

1992

# Utah v. James C. Quada : Brief of Appellant

Utah Court of Appeals

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BRIEF

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DOCKET NO. 920778

IN THE COURT OF APPEALS FOR THE STATE OF UTAH

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STATE OF UTAH,	:	
	:	
Plaintiff-Respondent,	:	Case No.
	:	
v.	:	Utah Court of Appeals 920778-CA
	:	Utah District Court 92140096
	:	
JAMES C. QUADA	:	
	:	
Defendant-Appellant.	:	

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BRIEF OF DEFENDANT-APPELLANT

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APPEAL FROM A CONVICTION OF EVADING,  
A THIRD DEGREE FELONY AND  
RESISTING ARREST, A CLASS B MISDEMEANOR  
IN THE FOURTH JUDICIAL DISTRICT COURT  
IN AND FOR UTAH COUNTY, STATE OF UTAH

THE HONORABLE BOYD L. PARK, PRESIDING

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FILED

AUG - 6 1993

COURT OF APPEALS

## **JAMES C. QUADA**

### ***Supplement to the Brief***

Let the record show that I am now in my 15th day of incarceration. I have not yet been told that I am under arrest nor had a warrant served on me. I have had my Miranda rights read to me but immediately and ever since have they tried to violate them and have done so. I have not yet had the right to counsel of my choice and this leaves me at a great disadvantage, not knowing where to turn or what to do. I have had my own and other's property - lawfully in my control - confiscated without due process of law, thus violating my basic Constitutional rights. I have been denied access to a copy of the U.S. and Utah Constitutions and the Utah Code as well as other documents necessary in the preparation of my case. I have had immoral homosexual comments made to me by the Utah County Sherriff's office on 2-10-92 at about 5:00 p.m.. I have been denied the right to phone unless I deny my own basic rights to life liberty and property which I regard as sacred rights which I have not yet given up and so far have not had access to a phone. I have been brought before this court in bonds of chains without counsel after having been incarcerated 6 days having had no charge or warrants of arrest served on me to that time. At which time I stood mute before this court. This court showed no evidence that it was a competent court of jurisdiction to try this sovereign American free and natural citizen on the matter of the case.

This court assumed jurisdiction on both counts. I deny this court jurisdiction on both counts. Because this court assumed jurisdiction when I was not represented by counsel. I demanded all of my rights "sua sponte". This court did not advise me of my rights timely and has already violated many of them some of which I am aware of and some of which I am not. I therefore; assuming that this court will continue to assume jurisdiction and continue to deny my rights "sua sponte," demand all my rights at all times and in all places and under all circumstances including my rights "sua sponte". This court has violated my Miranda rights which I demand. This court is in the process of violating my Constitutional "Common Law" rights to a trial by a 12 man Constitutional Common Law Jury of MY peers. So that all may know who are MY PEERS, I declare myself to be a Sovereign American Citizen Free and Natural born and I am under bondage to no man and in no way. I am a merchant and trader AT LAW ON A CASH BASIS. To be my peer one must not only be in this condition or status, but have the same beliefs and principles of life. I demand the right to counsel and counsel of my choice. I have not yet recieved a copy of the charges against me even though I made such a request of the Sheriff 2-13-92 to which I have a receipted acknowledgement dated 2-14-92 @ 7 a.m.. I have been forced to go to the bathroom and bathe and everything else under the constant surveillance of a TV camera watched by both men and women violating my right to privacy without due process of law or counsel of my choice. In this matter I charge the

Utah County Sheriff with producing pornographic material and lay this matter before the citizens and this court.

We are guaranteed under the U.S. Constitution the right to life, liberty and property. These are basic "God-given" inalienable Constitutional Common Law rights. These rights are inter-connected one to another. In the fullest sense one cannot have the fullness of one of these rights without having the fullness of other two. If one is partially denied his right to property he is at the same time partially denied his right to life and liberty. If one's liberty is threatened his life and property are also threatened. At this time and in this matter my life and liberty and my property are being denied and threatened and that in the grossest of ways. To me this is the greatest robbery, the greatest rape, the greatest pillage in America today and with all my soul I hate such a system! For this cause, I stand with that great American patriot, that great lover of freedom, Patrick Henry and declare to this court and to all men "GIVE ME LIBERTY OR GIVE ME DEATH." This court has incarcerated me eight days to this time without the representation of council of my choice or due process of law under unlawful illegal and oppressive bail. I declare this to be and UNCONSTITUTIONAL BILL OF ATTAINDER!!!

Because this court has denied my rights in many instances and continue to do so, I declare this court incompetent to hear this matter at this time on this Sovereign Citizen.

I fear no man and I have enmity toward no man. I love the Constitutional law of my country. If I have taken anyone's life I am

willing to give mine before a firing squad. I have never avoided a court appearance and never intend to.

I commend myself into the hands of my Father and my God and His divine Son Jesus Christ whom I am trying to serve and represent. I acknowledge that I have many weaknesses and imperfections which I am trying to the best of my capacities to overcome and I hope someday to do so with the help of Almighty God. I want it fully and completely understood that I and I alone am fully and completely responsible for my thoughts and my actions. If I have hurt or offended anyone I ask their forgiveness and I stand ready to make restitution and I say I am truly sorry. I have nothing but my memory, paper, and pencil and most importantly the help of Almighty God. I therefore am not adequately prepared to defend myself.

May I address this court? Your honor have you taken an oath of office to uphold the Constitution of the United States of America? As such your honor are you an officer of the law? As such are you required to respect my Miranda rights? I declare that you have violated my Miranda rights and on this grounds and this alone at this time I demand that these charges be dismissed.

James C. Quada

**FEBRUARY 27, 1992**

To this time I have had less than 5 minutes with counsel and that not counsel of my choice. I requested Mr. Jenkins to have Mr. Elkins see me last week while here in court 2-19-92. This has not happened.

I declare this to be a violation of my Constitutional rights and grossly inadequate to my defense. I have not had access to proper matter or materials to aid in my own defense. I have written a letter to the Sheriff which I will read. I demand a private cell if I must be denied my liberty for my own safety and protection.

Alma 10:27 "...I say unto you, that the foundation of the destruction of this people is beginning to be laid by the unrighteousness of your lawyers and your judges."

I would add in our case not only is the foundation laid but the building is nearly completed and that what is termed "law enforcement agencies" are aiding and abetting in the process.

Alma 10:32 "Now the object of these Lawyers was to get gain; and they got gain according to their employ."

To me, this is true of "Judges" and "law enforcement" also and I see it as one large conspiracy feeding one another at the expense of the poor.

Hel 7:5 " Condemning the righteous because of their righteousness; letting the guilty and the wicked go unpunished because of their MONEY;...that they might get gain and glory of the world, and, moreover, that they might the more easily commit adultery, and steal, and kill, and do according to their own wills..."

I feel this is appropriate and to point and verily true.

3 NE 6:21 "...and those who were angry were chiefly the chief judges, and they who had been high priests and lawyers; yea, all those who were lawyers were angry with those who testified of these things."

I suspect that even now as then the truth is not wanted.

Ether 10:5-6 "...and did lay that upon men's shoulders which was grievous to be borne; yea; he did tax them with heavy taxes; and build many prisons, and who so would not be subject unto taxes he did cast into prison; and whoso was not able to pay taxes he did cast into prison; and he did cause that they should labor continually for their support; and whoso refused to labor he did cause to be put to death."

I cannot find words to more perfectly express the situation we are in today in America. We may escape death but in America today it is impossible to escape taxes under this wicked tyrannical system. I pray Almighty God to come out in the fury of his wrath and destroy this wicked Satanic System. I rebel against taxing my labor which is my property. I rebel against taxes on my rights to ingress and egress to the highways and waterways of my country. I rebel against Sheriffs and on their personell or Judges and their courts or lawyers taxing me in my person or my property thus threatening my life not only by denial

but in very deed. May God grant that the eyes of the blind may be opened that they may see their awful situation and may He as well as myself have compassion on them. I can only tell the truth I cannot contend or fight or argue for these are principles of Hell. I am still willing to make restitution for any damage I have done to anyone's person or property. I declare the State has produced no such evidence and request my release. I rest my case in the hands of



Almighty God to whom I dedicate and consecrate my life and all that I have or am.

James C. Quada

P.S. I feel as did the Prophet Joseph Smith "I go like a lamb to the slaughter."

Note: I want you of the Jury to understand what is being done. this is a taxing system and they do not care who pays the tax. If I pay the tax I keep my freedom! If I refuse to pay the tax I go to jail and you the Jury and the poor citizens pay the tax by keeping me in jail. Why do you think real criminals, murderers etc. stay in prison 10-15 years before being executed? It is a matter of money they want the money you pay to keep them there. What would happen if every person in Utah who got a traffic ticket elected his right to go to jail? Would it not break this corrupt Satanic System? Satan proposed to force all to do right before we came here and all he wanted was the glory, honor, praise, power and authority over us as his reward. Is there any difference in this and giving a ticket to someone and fining them before anyone's life liberty or property is damaged or destroyed? God allows one his agency to violate law and suffer the consequences based on that law and nothing else. Satan stops you before you commit the crime and takes away your agency! That is the system we have here today. IT IS SATANIC!!! I hate this system and will fight it until

the last breath issues from my soul!!! I pray you the Jury will do likewise. Your LIFE, LIBERTY and PROPERTY and most especially your FREE AGENCY depend on it.

Jurors do you know who hires the public defender? The County Attorney does!!! Who is prosecuting me? The County Attorney!!! Is the public defender's allegiance to "The County Attorney" through whose agency he receives his pay? Can I get competent counsel under this circumstance? Will the public defender appeal all the way to the Supreme Court? If not can I get JUSTICE? See Exhibit "A"

APRIL 6, 1993

I feel it necessary at this time to give the background for my actions. I cannot remember dates but about March 1991 I was given a speeding ticket by Lehi City Police I believe for 35 in a 25 MPH zone. I went before a Justice of the Peace and was fined \$25.00 and at my request was given the option of spending one night in the Utah County Jail from 6PM to 6AM. This is on citation #1668. I reported to the jail on a Monday evening at 6PM. I refused to give my fingerprints, fill out a form or have any picture taken. My fingerprints and my photo are my property and are constitutionally protected and I choose not to give up constitutional rights. Filling out a form would violate my right to privacy and I choose not to give up that right. The jailer refused to admit me and called the J.P. I believe his name

was Worthen and he requested me to return to Lehi the next Monday which I did although I felt I had met the requirement of "the law" by reporting to jail. Hi increased the fine to \$35.00 and gave me no option of going to jail and required it be paid in 30 days. At this point I am under double-jeopardy! I did nothing. In September 1991 I received a letter dated September 6th stating a warrant for my arrest has been issued and will be held 5 days pending my paying \$35.00 cash bail. I did nothing. A warrant was issued for \$150.00 which is triple-jeopardy as there are 3 different fines and apparently 3 different trials for one offense. The Lehi case number is 377-91. What options does a Sovereign Citizen have against such "law" and such "administration"? I cannot support or sustain such a system as I believe there has been no crime and there are no damages and there is no victim. No jury of MY PEERS would assess me in any way for speeding until there was an accident and I was judged by a jury at fault. So again I did nothing.

Now we come to 5 Feb 1992. I was stopped on a dark country road near Lehi and detained 30 to 45 minutes. I was asked to get out of the car which I refused. I suspected they may be after me for the previous situation but I must resist such an action in order to uphold my constitutional rights for if I voluntarily give them up I lose them. I might add here that God-given inalienable Constitutional Common-Law rights are more precious to me than life itself for without them there is no LIFE. Me forefathers shed their blood to bequeath

these rights, blessings and privileges to me and I am willing to do the same for my posterity. I drove away at this point as I had been served no papers nor told I was arrested and in fact to this date 4-6-93 I have not been served with any papers or told I was under arrest. I was eventually surrounded by police and I stopped the vehicle on private property at a friend's house. I was using a friend's car there was a wrecker at the scene before they broke into the car and got me out and handcuffed me and took me to jail. The car was soon towed away and impounded claiming it to be abandoned. John's towing wanted over \$200.00 to get the car back and I told them the car was not worth that much and he dropped it to \$150.00 and I told him it was not worth that to me and he finally let me have it for \$75.00 and I paid \$18.00 to get another window which sheriff deputy Pickup broke. I spent 22 days in jail. A "Bill of Attainder" "is a legislative act which inflicts punishment without a judicial trial." The breaking of the window the impounding of the car and placing me in jail for 22 days all are violations of Article I Section 9 of the U.S. Constitution. This and this alone is more than grounds for the dismissal of the case. In fact I should be compensated for the 22 days I spent in jail unjustly and for the broken window and the impound fee and all those who have violated the Constitution should be tried at law. "No citizen shall be deprived of life, liberty or property without the judgement of his peers." Senator George Vest Congressional Record Vol. 13 page 1214.

"I regard public office as a public trust and that officers are SERVANTS, not the MASTERS of the people." Heber M. Wells first Governor of Utah Jan 6, 1896.

Part of the time I was in jail I was held on "20,000.00 bail when I was released I was let out on my own recognizance. Was this not excess bail a violation of the Constitution under Article VIII? Was this not a "Bill of Attainder"?

Sua Sponte

Do I not have a right to a trial by a jury of my peers before imprisonment? This is adequate grounds for dismissal. I want now to discuss how I have been represented. I have been represented by Mr.'s Jenkins, Madsen, Elkins, Musselman, and Hatch! Each separately and at different times and in this order. I requested Mr. Jenkins to have Mr. Elkins contact me in jail. I wrote a letter to Mr. Madsen and left it with his secretary requesting an interview. I requested an interview with Mr. Musselman through his secretary while she was on the phone with him. None of these requests were granted!!! I requested trial be delayed by Judge Park as nobody had yet talked with me or prepared my defense. This was denied. Thus I have been deprived of my right to counsel and the right to properly defend my case and Judge Park forced me to proceed under these terms with this knowledge. I protest now as I did then. This is a flagrant violation

of VI Amendment to the U.S. Constitution and is adequate grounds for dismissal of this cause which I demand.

Judge Park stated in court out of the hearing of the Jurors, "I do not believe it is possible to go 60 miles per hour in a two block distance and turn both corners." I agree with the Judge in this especially with a 1973 Ford Pinto station wagon in poor condition. Yet I have been convicted of a felony for doing something the car cannot do. This just because a jury "not my peers" took a public SERVANT'S word over that of his MASTER! I protest. This is grounds for dismissal. Please find enclosed a copy of an add placed in the Daily Herald June 15 through 21, 1992 requesting a proposal of sealed bid to be "Utah County Public Defender" to be hired by the County Commission for the year 1993. If the County Attorney is paid by the County Commission and the public defender is also paid by the county commission and the County Attorney has anything to do with the hiring of the Public Defender are they not both obligated to the county commission or to the "same master"? Does this make them "partners in crime" so to speak? Is not the Public Defenders first allegiance to the County Commission/ Does not the County Commission want taxes and fines from the Public directly or indirectly? If I get fined does not the system get back the cost of paying the Public Defender? If I refuse to pay a fine and only serve time in jail do they not get their taxes from the general public in property taxes. Is it possible under such a system for me and my interest to be truly represented? Can we have "Liberty and Justice for All" under such a system? Does this not

violate my Constitutional Rights under VI Amendment rights? Is this not more than grounds enough for the dismissal of this cause?

Regarding Jury instructions: The charge to the jury in the first jury trial before the Supreme Court of the U.S. illustrates the TRUE POWER OF THE JURY. In the February term of 1794, the Supreme Court conducted a jury trial in the case of the State of Georgia vs. Brailsford, et al 3 Dall.1 "...it is presumed, that, juries are the best judges of facts; it is, on the other hand, presumed that the courts are the best judges of law, But still BOTH objects are within your power of decision... you have a right to take upon yourselves to judge of BOTH, and to determine the LAW as well as the fact in controversy," (Emphasis added) (State of Georgia vs. Brailsford, et al 3 Dall.1)

The U.S. Court of appeals for the District of Columbia has clearly acknowledged, there can be no doubt that the jury has an "...unreviewable and unreversible power...to acquit in disregard of the instructions on the law given by the trial judge..." U.S. vs. Dougherty, 473 F2d. 1113,1139(1972). The jury was improperly instructed and was not told of their power thus violating my VI Amendment rights. I request dismissal of this case on these grounds.

The V Amendment of the U.S. Constitution says "No person shall be held to answer for a capital OTHERWISE INFAMOUS crime, unless on a presentment or indictment of a grand jury.." This right has been violated and I ask for dismissal.

My IV, V, VI, VII, VIII, IX, X, XIII, Amendments rights have all been violated and I ask for dismissal.

The following is quoted from Bouvier's Law Dictionary, A Concise Encyclopedia of the Law, Rawle's Revision, Third Revision (8th ed. 1914) pp 1769-1784.

The term "jury," as used in the CONSTITUTION, means twelve competent men disinterested and impartial, not of kin nor personal dependents of either of the parties, having their homes within the jurisdictional limits of the court, DRAWN AND ELECTED BY OFFICERS FREE FROM ALL BIAS IN FAVOR OF OR AGAINST EITHER PARTY; duly impanelled, and sworn to render a true verdict, according to the law and evidence; State v. McClear, 11 Nev. 39. (p. 1769)

Under the fourteenth amendment a jury trial is guaranteed to municipal offenders sentenced to infamous punishment and a STATUTE FOR THE SUMMARY INFLICTION OF SUCH PUNISHMENT IS UNCONSTITUTIONAL: Jamison v. Wimbish, 130 Fed. 351. (p. 1771)

The number of jurors must be twelve; and it is held that the term jury in constitution imports, *ex vi termini*, twelve MEN People v. Justices, 74 N.Y. 406; Turns v. Com., 6 Metc. (Mass) 231; Norval v. Rice, 2 Wis 22; whose verdict is to be unanimous; Cruger v. R. Co., 12 N.Y. 190. See State v. McClear, 11 Tex. 39, *supra*. (p. 1771)

The question whether the common law REQUIREMENT OF TWELVE jurors may be changed has in recent years received much attention in the courts. There has been a growing tendency, at least, towards the serious consideration of changes in the jury system as administered at



common law and secured by the state and federal constitutions. See GRAND JURY. The decided weight of authority is that, where the right to trial by jury is secured by the constitution, the legislature cannot authorize a verdict by a less number than twelve; that the constitutional reservation implies a right to the concurrent judgment of that number, and any statute limiting it is UNCONSTITUTIONAL and VOID; Opinion of Justices, 41 n. 550; Jacksonville, T.&K.W.R. Co. v. Adams, 33 Fla. 608, 15 South. 257, 24 L.R.A. 272; Bradford v. Territory, 1 Okl. 366, 34 Pac. 66; Bettge v. Territory, 17 Okl. 85, 87 Pac. 897; Cancemi v. People, 18 N.Y. 128; Harris v. State, 128 Ill. 585, 21 N.E. 563, 15 Am. St. Rep. 153; Carroll v. Byers, 4 Ariz. 158, 36 Pac. 499; and such, under the sixth amendment, must be the number of jurors, neither more nor less than twelve, that being the rule at common law; Thompson v. Utah, 170 U.S. 343, 18 Sup. Ct. 620, 42 L.Ed. 1061. Such is the meaning of "trial by jury" in the primary and usual sense of the term at common law in the American constitutions; Capital Traction Co. v. Hof, 174 U.S. 1, 19 Sup. Ct. 580, 43 L.Ed. 873, where there is an extended historical discussion of the subject by Gray, J., and it was held further that by the seventh amendment after trial by jury, in either the federal or state court, the facts tried and decided cannot be re-examined in any court of the United States except upon a new trial granted by the federal court or when ordered by the appellate court for error in law. Accordingly one charged with crime cannot waive a jury trial by twelve jurors; Jennings v. State, 134 Wis. 307, 114 N.W. 492, 14 L.R.A. (N.S.) 862.

While a person accused of an infamous crime, though not a felony, may waive the disqualification of jurors, or even their impartiality, such person cannot waive his right to a trial by a jury of twelve by consenting after a legal jury had been impaneled and two had been excused, to continue the trial and abide by the verdict of the remaining ten; *Dickinson v. U.S.*, 159 Fed. 801, 86 C.C.A. 625; *Hill v. People*, 16 Mich. 351; per Cooley, C.J.; *contra*, *Com. v. Dailey*, 12 Cush. (Mass.) 80, per Shaw, C.J.; a later case being criticized in the case first cited; but there need not be a jury of twelve in civil cases; *City of Huron v. Carter*, 5 S.D. 4, 57 N.W. 947; *Roach v. Blakely*, 89 Va. 767, 17 S.E. 228; *Kreuchi v. Dehler*, 50 Ill. 176.

The constitutional right of a jury trial in criminal cases cannot be waived by one indicted for a felony so as to make valid a trial by eleven jurors; *Territory v. Ortiz*, 8 N.Mex. 154, 42 Pac. 87. This doctrine has been based upon various grounds. It was said in one case that the duty of the state to its citizens would prohibit a waiver of a full panel; *Cancemi v. People*, 18 N.Y. 128, Shaw, C.J., suggested that in some cases the defendant's chance of acquittal might be greater with eleven jurors than with twelve; and Cooley suggests the view that A JURY OF LESS THAN TWELVE IS A TRIBUNAL UNKNOWN TO THE LAW, and would amount to a mere arbitration, which is not allowable; *Const. Lim.*, 6th Ed. 391.

"Unanimity was one of the peculiar and essential features of trial by jury at common law;" *American Pub. Co. v. Fisher*.

The general principle is, however, that in criminal cases, the accused can neither waive his right to a trial by a jury of twelve nor be deprived of it by the legislature; *Cancemi v. People*, 18 N.Y. 128; *Allen v. State*, 54 Ind. 461; *State v. Carman*, 63 Ia. 130, 18 N.W. 691, 50 Am. Rep. 741 (*contra*, *State v. Kaufman*, 51 Ia. 578, 2 N.W. 275, 33 Am. Rep. 148); *State v. Davis*, 66 Mo. 684, 27 Am. Rep. 387; *Bell v. State*, 44 Ala. 393; *Williams v. State*, 12 Ohio St. 622; *Kleinschmidt v. Dunphy*, 1 Mont. 118; *Swart v. Kimball*, 43 Mich. 443, 5 N.W. 635. Judge Cooley, after stating that less than twelve would not be a common-law jury, or such as the constitution guarantees, adds, "AND THE NECESSITY OF A FULL PANEL COULD NOT BE WAIVED--AT LEAST IN CASE OF FELONY--EVEN BY CONSENT." *Const. Lim.*, 4th ed. 395. It was held that where one juror was an alien the failure to challenge him was not a waiver of the objection, and on the refusal of the court to set aside the judgment, it would be reversed, on error; *Hill v. People*, 16 Mich. 356; *contra*, *State v. Quarrel*, 2 Bay (S.C.) 150, 1 Am. Dec. 637. One accused of crime cannot waive the absence of one juror; *Jennings v. State*, 134 Wis. 307 114 N.W. 492, 14 L.R.A. (N.S.) 862 and note. (pp. 17773-74)

*Qualifications.* Jurors must possess the qualifications which may be prescribed by statute, must be free from any bias caused by relationship to the parties or interest in the matter in dispute, and in criminal cases must not have formed any opinion as to the guilt or innocence of the accused.

"1. They are to be good and lawful men. 2. OF SUFFICIENT FREEHOLDS, according to the provisions of several acts of parliament. 3. Not convict of any notorious crime. 4. Not to be of the kindred or alliance of any of the parties. 5. NOT TO BE SUCH AS ARE PREPOSSESSED OR PREJUDICED BEFORE THEY HEAR THEIR EVIDENCE." Cond. Gen. 297.

AT COMMON LAW THERE WAS A FREEHOLD QUALIFICATION, but to no certain amount; by 2 Hen. V. it was 40s.; Thomp. & Merr. Juries 20; Proffatt, Jury Trial § 115.

Under the common law the master, servant, steward, counsellor, or attorney, of either party is not a competent juror and statutory provisions of qualifications not inconsistent with this rule do not abrogate it; *id.*; Block v. State, 100 Ind. 357. (p.1774)

Where each of the jurors set down the term of imprisonment and divided the sum be twelve, but did not agree in advance to be bound by the result, the verdict could not be questioned; McAnally v. State (Tex.) 57 S.W. 832. (p. 1777)

...but in another such case it was held error for the court to exclude the jury during argument on the law by defendant's counsel; Patterson v. State (Tex.) 60 S.W. 557.

*Jurors taking notes.* Jurors may not take notes of the testimony of witnesses to refresh their memories in consultation with their fellow jurors; Com. V. Wilson, 19 Pa. Dist. Ct. 48, where Wiltbank, J., and experienced trial judge, directed notes so taken to be surrendered and sealed and returned to the jurymen after the trial.

The reason for this rule is said to be that "the jury should not be allowed to take evidence with them to their room except in their memory. It can make no difference whether the notes are written by a juror or be some one else. Jurors would be too apt to rely on what might be imperfectly written and thus make the case turn on a part only of the facts;" *Cheek v. State*, 35 Ind. 492; *Batterson v. State*, 63 Ind. 531; *Long v. State*, 95 Ind. 481. Where a justice of the peace, at the request of the jury after they had retired gave them without the consent of the parties his minutes of the trial, the judgment was reversed on *certiorari*, and this action was affirmed by the supreme court; *Neil v. Abel*, 24 Wend. (N.Y.) 185. (pp. 1778-79)

Coke says: "As the jury may, as often as they think fit, find a general verdict, I therefore think it unquestionable that they so far may decide upon the law as well as fact, such a verdict naturally involving both. In this I have the authority of Littleton himself, who hereafter writes, 'that if the inquest will take upon themselves the knowledge of the law upon the matter, they may give their verdict generally.'" (p.1779)

*Coercion of juries.* ANY COMMUNICATION OF THE JUDGE TO THE JURY AFTER THEY HAVE RETIRED EXCEPT IN OPEN COURT IS IMPROPER; *Sargent v. Roberts*, 1 Pick. (Mass.) 337, 11 Am. Dec. 185; *Texas Midland R. Co. v. Byrd*, 102 Tex. 263, 115 S.W. 1163, 20 L.R.A. (N.S.) 429, 20 Ann. Cas. 137; so id the judge entered the jury room, it is reversible error; *State v. Murphy*, 17 N.D. 48, 115 N.W. 84, 17 L.R.A. (N.S.) 609, 16 Ann. Cas. 1133; *Abbott v. Hockenberger*, 31 Misc. 587, 65 N.Y. Supp.

566; *Du Cate v. Brighton*, 133 Wis. 628, 114 N.W. 103; or sends additional instructions without the consent of or notice to parties or counsel; *Read v. City of Cambridge*, 124 Mass. 567, 26 Am. Rep. 690; *Quinn v. State*, 130 Ind. 340, 30 N.E. 300; *Fox v. Peninsular White Lead Works*, 84 Mich. 676, 48 N.W. 203; in some cases a new trial was refused because no prejudice resulted, but the practice was disapproved; *Galloway v. Corbitt*, 52 Mich. 460, 18 N.W. 218; *Moseley v. Washburn*, 165 Mass. 417, 43 N.E. 182; *State v. Olds*, 106 Ia. 110, 76 N.W. 644. Some cases hold that no consent will be implied but must be affirmatively shown; *Taylor v. Betsford*, 13 Johns. (N.Y.) 487; *Jones v. Johnson*, 61 Ind. 257; in other cases consent has been presumed; *Henlow v. Leonard*, 7 Johns. (N.Y.) 200. See a note on the subject generally, *State v. Murphy*, 17 L.R.A. (N.S.) 609.

Where the action of the trial judge and his remarks to the jury, when from time to time they are brought before him stating their inability to agree, amounts to coercion, the verdict must be set aside; *People v. Sheldon*, 156 N.Y. 268, 50 N.E. 840, 41 L.R.A. 644, 66 Am. St. Rep. 564, where Parker, C.J., discusses the subject at large.

(p.1783-84)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Submitted at the request of James C. Quada.

translator currently serving Provo and rural Utah County, Utah by rebroadcasting KUSU-FM, channel 218 (91.5 MHz).

The translator is located 24.5 km west of Provo, Utah.  
No. 5413 Published in The Daily Herald June 15, 1992.

**SUMMONS**  
Probate No.  
922400084AD  
IN THE FOURTH  
JUDICIAL DISTRICT  
COURT OF UTAH COUNTY  
STATE OF UTAH  
IN THE MATTER OF THE  
ADOPTION OF;  
AMBER LYNN PETERSON,  
A minor Child.  
THE STATE OF UTAH TO  
JAMES MICHAEL PETERSON:

You are hereby summoned and required to file an Answer in writing to Petition of Adoption with the Clerk of the above-entitled Court, located at 100 West 125 North, Provo, Utah 84601, and to serve upon or mail to, Cleve J. Hatch, Counsel for Petitioner, 40 South 100 West, Suite 200, Provo, Utah 84601 a copy of that Answer, within 30 days to the last date of service of this summons by publication. The parental rights of JAMES MICHAEL PETERSON are proposed to be permanently terminated after a hearing in this adoption proceeding. If you fail to file and answer, a Judgment terminating your parental rights under Utah law, and granting the adoption will be entered.

DATED this 29 day of May, 1992.  
Cleve J. Hatch  
Counsel for Petitioner  
No. 5420 Published in The Daily Herald June 15, 22, 29, 1992.

west, Provo, Utah, the personal property herein after described. Said personal property has been held by the Provo Police Department for more than 90 days, and all reasonable efforts have been made by the Provo City Police Department to find the owner thereof. No claim has been made of part of said property.  
CB Radios  
Car stereos  
Equalizers  
Radar detectors  
Speakers  
Cameras  
Calculators  
Watches  
Spotting Scope  
Compound bow  
Typewriter  
Camping equipment  
Other miscellaneous property  
No bicycles will be sold at this auction

Swen C. Nielsen  
Chief of Police  
Provo City Police  
No. 5365 Published in the Daily Herald June 3, 10, 15, 1992.

**INVITATION TO BID**  
ALPINE SCHOOL DISTRICT will accept bid proposals on thirty-one (31) 386-SX-25 computer work stations, and one (1) 486-33 file server. Bid specifications concerning this project may be picked up at the Purchasing Department, 90 North Church Street, American Fork, Utah. Further information may be obtained from Mr. Marlin McKinney, at 756-8442. All Bids must be returned to the Purchasing Department by 10:00 a.m. on June 30, 1992. The District reserves the right to reject any and all bids deemed not in the best interest of the School District.  
No. 5415 Published in The Daily Herald June 14, 15, 16, 1992.

Amendments of 1988, Public Law 100-297 to be in effect from July 1, 1992 through June 30, 1995) will be available for public review at the Utah State Office of Education, 250 East 500 South, Salt Lake City Utah, on weekdays from 8:30 a.m. to 5 p.m. throughout the month of June. For more information, contact Bill Cowan, Chapter 2 Specialist, State Office of Education, 538-7792.  
No. 5400 Published in The Daily Herald June 14, 15, 1992.

#### BID ANNOUNCEMENT

Provo City is accepting sealed bids for JANITORIAL SUPPLIES, BID NUMBER 666. Specifications and bid documents are available by contacting the Provo City Purchasing Department, 351 W. Center Provo, telephone number 379-6541. Sealed bids will be received at the Purchasing Division Office located at 351 West Center until JUNE 24, 1992 at 2:00 P.M. local time, at which time and place they will be publically opened and read aloud.

Les Holden  
Purchasing Manager  
No. 5419 Published in The Daily Herald June 15, 16, 17, 1992.

**NOTICE TO CREDITORS**  
IN THE FOURTH JUDICIAL DISTRICT COURT OF UTAH COUNTY, STATE OF UTAH  
In the Matter of the Estate of  
MARY NAOMI LAMB GILLIES,  
aka Naomi Gillies,  
Deceased.  
**NOTICE TO CREDITORS and ANNOUNCEMENT OF APPOINTMENT**

Estate of MARY NAOMI LAMB GILLIES, aka Naomi Gillies, Deceased.  
Roger Claude Gillies, whose address is 18 West 1080 North, American Fork, Utah 84003, has been appointed Personal Representative of the estate of the above named decedent. Creditors of the estate are hereby notified to present their claims to the above Personal Representative or to the Clerk of the Court at within three (3) months after the date of the first publication of this notice or be forever barred.

DATED this 6 day of June, 1992.  
Roger Claude Gillies  
Personal Representative  
GEORGE E. BROWN, JR.  
Attorney at Law  
7001 South 900 East, Suite 250  
Midvale, UT 84047  
Date of first Publication June 15, 1992.  
No. 5416 Published in The Daily Herald June 15, 22,

One trunk containing old Avon bottles found near foothills above Pleasant Grove o/a February 1992, CR 79986  
Please be ready to describe/identify the items listed above. Please contact the Utah County Sheriff's Office to claim the item.

DOUG HUNTSMAN,  
370-8820  
UTAH COUNTY  
SHERIFF'S DEPT.  
No. 5410 Published in The Daily Herald June 12, 13, 14, 15, 16, 17, 18, 1992.

#### NOTICE OF TRUSTEE'S SALE

The following described property will be sold at public auction to the highest bidder, payable in lawful money of the United States at the time of sale, at the East entrance of the Utah County Court House at 125 North 100 West, Provo, Utah County, Utah on July 3, 1992 at 10:15 a.m. of said day, for the purpose of foreclosing a trust deed executed by RICHARD J. ALLEN and CAROL LYNN ALLEN, as trustees, in favor of JESSIE REE McCONKIE as Beneficiary, covering real property located at 872 Osmond Lane, Provo, Utah 84604, and more particularly described as:

Lot 122, Plat "A", GEORGE OSMOND ESTATES, a planned unit development, in the City of Provo, County of Utah, State of Utah according to the official plat thereof on file in the office of the Recorder of said county.  
EMPIRE LAND TITLE, INC. - Trustee  
By Thomas R. Hare, President  
No. 5388 Published in The Daily Herald June 8, 15, 22, 1992.

#### REQUEST FOR PROPOSALS

Sealed proposals will be received by the Utah County Commission at the Utah County Building located at 100 E. Center, Suite 2300, Provo, Utah, until 10:00 a.m., July 6, 1992 for the following:  
UTAH COUNTY PUBLIC DEFENDER CONTRACT FOR 1993. This contract will involve providing legal advice and representation to indigent persons in Utah County on criminal cases, mental health commitments, mental retardation commitments, juvenile matters, and appeals. This contract will require 7 full time attorneys or 5 full time and 4 part time attorneys. The County is not obligated to accept the lowest proposal nor is it obligated to accept any proposal. Information packets may be obtained from the County Attorney at 100 E. Center #2100, Provo, UT 84606, or by calling 370-8001.  
No. 5422 Published in The

#### CALENDAR:

A. Approval of Min of April 7 Board of Trustee Meeting  
May 21 Board of Trustee Executive Committee meeting (Tab A)  
B. April/May 1992 Personnel Report  
C. Investment Rep for Months Ended March 31 and Apr 1992 (Tab B)

#### III. ACTION ITEMS:

A. Ratification of Action Items Approved by Executive Committee May 21:  
(1) 1992-993 Employee Compensation Package (Tab C)  
(2) Agreement with College of Hotel Management of Kiev (Tab D)  
(3) Rental Space Park City  
(4) Global Network Study and Peace (Tab E)  
B. 1991-92 Work Program-Revision 3 (Tab F)  
C. 1992-93 Operating Budget\*\*  
D. 1992-93 Work Program-Rivision\*\*  
E. Auxiliary Budgets  
F. Approval of Two Sections of UVCC Policy & Procedure

Man  
ual for Transfer  
VAX\*

(1) Financial Section Approved by President's Council 12/5/91  
(2) Personnel Section-Approved by President's Council 12/19/91  
G. Student Rights & Responsibility Policy E-21 (Tab G)  
H. Faculty Workload Policy Revision: F-2 (Tab H)

No. 5421 Published in The Daily Herald June 1992.

#### BID ANNOUNCEMENT

Provo City is accepting sealed bids for the installation of TWO (2) Provo City entrance signs including landscaping and irrigation work, BID NUMBER 665. Additional information may be obtained by contacting the Provo City Purchasing Department, 351 W. Center Provo, phone number 379-6541. Sealed bids will be received at the Purchasing Division Office located 351 West Center until JUNE 24, 1992 at 1: P.M. local time, at which time and place they will be publically opened and read aloud. Plans and specifications may be examined at the Provo City Office of Parks and Recreation, 287 East 100 North, Provo, UT. A copy may also be obtained for \$10.00, non-refundable.  
A pre-bid conference and tour of the construction



We know that when,  
for whatever reason,  
you call or meet with us,  
you're set on receiving results.

Whether you need help with an ad  
or with a problem you've had -  
whatever the interaction -  
our goal is your satisfaction!

**The Daily Herald**

373-6160

**Mailing Certificate**

I hereby certify that I mailed a true and correct copy of the foregoing Supplement to Brief of Appellant to Office of the Attorney General, 236 State Capitol, Salt Lake City, Utah 84114, this 3rd day of August, 1993.

Kris Pace