, "A true bill," upon indict-
ment: ments, is directory, and the objection to the irregu-
 larity is waived, unless made before pleading.

People v. Lawrence, 21 Cal., 372; *State v. Mertens*, 14 Mo., 94; *State v. Creighton*, 1 Nott & McCord, 256; *Wam-kod-chow-neck-kow v. U. S., Morris*, 1 Iowa, 332; *State v. Cox*, 6 Ire., 440; *State v. Powell*, 24 Texas, 135; *State v. Murphy*, 47 Mo., 274; *State v. Shipley*, 10 Minn., 223; *State v. Brandon*, 28 Ark., 411; *State v. Johnson*, 33 Ark., 174.

Reverse and remand, with directions to put defendant upon his trial.
