

STEPHEN H. HART

A REMARKABLE LIFE

[INTRODUCTION]

Stephen H. Hart, the late co-founder of Holland & Hart, was honored this year by the Colorado Bar Association Awards Committee, which selected him as one of the outstanding lawyers in Colorado history. In connection with this honor, Steve Hart's biography appeared in the July 2003 issue of *The Colorado Lawyer* in its annual series, "Six of the Greatest: A Tribute to Outstanding Lawyers in Colorado History."

Because this article captures so well Steve Hart's spirit and his guiding principles that we strive to follow as his successors at Holland & Hart, we are making it available to the firm's lawyers and staff, alumni and friends in this separate form.

Denver, Colorado August 2003



Anne J. Castle
Chair, Management Committee
Holland & Hart LLP

STEPHEN H. HART

by Joseph W. Halpern*

Steve was a mentor, leader, and, above all, a dear friend to many of us... He was known as the "buzzsaw" for his energy, but we benefited also from his never failing humanity. His contributions to the community, and especially to the preservation and celebration of Colorado history, will be widely remembered. But in our own community, we remember him above all for the things lawyers are now trying so hard to provide—client service, business development, 'can do' approaches to problems, and delegation to younger lawyers. He was decades ahead of his time.

With these words, David Butler, then-chairman of Holland & Hart, announced to the firm the passing of Stephen H. Hart on November 7, 1993. During his long life and dual careers as a lawyer and public servant, Steve (as he was known even to the most junior lawyers) had an extraordinary impact not only on the people and events of his own era, but also on those who have followed him.

[EARLY LIFE]

Stephen Harding Hart was born in Denver on April 13, 1908, the second son of Richard H. Hart, a prominent Denver attorney and law professor, and Elizabeth Jerome, distant cousin of the Jennie Jerome who mothered Winston

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Churchill.¹ Steve's heritage was deeply rooted in Western history. His paternal great-grandfather was a pioneer photographer who recorded the construction of the Central Pacific Railroad, and his grandfather was a Denver physician who first came to this state as a telegrapher during the laying of the Union Pacific's tracks from Julesburg to Denver.² Steve's maternal grandfather, John L. Jerome, was a lawyer and businessman who helped organize the Colorado Fuel & Iron Corporation of Pueblo.³

Richard H. Hart, whom Steve regarded as one of the three most influential men in his life, sparked Steve's life-long passion for history. In Steve's words, "He was a scholar and lover of books, and when I was a boy, he introduced me to the historical society library then in the old State Museum Building."⁴ The senior Hart also encouraged Steve "to engage in outdoor mountaineering, skiing, white-river running, and such sports that put man close to nature."⁵ Steve's mountaineering in high school and college resulted in several notable ascents of Colorado's "fourteeners," as recorded in the Colorado Mountain Club's classic *Fourteen Thousand Feet*.⁶ Steve and a fellow mountaineer, Albert R. Ellingwood, were credited with "rediscovering" Mount Oxford (named in honor of the university attended by Steve and Ellingwood) in 1925. He also made the first ascent of Lone Eagle Peak, a mere 11,940 feet but one of the most beautiful granite peaks in Colorado.⁷

Steve's older brother Jerry (John L.J. Hart) was brilliant, attending Harvard at 16 and winning a Rhodes Scholarship. Steve described Jerry as a "hard act to follow... [T]agging along behind, trying to equal my brother's academic accomplishments, bred in me a spirit of determination which I think stayed with me all my life, and a competitiveness when the chips are down."⁸ Nevertheless, they were life-long close



*Steve Hart on New Year's Eve day
1937, at the Highlands Bavarian
Lodge near Ashcroft, Colorado.
Photo courtesy of the Colorado
Historical Society.*

friends and eventual law partners.

As rambunctious boys, the brothers also shared the experience of being haled before famous Judge Ben Lindsey, visionary creator of Denver's juvenile court, for petty vandalism on a neighbor's property. "Judge Lindsey, with the wisdom of Solomon, set us on a righteous course by asking us to promise never to do it again, and asking the neighbor to buy us each an ice cream sundae at Baur's."⁹

Steve attended Corona (now Dora Moore) Elementary School, Morey Junior High School and East High School in Denver before attending Yale University on scholarship, where he graduated *summa cum laude*. While at Yale, Steve authored a prize-winning dissertation on Zebulon Pike's 1806 exploration of the southern reaches of the new Louisiana Purchase. His correction of all prior accounts of Pike's route was so noteworthy that it was published as a 300-page book in 1932, and is cited to this day as an authoritative source.¹⁰

Steve next spent a year at Harvard Law School, but disliked the "cut-throat competition ... rather than what I have found everywhere else, a spirit of studying."¹¹ His father scraped

together the funds to send him to Oxford for two years, which provided him with broad exposure to other peoples and cultures and travels throughout Europe and North Africa.¹² Back in the U.S., Steve spent a year at the University of Denver College of Law ("D.U.") acquiring practical skills and his J.D. degree in 1933.

[EARLY CAREER]

Steve Hart entered the job market in the midst of the Great Depression. He took a position as a law instructor at D.U. for two years, and worked part-time at two law firms. Through a friend from Yale, he landed a position as Assistant Solicitor in the Department of the Interior in Washington in 1934.¹³ One day at Interior, prominent Denver lawyer James B. Grant of Lewis & Grant came into Steve's cubicle and offered him a job. Steve later described Grant as another of the greatest influences in his life.

Grant, one of Denver's best business lawyers, was to Steve an "outstanding" example of "a lawyer with an affirmative attitude in finding ethical and lawful ways to accomplish a client's desire."¹⁴ Steve handled some very significant cases at Lewis & Grant, including tax litigation for the estate of Frederick G. Bonfils, the late publisher of *The Denver Post*. This case confirmed Steve's interest in tax law, a relatively new specialty with few competitors and wide open opportunity.¹⁵

In 1937, Steve married Lorna Rogers, daughter of long-time family friend James Grafton Rogers. Also one of the great influences in Steve's life, Rogers was an accomplished lawyer, law school dean, and diplomat, whom Steve idolized as a true "Renaissance man."¹⁶ Lorna demonstrated her own considerable talents by helping Steve get elected to the Colorado House of Representatives that year. Lorna even

called on the madam of a bordello on Market Street one morning, who responded by saying, "If you've got the guts to come here to campaign for your husband, he is going to get every vote in this district."¹⁷ Lorna and Steve were together until her death on June 23, 1987. They raised three children, Richard H. (Judge Hart of Eagle County), James G. R., and Georgina.

After two years in the Colorado House, Steve ran successfully for the Senate where he served from 1939 to 1943. Although he ran as a Democrat, he was not a "party man" and instead voted on the merits of each bill. As a tax lawyer, he worked on rewriting Colorado's tax laws. He also overcame vigorous opposition to push through the Uniform Small Loan Act to "crack down on the small loan companies which really charged such outrageous interest that they in some cases had a person in almost slavery."¹⁸

[HOLLAND & HART]

When Jim Grant died in 1947, Steve, then 39, went in to see some of the partners at Lewis & Grant about his future. "You've only been with the firm 13 years," they told him. "It's too early to talk about a partnership."¹⁹ Steve decided to rebel; he viewed the legal profession in Denver as "very monopolistic, establishment-oriented, dominated by the old firms" where "[n]obody could expect to become a partner... unless he was born into it or married into it."²⁰ So, in the words of Phil Dufford, Steve "took a walk across Stout Street to see his friend, Josiah G. Holland in the Equitable Building. From that historic walk and meeting emerged Holland & Hart..."²¹ Steve's earlier experiences directly influenced the attributes of the fledgling firm and its future growth.

First, Steve believed passionately in "total client service"

before that became a popular catch-phrase. He believed that too many lawyers were in the habit of telling clients “no” instead of exploring creative, ethical, and perfectly legal ways for a client to accomplish its objective. He also believed that lawyers should talk and write in a simple and non-legalistic fashion, “as earthy and comprehensible to the man on the street as possible—particularly to the client and to the judge.”²²

Second, Steve believed in aggressive business development, a necessity for a young law firm. His first big client was the Ideal Cement Company, whose leader, Claude K. Boettcher, agreed to send work to Steve at his new firm. His work on the Bonfils estate also led to work for *The Denver Post*, including a twelve-year-long series of maneuvers and lawsuits that ultimately thwarted the efforts of New York newspaper baron Sam Newhouse to wrest control of the paper from Helen G. Bonfils.²³ From Steve’s personal perspective, one of the most satisfying long-term client relationships he developed was with the National Livestock Tax Committee, representing livestock growers in challenging adverse IRS rulings and advocating favorable tax legislation in Congress.

Finally, Steve believed in a different kind of law firm—one that would grow by offering clients specialized legal advice, by bringing in as many bright young lawyers as the work would support and delegating good work to them, and by providing a humane work place in which loyalty and collegiality were paramount values.²⁴

Anecdotes illuminating Steve’s methods and philosophy are legion. Bill Murane remembers *The Denver Post’s* annual VIP train to Cheyenne Frontier Days, “where Steve would work the cars of the captains of industry and banking in the State of Colorado.”²⁵ His “habitat was the legislative or administrative backroom or the I7th Street boardroom where



Stephen H. Hart. Photo courtesy of the Colorado Historical Society.

he was an acknowledged master at acquiring business for the firm.”²⁶ His clients became his friends, and he loved socializing with them. Mike Farley, then a young H&H associate, remembers having dinner with Steve and Cris Dobbins, CEO of Ideal Cement, “and a group of other captains of Denver industry.” Sensing Farley’s unease in such rarified

company, Steve broke the ice by “toasting me as the only Democrat in the room, which was certainly true, a point that became abundantly clear as the evening proceeded.”²⁷ (Steve had changed his party affiliation some years after his legislative career as a Democrat.)

On another occasion, Dave Butler recalls being invited up to Steve’s house in Buffalo Creek for Thanksgiving dinner, where Cris Dobbins was present. “Cris was a pretty important individual, and was quite aware of that fact.” In an after-dinner poker game, “Jim Moran and I, of course, should have been playing client poker... Instead, we acted in the normal way that a young Holland & Hart associate would act. That is, we kicked his butt and he didn’t like it.” But even though Steve was very loyal to his clients, “he was even more loyal to his lawyers, and we didn’t get any criticism or reproaches from him whatsoever about the way we conducted ourselves at the poker table.”²⁸

In the words of his colleagues at H&H, Steve was “the symbol of the go-go firm,” “a very vital, vibrant, tense, intense, brilliant and driving sort of a person,” but not “overbearing or unattractive in his intensity; he was a lot of fun.”²⁹ Steve’s style “was just smooth as glass most of the time, and he could persuade his clients [or] opponents just by careful, thoughtful discussion and negotiation, making his points and accomplishing what he set out to do.”³⁰ In Bill McClearn’s words, “He wasn’t volcanic in any way. He didn’t go into rages.”³¹ But when people got tough with Steve, he more than held his own. Pat Westfeldt recalls a tough trial lawyer representing minority shareholders in a coal company against the company’s management, represented by Steve. The trial lawyer said “Now, Steve, you know, this thing is so egregious ... that there may be personal liability on the part of the officers and directors of this company,” of which Steve was

one. Steve looked directly at him and retorted, "Piss on that, [lawyer's name deleted]," and that issue never came up again.³²

Even though Steve was usually polished and gracious and kind, "he also swore like a trooper." It was a considerable surprise to Bill McClearn as a new associate that this "wonderful, bright, erudite man ... just conversationally would be profane routinely."³³ Steve displayed a plaque on his wall with the phrase "Illegitimi Non Carborundum," which he delighted in translating for novices as "Don't let the bastards grind you down."

Steve's relationship with his founding co-partner Joe Holland also reveals the skillful negotiator who was more interested in accomplishing his objective than taking credit. In every public setting, Steve *always* deferred to Joe. He would always say "Let's ask Joe. Joe will tell us what to do. Joe, what should we do?" But according to Bill McClearn, that wasn't the whole story:

Before that public deference had been shown, Steve had gone into Joe's office and shut the door. And they had worked out in the office what was going to happen, and my very strong suspicion is that in fact Steve, in the most courteous and decent of ways, had led Joe to believe that this is what we ought to do, and Joe in fact deferred to Steve on almost all matters dealing with the policy and practice of law in this law firm.³⁴

Steve's willingness to let others take credit endeared him to young lawyers at the firm. He would not only tell young lawyers that "you're a great man;" he would always introduce them to clients, prominent business executives, and other

lawyers by saying “now this young fellow is one of the finest title lawyers in town” or “I want you to meet this man who next to Joe Holland is the finest mining lawyer around” or “let me introduce you to John Doe, the finest young trial lawyer in town.” This was not only flattering and self-reinforcing to young lawyers, it also drove them to work harder and become more expert so that they could serve their clients with nothing but the best legal work as Steve had promised.³⁵

This was not empty praise by Steve; as far as he was concerned, every lawyer at the firm was the absolute best that there was. He believed that every newly hired lawyer had what it took to be a success and become a partner. Of course, some lawyers did leave, and Steve was gracious to them. When one young associate advised Steve that he would be leaving the firm to enter the Jesuits, Steve leaned back, hands behind his head, and said, “Well, as you know, there are few ways one can leave this firm honorably. But, if God has called you, we are certainly not going to stand in the way.”

Steve remained an important part of the life of the firm long after he ceased practicing actively about 1975. Until the last few years of his life, he came to his office regularly, attended firm social functions and partnership meetings, and sought out young lawyers to greet and encourage. Outside the office, he loved to golf and play bridge with his cohorts at the University Club. When asked at age 76 what his future goals were, he said, “I want to see to it that Holland & Hart continues to be one of the best, happiest and most responsible firms in the Rocky Mountain region.”³⁶

[PRESERVING COLORADO’S HERITAGE]

Steve was a fervent advocate of giving back to the community through *pro bono* service. Beginning with his service in the

legislature, Steve practiced what he preached. He held volunteer positions under almost every governor, of both parties, from Ralph Carr through Richard Lamm. He was a frequent advisor to U.S. Congressman Wayne Aspinall, and on Senator Gordon Allott's Public Land Law Review Commission.³⁷ Because of Steve's abiding love of Colorado and profound appreciation for its history, his greatest—and most lasting—*pro bono* contribution was in working to preserve Colorado's history in all of its manifestations.

Steve was elected to the board of directors of the Colorado Historical Society in 1938, and served in various capacities for 55 years. During his earlier years, while serving in the legislature, he secured passage of the first comprehensive law requiring preservation of public records and archives of historical value.³⁸ No longer would important records be casually destroyed by uncaring bureaucrats. This pioneering preservation effort continues today under the Colorado Division of State Archives and Records. Later, Steve convinced many leading Colorado businesses to donate their archives to the Historical Society's Western Business History Research Center.

Steve served as president (an office now known as chairman) of the Historical Society's board from 1959 to 1969 and in 1973. He guided the Society through the acquisition of many of its regional museums, including the Grant-Humphreys Mansion and Byers-Evans House in Denver. He was instrumental in the development of the Georgetown Loop Historic Mining and Railroad Park, a complex task that took many years. Steve tangled with various federal and state agencies to acquire and preserve the valley between Georgetown and Silver Plume for reconstruction of the narrow gauge railroad, including negotiating revised plans for Interstate 70.

Steve was also one of the Society's ablest and most persistent fundraisers. He pursued his friends on the Boettcher Foundation, particularly Cris Dobbins, relentlessly for a million dollar contribution to the Georgetown Loop restoration. Dobbins is supposed to have said, "We've got to do it. If Steve Hart comes up to me on 17th Street one more time and talks about this, I don't know what I'm going to do." The Foundation's generous contribution was forthcoming shortly thereafter.³⁹ Steve was as proud as a new parent when he rode on the inaugural trip of the railroad over the restored high trestle in 1984.

Steve was also instrumental in the construction of the Colorado History Museum at 1300 Broadway in Denver. The Historical Society, a state agency, had tried for years to get the legislature to fund a new building to replace the old, cramped State Museum. Finally, Steve saw an opportunity as the state's centennial approached. Working with a member of the powerful Joint Budget Committee, Steve succeeded in having the museum project tied to the coattails of a new court building for the Supreme Court. Although this pairing was the ultimate "odd couple," it did the trick and the legislature approved the project in 1973. The new Colorado History Museum opened to the public in 1977.

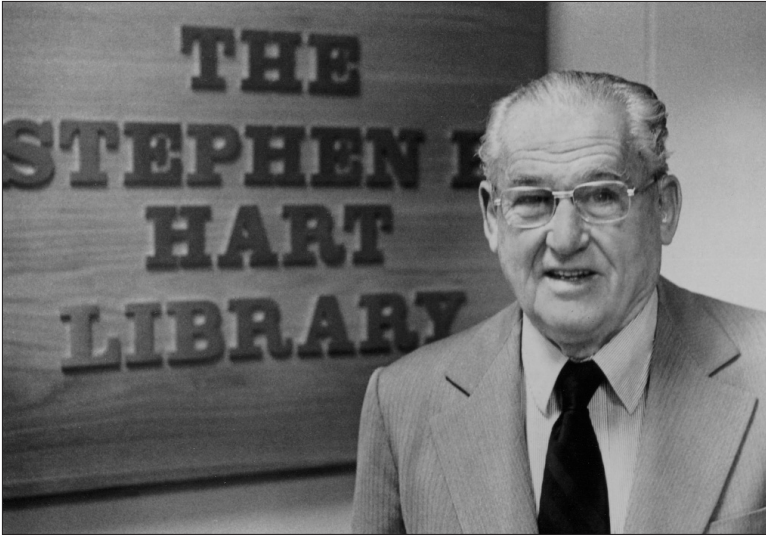
Steve's greatest preservation challenge came when he was appointed by Governor Love as Colorado's first State Historic Preservation Officer ("SHPO") in 1967, under the aegis of the National Historic Preservation Act of 1966. There were no state funds available to pay the SHPO or to match available federal dollars for historic preservation. Steve served as an unpaid volunteer for eleven years, and his *pro bono* time as SHPO was used as the "match" for the federal funds. Jim Hartmann, a Historical Society staff member who worked closely with Steve in establishing this preserva-

tion program, remembers reviewing Steve's timesheets, and being amazed not only at the amount of time Steve devoted to this volunteer position, but also the many quiet, behind-the-scenes preservation endeavors he was carrying on. "He planted many seeds that sprouted over time."⁴⁰

Under Steve's energetic leadership, Colorado was one of the first two states to have an approved preservation plan in order to start the flow of federal dollars. But the more difficult task was securing compliance by federal and state agencies with the federal Act's mandate that the SHPO be consulted on any project involving federal funds that could have an adverse impact on historic structures or sites. Steve was never dictatorial with agencies; he was always willing to negotiate up to the point where matters of principle were at stake. However, it was a fatal error for any agency to ignore the SHPO's role in reviewing the impacts of any federally funded project. In Steve's words, "They don't have to take my advice, but they've got to ask for it."⁴¹

One agency that refused to ask for Steve's advice was the Denver Urban Renewal Authority, which was destroying many of downtown Denver's historic and architectural treasures in the name of urban renewal. Steve was forced to sue DURA over preservation of the Daniels & Fisher Tower. In what he characterized as the "biggest, most significant, difficult and controversial" preservation issue he ever took on,⁴² Steve secured an injunction against DURA in federal district court that was upheld by the 10th Circuit Court of Appeals in *Hart v. DURA*.⁴³ While Steve thus saved what is now the most familiar icon of downtown Denver, he always regretted that the two wings that flanked the sides of the D & F Tower were demolished by DURA before federal enforcement machinery was in place.⁴⁴

In his eleven years as SHPO, Steve was responsible for the



Steve Hart at the dedication of The Stephen H. Hart Library, Colorado History Museum, January 24, 1981. Photo by Bill Peery, © 1981 Rocky Mountain News.

nomination of 235 properties to the National Register of Historic Places (including some of Colorado's most well-known buildings), the surveying and recording of some 20,000 historic and archaeological sites, and the award of more than \$1 million in federal matching grants for preservation projects.⁴⁵ Steve's credibility, authority, and political astuteness also set the groundwork for a statewide preservation program that is second to none in the nation.

Steve was accorded every honor and accolade that could be bestowed upon one who did so much to preserve Colorado history. The library at the Colorado History Museum was renamed The Stephen H. Hart Library in his honor in 1980. The Historical Society's annual awards to the year's best preservation projects were renamed the Stephen H. Hart Preservation Awards in 1986. He received the Lifetime Achievement Award of the Colorado Endowment for the

Humanities in 1987, and the Dana Crawford Award from Colorado Preservation, Inc. in 1991.

[CONCLUSION]

Perhaps Phil Dufford summed up Steve Hart's life as well as anyone could: he was "a remarkable person who did remarkable things at a remarkable time and in a remarkable way."⁴⁶ Both the law firm and the state that he loved are the continuing beneficiaries of his remarkable life.

[NOTES]

- 1 William H. Hornby, *The Law Out West: Holland & Hart, 1947-1988* (Denver: Holland & Hart, 1989) at 3. I am indebted to Bill Hornby, retired Senior Editor of *The Denver Post* and author of the firm's published history, for much of the information in this article. In turn, he (and I) relied heavily on firm archives assembled by Janis Falkenberg and transcribed oral histories conducted by Eleanor Vincent.
- 2 Hornby, *supra* n.1 at 3; Frances Melrose, "History Society Honors Lawyer Stephen Hart," *Rocky Mountain News*, Jan. 25, 1981 at 141.
- 3 *Id.*
- 4 Melrose, *supra* n.2.
- 5 Hornby, *supra* n.1 at 4.
- 6 John L. Jerome Hart, *Fourteen Thousand Feet: A History of the Naming and Early Ascents of the High Colorado Peaks*, 2d ed. (Denver: Colorado Mountain Club, 1931) at 19, 26, 39, 47, 48 n.6.
- 7 Hart, *supra* n.6 at 19; *Trail and Timberline*, no. 133 (Nov. 1929) at 10-11.
- 8 Hornby, *supra* n.1 at 4.
- 9 "Biographical Statement of Stephen H. Hart, March 9, 1982," unpublished typescript (irregular pagination).
- 10 Stephen Harding Hart and Archer Butler Hulbert, *Zebulon Pike's Arkansas Journal: In Search of the Southern Louisiana Purchase Boundary Line (Interpreted by His Newly-Recovered Maps)* (Colorado Springs and Denver: Colorado College and Denver Public Library, 1932); see 17 *American National Biography* (New York: Oxford University Press, 1999) at 514-15.

- 11 "Biographical Statement," *supra* n.9.
- 12 "Biographical Statement," *supra* n.9.
- 13 Hornby, *supra* n.1 at 5.
- 14 Philip G. Dufford, "Spirit of Rebellion Sent Steve Hart 'Across the Street' to Found a Firm," *The Docket* (Denver Bar Association), vol. 6, no. 3 (June 1982) at 4 (quoting Hart).
- 15 Hornby, *supra* n.1 at 5.
- 16 "Biographical Statement," *supra* n.9; *see also* Stephen H. Hart, "James Grafton Rogers," *Colorado Lawyer*, vol. 18 no. 7 (July 1989) at 1294.
- 17 "Biographical Statement," *supra* n.9.
- 18 "Interview of Stephen H. Hart" (1986), unpublished typescript, at 30.
- 19 Dufford, *supra* n.14 at 4.
- 20 "Biographical Statement," *supra* n.9.
- 21 Dufford, *supra* n.14 at 4.
- 22 "Biographical Statement," *supra* n.9.
- 23 Hornby, *supra* n.1 at 76-79. *See also* *Herald Company v. Seawell*, 472 F.2d 1081 (10th Cir. 1972).
- 24 Dufford, *supra* n.14 at 4.
- 25 "Tribute to Stephen H. Hart, Dec. 7, 1993," unpublished typescript, at 9.
- 26 Hornby, *supra* n.1 at 20.
- 27 "Tribute to Stephen H. Hart," *supra* n.25 at 10-11.
- 28 *Id.* at 1.
- 29 Hornby, *supra* n.1 at 20.
- 30 *Id.* at 2 (recollection of Pat Westfeldt).
- 31 *Id.* at 5.
- 32 *Id.* at 2.
- 33 *Id.* at 6-7.
- 34 *Id.* at 5-6.
- 35 Patrick M. Westfeldt, "Stephen Harding Hart," *University of Denver College of Law Alumni Newsletter*, winter 1994, 17, 18.
- 36 Susan Dixon, "They'd Rather Die Than Quit," *Denver Business* (Oct. 1984) 27, 33.
- 37 "Biographical Statement," *supra* n.9.
- 38 Colo. Sess. Laws, 1943, Chapter 151, "An Act Relating to State Archives and Public Records."

- 39 "Tribute to Stephen H. Hart," *supra* n.25 at 16.
- 40 Interview with James E. Hartmann, April 29, 2003.
- 41 *Id.*
- 42 Melrose, *supra* n.2.
- 43 551 F.2d 1178 (10th Cir. 1977). Steve actually prevailed under the National Environmental Protection Act rather than the National Historic Preservation Act because the National Register designation of the D & F Tower had occurred too late to invoke the NHPA's review requirements. However, this nuance was lost on most agencies, which now understood that Colorado's SHPO was not to be ignored.
- 44 Melrose, *supra* n.2.
- 45 Colorado Historical Society, Resolution (upon the death of Stephen H. Hart), November 10, 1993.
- 46 Dufford, *supra* n.14 at 5.

[COLOPHON]

Twenty five hundred copies of STEPHEN H. HART: A REMARKABLE LIFE have been printed for Holland & Hart LLP. The text was electronically typeset on a Power Mac G4 using QuarkXpress software in Mrs Eaves Roman, Italic, and Small Caps, a digital font based on the classic eighteenth century type design of John Baskerville, and named for his wife and assistant. Paper stock is Weyerhaeuser Cougar Opaque 80 pound text and 80 pound cover.

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