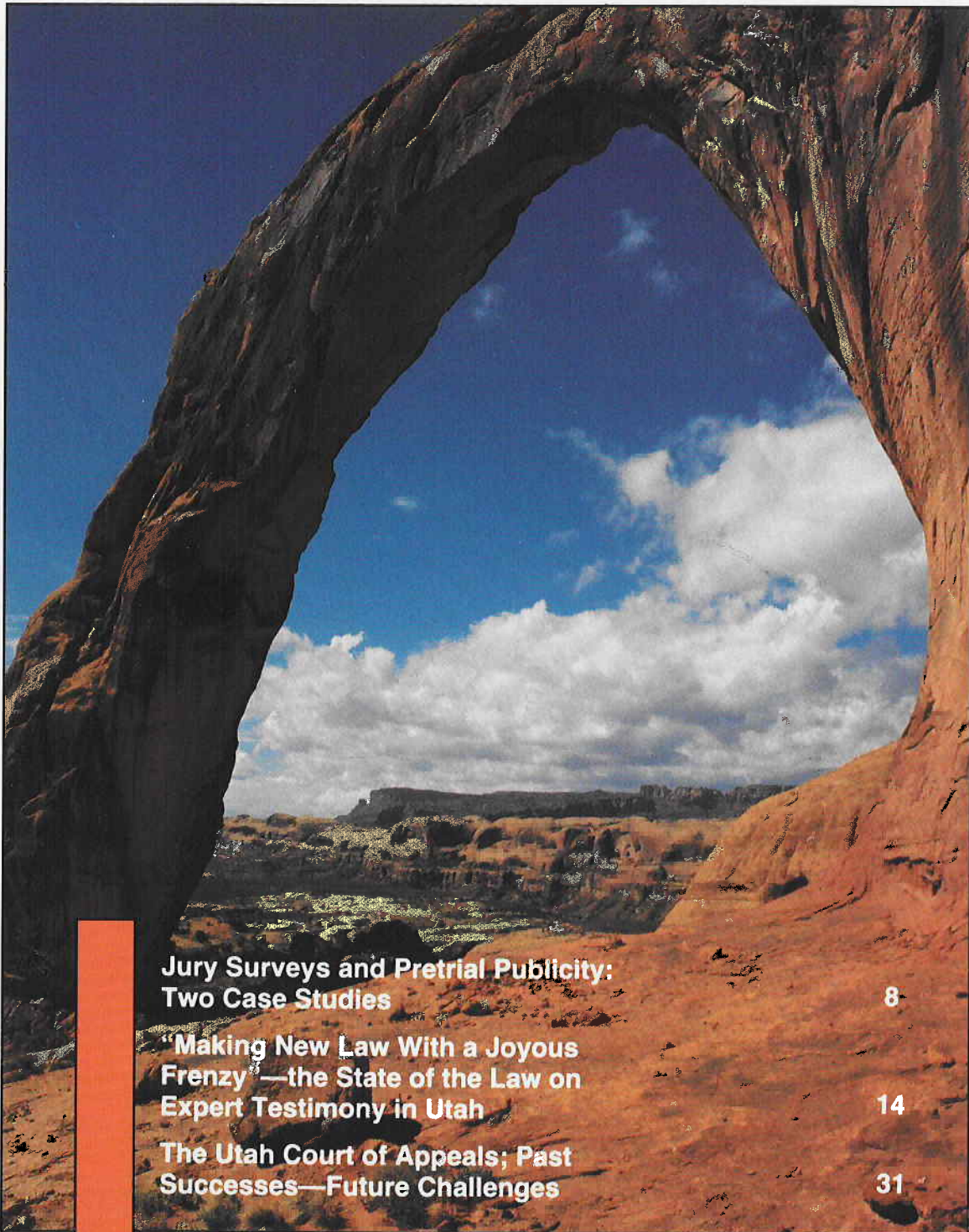


# UTAH BAR JOURNAL

Vol. 3, No. 6

June/July 1990



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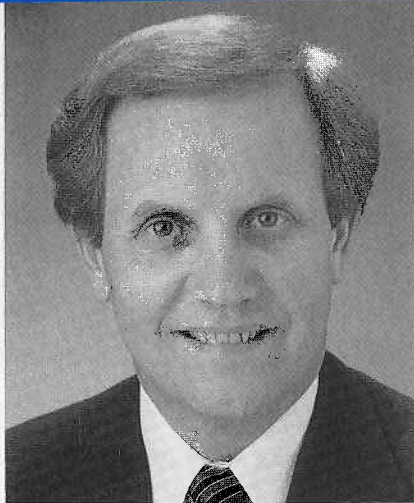
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## A Dickens Tale Come True

By Hans Q. Chamberlain

"It was the best of times, it was the worst of times..." This famous quote by Charles Dickens in 1859 in many ways summarizes my year as President. Let me explain.

### THE WORST OF TIMES

The Bar's financial situation has been the primary focus for my entire year. Because finances have been so much in the forefront, it seems that I have not had time to do many of the constructive things I wanted to do as President. However, in retrospect, I am now grateful that we have gone through the difficult process of defining what the Bar does for its members, and the financial impact of the same.

When I began my year the Bar was already experiencing deficit spending partly because of the prior use of existing reserves to help in the construction of the Law and Justice Center, and partly because Bar revenues were not increasing as expected. Since 1986, growth in Utah Bar membership has leveled off resulting in less revenue than anticipated, however, expenses have not been so gracious. There have also been significant litigation costs and the increasing need to provide adequate service to the members in response to the demands of a full service Bar.

One of the first actions taken by the Bar Commission during this fiscal year was to adopt a zero deficit budget. That required an immediate cut in excess of \$80,000 from the proposed budget (the Bar operates on a budget of approximately \$1,100,000 per year). From the very first meeting of my term, the Bar Commission has continued to explore ways to cut spending in hopes of eliminating the need to seek a substantial dues increase. As the year progressed, it became painfully clear that we would not meet our goal of a zero deficit budget for fiscal year 1990, that expenses would exceed revenues, and in spite of continued cuts in spending, a dues increase was necessary. No one likes to increase the dues Bar members pay, but until the Bar gets back on a sound financial basis, fiscal responsibility mandated the decision to seek a dues increase. It simply costs the Bar more to operate on a year to year basis, just like any other business, including the average law office.

I am writing this final message approximately 40 days in advance of its publication date because the *Bar Journal* requires approximately that much lead time before actual publication. By the time this message is published, the court will have likely

ruled on the dues petition. Regardless of what the court does, I am confident that future Bar presidents and commissions will make every effort to establish a sound financial basis for the Bar, even if it takes a major overhaul of existing Bar programs and services. In an effort to fine tune the budgeting process, the Budget and Finance Committee has been completely revamped to include members with considerable financial experience. Pete Ellison, of Zion First National Bank, will chair the Committee and will be assisted by Bob Graham, Jon Butler, Stuart Hinckley, and two members from the Bar Commission, one of which will be the President or President-Elect.

Concerning how the Law and Justice Center is managed, the Bar Foundation awarded an \$8,000 grant to the Bar to fund a study concerning the utilization of the Law and Justice Center, meeting room costs, marketing of available space, and overall strategy to make the Center operated on a cost effective basis. This study is currently under way, and should provide some valuable information to the Bar for many years to come. My thanks to the Bar Foundation for its support of this worthwhile study.

The resignation of Steve Hutchinson as Executive Director of the Bar in late May created additional challenges for me. Steve served the Bar well since his selection in 1985 and I thank him for his efforts. While Steve served as Executive Director, the Bar has dramatically expanded its array of programs and services to Bar members and the public. We have completed the Law and Justice Center and initiated the Tuesday Night Bar Outreach Program, both of which have received national recognition. As you know, the Bar has implemented mandatory continuing legal education and this coming fall, the Bar will initiate an extensive skills development program for new lawyers.

The Bar will continue to face many challenges in future years. Hopefully, all of these problems will not surface at one time, as it has sometimes appeared to be the case this year. Whatever the problems, I have great confidence in your new President, the Honorable Pam Greenwood, and the Bar Commissioners who are not only dedicated public servants, but also most capable of dealing with existing problems.

#### THE BEST OF TIMES

In spite of the problems the Bar has faced this year, it has been a great honor to have served as President of the Bar. I have acquired a deep commitment to the legal profession, a better understanding of the Bar's strengths and weaknesses, and a firm resolution to make things better for Bar members and those we serve.

I have been on the Bar Commission since 1982, and by reason of that longevity, I have formed many friendships that are very meaningful to me. Because of the existing problems (both financial and otherwise), I have seen Bar Commissioners excel in trying to solve the many issues facing the Bar. To each of them, I convey my sincere thanks. I have learned much from them.

Most of my time as President has been "defense" oriented and I have learned to appreciate the term "crisis management." In spite of these facts, the Sections and Committees of the Bar continue to perform in outstanding fashion. Space does not permit me to specify all of their many accomplishments, but undoubtedly, the public has been well served this past year by the volunteer efforts of Utah lawyers. In the area of volunteerism, lawyers don't have to take a backseat to anyone.

As I have met with other Bar leaders this past year, I have found the Utah Bar to be on the cutting edge in the programs and services it provides to its members. While

that is commendable in many ways, perhaps it has not been the most healthy approach, at least from a financial standpoint. Most likely, you will see changes in how the Bar operates in the future in both service and programs.

This was the first full year of operation for the Law and Justice Center. While it remains controversial and has had a financial impact on Bar operations, it has served as a gathering place for many notable events and CLE functions. In spite of its critics, it has created a positive image in the eyes of the community and has provided meeting space that did not otherwise exist to promote quality public service to those in need. Just look at the success of the Tuesday Night Bar where over 100 volunteers give of their time. I am not sure the Tuesday Night Bar, as well as many other programs, would have been as successful as they have been without the availability of the Law and Justice Center. Sure it has been at some cost to the members, but in my opinion, well worth the cost and effort.

When it appeared that I had a chance to become the first Bar President from southern Utah in over 20 years, the members I represent graciously allowed me the opportunity to serve a third term on the Bar

Commission. At that time, I committed to them that I would resign after my year as President to allow someone else to serve the last year of my 3 year term, recognizing, of course, that I would remain on the Commission as Past President in an ex-officio capacity. I will therefore be resigning as a voting member of the Bar after the Annual Meeting and would encourage those in my district to seek the vacancy that now exists.

Although this has been a difficult year, in final analysis, and in spite of all the problems, I can easily say that "the best of times" still far outweigh "the worst of times."

In conclusion, a public thanks is only appropriate to the Bar staff and my own firm and staff for their support this past year. Most of all, my love and thanks to my wife, Mary, and my four daughters, Stacy, Shauna, Marni and Heather.

Thanks for a memorable year.

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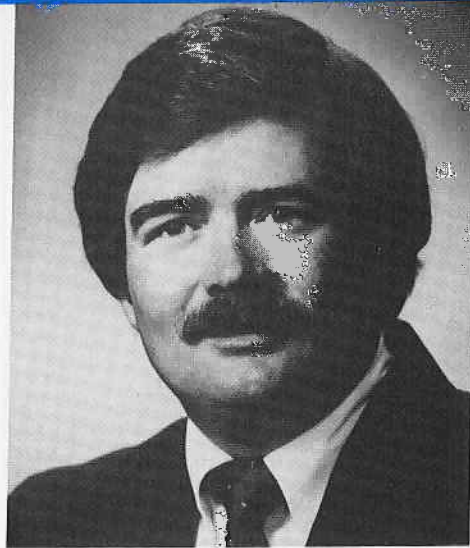
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have become members of the firm.





## Inappropriate Gender-Related Behavior

*By J. Michael Hansen*

On April 23, 1990, the Utah Task Force on Gender and Justice, after a three year study, released its findings and recommendations at the April Session of the Utah Judicial Council. The Task Force, chaired by Aileen H. Clyde, included judges from each level of the Utah court system, lawyers, court personnel and community leaders. The Task Force was established in November 1986 by the Judicial Council to inquire into the nature, extent and consequences of gender bias as it might exist within the Utah court system. In conducting its inquiry, and making concrete recommendations for reform where necessary, the Task Force utilized various methods of data collection including statewide public hearings, statewide confidential hearings, a written survey of 2,000 Utah attorneys, a telephone survey of Utah's County Attorney Offices, statewide employee focus groups and personnel data from the Administrative Office of the Courts.

In conducting its work, the Task Force utilized the following definition of gender bias:

Gender bias encompasses society's perception of the value of work assigned to each sex, the myths and misconceptions about the social and economic realities of people's lives,

and the stereotypes that society has assigned to the behavior of men and women.

The primary goal of the Task Force was to increase awareness of the ways in which inappropriate gender-related attitudes and behaviors can influence the mission of the courts. The five areas investigated by the Task Force were Domestic Relations, Domestic Violence, Judicial Selection, Court Employment and Courtroom Interaction. While each of the areas of the Task Force's study is important, the day-to-day conduct of attorneys in the office and courtroom setting is the area in which we, as a Bar, can have the most impact.

The significance of the problem is best illustrated by the fact that when the data on courtroom interaction was sorted by gender, the responses to every question produced statistically significant differences. A majority of male and female attorneys, irrespective of age or the location of their practice, perceived differently how men and women are treated in the courtroom. As the Report states:

While persons may reasonably perceive the world differently, their perceptions become problematic when those who do not perceive a problem dismiss the concerns of those who do. Such attitudes contribute to communi-

cation barriers, resulting in unwillingness to discuss the issues and hostility toward those who raise them. That so many men are oblivious to what is real to so many women is part of the problem of gender bias and is one of the reasons that it is so difficult to confront, discuss, and deal with in a productive fashion.

The Task Force states that a common misunderstanding is that persons who engage in gender bias necessarily intend to discriminate. The Task Force notes that "many persons who exhibit inappropriate gender-related attitudes and behaviors may have no intent to discriminate, no intent to stereotype men or women, no intent to generalize about appropriate roles or behaviors for men or women."

Women who responded to the Task Force Survey, and who participated in the public and confidential hearings, noted that while the attitude of the judiciary towards women has generally improved, the same cannot be said of the behavior of male attorneys. This gender bias appeared in many forms. Female survey respondents repeatedly stated that male lawyers address them by first names or in terms of endearment while addressing male lawyers by title or surname. Female respondents also noted that male attorneys made comments about their

physical or sexual attributes or appearance. Over 65 percent of the female survey respondents reported these behaviors occurring "sometimes" or more often, and 30 percent of male respondents agreed. Women lawyers reported that women lawyers, litigants and witnesses are interrupted by judges more frequently than male lawyers, litigants and witnesses. They further stated that deferential treatment accorded to women in court by men is demeaning and undermines their credibility and that women lawyers receive lower fee awards for similar work.

The Task Force recommended that the Utah Bar Association:

1. Amend the Rules of Professional Conduct to prohibit attorneys from engaging in inappropriate gender-related conduct.

2. Insure that continuing legal education programs include a component directed to gender fairness in court and professional interactions.

3. Improve continuing legal education programs by:

(a) Developing a policy that expressly prohibits inappropriate gender-related conduct in Bar-sponsored education programs;

(b) Screening potential continuing legal education faculty members for gender issue awareness;

(c) Include in program evaluations questions that address the gender fairness of both the substantive program and the faculty member's presentation; and

(d) Recruit qualified women as faculty in continuing legal education programs and as panelists at conferences and seminars.

4. Communicate the results of the Task Force's Attorney Survey to all members of the Utah State Bar.

5. Insure that all Bar publications and communications are gender neutral.

The Bar Commission is reviewing the Task Force Report. As noted by the Report, "a fair justice system must include equitable treatment of all persons in the system, regardless of individual differences, and without bias that is either intentional or unintentional, benevolent or malevolent."

I strongly recommend that all attorneys familiarize themselves with the Task Force Report. Copies of the Report can be obtained through the Administrative Office of the Courts, 230 S. 500 E., Suite 300, in Salt Lake City.

2nd Annual

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