

Superior Court, 281 Pac. 391; *People v. Peter*, 128 Pac. 475; *Ex parte Baxter*, 249 Pac. 610; *Griffith v. State*, 254 Pac. 112; *State v. Clark*, 168 Pac. 944; *State v. Rose*, 261 Pac. 391; *People v. Rucker*, 8 Pac. (2d) 938; 16 C. J. 444.

The stipulation is so broad in its scope, so air-tight, as it were, in the language used, that only one conclusion can be reached under the authorities, namely, that the defendant has effectively waived the right to invoke the provisions of said section 12223.

Furthermore, we think the maxim, "he who consents to an act is not wronged by it," has peculiar application to a situation of this kind and strengthens the position of the state. *State v. Roop*, 73 Mont. 177.

Opinion No. 120

Criminal Law—Stipulations—Waiver —Trial.

HELD: Under the stipulation presented, the defendant has effectively waived the right to invoke the provisions of Sec. 12223 giving him the right to a trial within a period of six months.

March 20, 1933.

We are in receipt of your request for an opinion as to whether or not a stipulation between the county attorney of Cascade county and the defendant and his counsel in *State v. Tirogolas* to the effect that the case may be tried during the next regular jury term of the district court in Judith Basin county (a change of venue having been granted) and that, so far as the defendant is concerned, a trial within six months after the filing of the information is waived, prevents him from claiming the benefit of section 12223, Revised Codes of Montana, 1921.

It is well settled that a defendant may lose the right to invoke this statute in any one of at least three different ways: (a) by going to trial without objection after the passage of the six-month period; (b) by moving for and obtaining a postponement of the trial; and (c) by agreeing with the plaintiff that the trial may take place after the lapse of the six-month period. *State v. Test*, 65 Mont. 134; *State v. Turlok*, 76 Mont. 549; *Ray v.*