

Jury—Drawing—Black Capsules.

The law providing for the use of black capsules in drawing a jury is not retroactive and a jury drawn prior to the approval of the law is a legal jury.

March 1st, 1919.

Mr. Frank Hunter,
County Attorney,
Miles City, Montana.

Dear Sir:

I am in receipt of the following telegram from you:

"Criminal trial jury called February 8th to try cases beginning March 10th. Is Black Capsule Law retroactive?"

And I wired you as follows:

"Black Capsule Law not retroactive and not necessary to call another jury. Letter today with copy of law."

Examining the provisions of this bill I am of the opinion that it is not retroactive in any respect and that a trial jury drawn in the manner provided by Sec. 6350, before February 21st, the date the act was approved, is a legal jury. However, when the persons drawn as trial jurors appear in court, the names of those qualifying and selected must be placed in black capsules and then the capsules placed in the trial jury box, required by Section 6368, before a jury is called for the trial of a case. Also the names now in jury boxes Nos. 1, 2 and 3 must be placed in black capsules before names can hereafter be drawn from any of such boxes.

I am sending you herewith copy of this bill. It is not an exact copy as some two or three slight amendments were made to it, but none of such amendments changed the substance of its provisions, being merely changes in phraseology.

Respectfully,

S. C. FORD,
Attorney General.