



THE HISTORICAL SOCIETY OF THE
TENTH JUDICIAL CIRCUIT

**ORAL
HISTORY OF
JAMES M. LYONS, ESQ.**



Interviewed by Caitlin McHugh, Esq.
June 2022

**James M. Lyons, Denver Lawyer
Lewis Roca Rothgerber Christie LLP**

Oral History Interview, December 2021
for the Historical Society of the Tenth Judicial Circuit

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Born and Raised: Joliet, IL / Parents.....	1
Education	8
1968: The Year America Changed	10
Law School	13
Joining Rothgerber, Appel and Powers Law Firm.....	21
Career: Stage 1, 1970 - 1975.....	26
Career: Stage 2, 1975 - mid 1980s.....	29
Career: Stage 3, mid 1980s - early 1990s	42
Career: Stage 4, mid 1990s - early 2000s	75
Special Advisor / Ireland, 1993 - 2001	83
Career: Stage 5, mid 2000s - present	107

MAJOR DATES

Birth Date / Place

Born January 1947 in Joliet, Illinois

Education

B.A. College of the Holy Cross 1968

J.D. DePaul University

College of Law 1971

Professional career

1971 to present: Lawyer, private practice, Denver, Colorado

Rothgerber Appel & Powers and successor firms

Interview of James M. (Jim) Lyons

Speakers

James M. Lyons and Caitlin McHugh

Caitlin McHugh

Thanks for joining us today.

James M. Lyons

Thank you for doing this.

Caitlin McHugh

Well, I guess we should jump in and start at the beginning. Okay. Let's start with where you were born.

Born and Raised: Joliet, IL / Parents

James M. Lyons

I was born in Joliet, Illinois, south and west of Chicago in January of 1947.

Caitlin McHugh

Tell us a little bit about your parents.

James M. Lyons

My dad was Judge Michael H. Lyons, a solo practitioner trial lawyer and later an Illinois state court judge, and my mom was Helen Margaret Glass Lyons. She was an English teacher who later got her Masters and taught and volunteered to tutor special needs children, I think as a way of honoring my late brother, John. My mother was a native of Joliet. She grew up there, went to college there, and was a teacher there when she met my father on a blind date in 1943 during World War II. At the time, my dad was young lawyer, just out of law school for a couple of years. He had joined the Army

after Pearl Harbor and was an officer in the Army's Counter Intelligence Corps (CIC), stationed in Chicago, for the time being anyway. They met, then courted over the next year and a half or so. They were both interested in a further relationship but didn't want to really formalize it while the war was on and the likelihood that my father would be shipped overseas. And, in fact, he was sent to the Pacific Theater and served in Okinawa and later in Korea. He maintained a steady correspondence with her (some of which I have seen) and eventually persuaded her to marry him, which they did in February of 1945. After the war, my dad returned to his law practice and commuted to the Chicago Loop until he went on the state bench in Joliet (Will County) in the late 1970s.

Caitlin McHugh

You are the oldest of their children? Is that right?



Helen and Mike Lyons in their later years

James M. Lyons

Yes. I'm the oldest of six children, born in 10 years: four boys and two girls. In order after me: my brother Tom, now a retired newspaper editor in Green Bay, WI; my sister Joan in Winter Park, Colorado a retired art teacher married to Jack DiCola, a long-time county attorney in Grand County; sister Dyanne, a school psychologist in Aurora, Colorado and brother Bob, a college professor and high tech consultant in Boston.

The youngest of the six of us was my brother, John. He was born with a form of neurofibromatosis and endured a number of painful surgeries in his young life. He was tragically killed as a passenger in an auto accident in 1973 when he was sixteen. He left a hole in our family and hearts but we remember him always for his humor and courage.

Caitlin McHugh

So, you grew up in Joliet?

James M. Lyons

Yes, I did.

Caitlin McHugh

And you went to grade school and high school in Joliet?

James M. Lyons

I did. I went to a Catholic grade school, St Paul the Apostle, run by the Sisters of St. Francis, which was in our neighborhood school. I was a pretty good student, as I recall, largely thanks to my mother's discipline and loving teaching skills. Even though she had to be exhausted from the littler ones, she always made time to help each of the

older ones with our school work. She made sure that we ate as a family every night and that the TV was off on school nights for homework.

I got a very good primary school education from the Sisters. And then I went to the Catholic boys high school, the only Catholic boys high school in the city, which was Joliet Catholic High School, run by the Carmelite Fathers.

Caitlin McHugh

How were you as a student?

James M. Lyons

I was a pretty good student, active on the wrestling and track teams and in the student government. I was in the honors program from the beginning. I graduated reasonably high in my class, I don't remember exactly where. It was a college preparatory class or curriculum designed for those of us that they thought would be going on to college. Some but not all of my classmates went on to college.

Joliet in many ways was a lot like Pueblo, Colorado. It was a blue collar, industrial kind of town. And lots of young men my age when they got out of high school, either went into the service, went to work at one of the steel mills, or went to work at Caterpillar, or one of the oil refineries, all of which were in the Joliet area. But I went to college, thanks to my parents.

Caitlin McHugh

In high school, you had a high school sweetheart, too. Is that right?

James M. Lyons

Yes, I did. And yes, I do.

Caitlin McHugh

And who is that?

James M. Lyons

Her name was Marcia Pudlik, now Marcia Lyons. We met in the summer of 1963. It's like the Sound of Music song, we were "16 going on 17." And starting our senior year of high school, we got serious and exclusive. Marcia went to a hospital nursing school in Peoria, Illinois after she graduated from high school. And I went to college back east. But we were pretty committed to each other by then. And although we gave each other the freedom to date other people, I didn't do it very often. And she didn't, either. We continued our relationship long distance and when we were home for vacations, and over the summer. In the winter of 1967, I asked her to marry me and she agreed. We got engaged in December of 1967 and married in May of 1968, two weeks before I graduated from college.

Education

Caitlin McHugh

What about college? What did you do for college?

James M. Lyons

Without the financial help of my parents, I would not have been able to go to college. At one point in time, they had three of us all in private colleges. I still don't know

how they managed that, other than sacrifice and very hard work.

In my last year of high school, I narrowed the field to Notre Dame and Holy Cross. And I decided that Notre Dame was basically in the neighborhood and that I needed a change from the Midwest. And I was also impressed by what I knew to be the high-quality education that the Jesuits offered. So I chose The College of The Holy Cross in Worcester, Massachusetts and began there in the fall of 1964.

Caitlin McHugh

How would you describe your time at Holy Cross?

James M. Lyons

When I first got there, I was scared and intimidated. I was from the Midwest, and most of the young men there were from New England, or from the New York, New Jersey or DC areas. At the time, Holy Cross was male only.

There were a few of us from the Midwest that ultimately found each other, but it was a big cultural shock from where I had grown up. And a big shock in terms of the educational demands. I'd gone to a Catholic boys school in Joliet, Joliet Catholic High School, which was run by Carmelite priests. And their style of education was excellent for secondary school and college preparation but a Jesuit college, and Holy Cross in particular, was in a whole different league.

Caitlin McHugh

What did you study at Holy Cross?

James M Lyons

Holy Cross offered the traditional Jesuit liberal arts education: languages, history, economics, English, literature, science, theology and all types of philosophy including logic, epistemology, metaphysics—Aristotelian and Thomastic concepts. In fact, I took enough philosophy that I could have majored in it. I remember telling my father that to which he said, “Great, Jim, when you graduate, you could open a philosophy store.” I do recall my mother then saying to him, “Well, Mike, we would like to him to learn how to think, wouldn’t we?” In the end, I majored in history and political science and minored in philosophy.

1968: The Year America Changed

Caitlin McHugh

You’ve described 1968, your senior year of college and the year you graduated, as the year America changed. Can you speak to that a bit?

James M. Lyons

Sure. First of all, remember that the Vietnam War was raging. The political consequences of that had divided the country between those who were willing to support the war and those who are opposed to it. Senator Eugene McCarthy from Minnesota decided to challenge President Johnson for the Democratic nomination, primarily on an anti-war agenda. President Johnson barely beat him in the New Hampshire primary in the winter of 1968. I think that’s what caused President Johnson to drop out and announce that he would not seek a second term, but would spend his time and effort trying to resolve the war in Vietnam.

The anti-war movement was very active at Holy Cross, as it was at most colleges and universities, even though we had very active Navy and Air Force ROTC programs. There were anti-draft protests all over the country, especially in the east. And then in the spring of that same year, Martin Luther King was assassinated in April. And then Bobby Kennedy was assassinated in June. These were devastating events for the country and for me. The Kennedys were icons in my Irish Catholic family and Bobby seemed like the one to carry on the Kennedy legacy. I had read “Letters from the Birmingham Jail” and followed Dr King’s crusade for racial and social justice. To me, the two of them represented a new, bright direction for the country. And to lose them both so unexpectedly and violently was catastrophic.

So the country was in upheaval, both politically and socially. And in the midst of all that, in May of 1968, I graduated from college with a degree in history and political science.

Before graduation, I had applied for Navy OCS but was rejected due to high blood pressure (which I still treat). This made me ineligible for the draft. Then, in May, having married Marcia, as I said earlier after graduation, I went to work for a bank management consultant company on the south side of Chicago.

Caitlin McHugh

So you moved back to Joliet?

James M. Lyons

Yes. We moved back to Joliet. Marcia was working as an ER nurse at the local Catholic hospital, and then while I was in law school, she went to work for the Will

County Public Health Department. As she puts it, she went from being a “white nurse” to a “blue nurse.”

Caitlin McHugh

And what about you? What were you doing for work?

James M. Lyons

I started out in the corporate development department of a bank management consultant company called Financial Management Associates (FMA), later Heritage Bancorporation. They hired me basically on the strength of my pedigree from Holy Cross and not because I had any banking or business background. My job was to prospect for new bank locations in the Chicago suburbs. We would analyze the demographics and the market opportunity, apply for a state bank charter, find the investors for it, organize the bank, and then by contract, undertake to manage it for the owners.

Caitlin McHugh

Did you enjoy the work?

James M. Lyons

I very much enjoyed the work. It was something I had not really envisioned myself doing. But we were the most active suburban banking organization in the Chicago area that was involved in organizing and chartering new banks. And it was very, very fascinating work.

Caitlin McHugh

I believe you helped organize Highland Community Bank?

James M. Lyons

Yes. We had an existing bank that had been on the South Side for generations called Standard Bank at 79th Street and Ashland Avenue. And as its neighborhood changed, largely from white to black, Standard Bank wanted to move to where its customers had moved. But we felt pretty strongly that we should not leave that neighborhood without a bank. So we organized the first black-owned bank in the Chicago area and managed it for several years.

Caitlin McHugh

In that time, I think you’ve told the story that you met a young Jesse Jackson.

James M. Lyons

He was a young reverend who had an operation on the South Side known as Operation Breadbasket, which was designed not only to feed those who were hunger-challenged, as they now call it, but also to help create economic opportunity in these neighborhoods. And obviously a bank in these neighborhoods could be the center of that economic opportunity. So Reverend Jackson, Afro, dashiki and all, was very active with us in helping to get organized and up and running.

Law School

Caitlin McHugh

In 1968, you also started law school, is that correct?

James M. Lyons

I did.

Caitlin McHugh

What led you to law school?

James M. Lyons

I think I always thought about being a lawyer. My father was a lawyer, as I've said, and was a very positive and powerful influence in my life. Dad was a solo practitioner who commuted to Chicago during the week and met with clients in Joliet over the weekend. He largely represented injured railroad workers in federal court litigation. There are no minor injuries on railroads; they were generally horrific and sometimes fatal. I do remember times that our living room looked like the waiting room in a hospital. In the summer, when courts were not in trial session, Dad would travel in northern Illinois, meeting clients. And I would often go with him. And I still recall the wonderful old courthouses with the high ceilings, ornate wood and leather smell. All gone now, I am afraid.

I thought I could be good at being an attorney but a corporate attorney, not a trial lawyer like my dad. I thought I had the skills that were necessary and saw it as a vehicle at some point for public service. The only other career I ever really considered was being a Catholic priest, which of course, every average young Catholic boy considered then. But celibacy was not for me. So that ruled out being a priest. I did think about a military career, at one point. I had an interest as a kid in going to West Point, but I never really pursued it.

Caitlin McHugh

Where did you end up choosing for law school?

James M. Lyons

I went to DePaul University College of Law in Chicago.

Caitlin McHugh

Why did you choose DePaul?

James M. Lyons

Well, I had been accepted at some other law schools, Georgetown and Marquette in Milwaukee. And I'd been accepted at Northwestern for a mid-year entry. I didn't want to live in DC, a smart decision I would again make many years later. And while Milwaukee is a great town, it isn't Chicago. Northwestern told me I could start mid-year in January, 1969. And that was fine with me. However, Marcia made a pretty strong case that if I did that, I could very well find myself not going at all, because I liked the job and would find it hard to leave. I therefore decided to go to DePaul and start right away in the fall of 1968. My dad had gone to DePaul as well. And I thought I could keep my job, at least part time, get a good basic legal education and enter the profession in three years—all of which happened.

Caitlin McHugh

Will you talk to your time at DePaul? How would you describe it?

James M. Lyons

It was very interesting in a number of respects. DePaul is, for want of a better phrase, a real melting pot. And it is a "blue collar law school" in the sense that it offers opportunities for people who might not otherwise get to law school. It is run by the

Vincentian Fathers for whom this is the central mission of their educational institutions.

We were a very diverse group of students with a wide range of backgrounds. For example, my class had a number of returning combat veterans from Vietnam. It had a number of Chicago policemen and firemen, who were going to either the day law school or the night law school, which DePaul also offered. And DePaul also had students who were not only the first in their family to graduate from college, but the first in their family to have any opportunity at any graduate school education, let alone law school. This was how my dad got the chance to go to law school at DePaul, despite the Depression and losing his own father as a teenager.

So it was a real change for me, coming from a privileged background compared to many of their backgrounds. This was eye opening and, as it turned out, a very positive exposure for me personally.

But what law school didn't have then was many women. In my graduating class of about 100, we only had eight women and less than a handful of minorities. This disparity was probably a sign of the times in the late 60s but it was wrong and needed to change. And fortunately, it has changed and has continued to grow over the years to the great benefit of the law schools, the profession and society.

Caitlin McHugh

Did you go to school full time, or were you working during that time period?

James M. Lyons

I went full time to law school but worked, too. My employer, FMA, was pretty flexible about my hours. So I typically went to class in the morning, and worked in the

afternoons. And I worked full time during holidays and the summer.

Caitlin McHugh

Were you a good student?

James M. Lyons

I was a pretty good student. I finished in the top of my class. After my first year, I was invited to join the law review, which I didn't really have much time to do, but I made time for it. And in my third year, I was invited to be an editor, which would have required me to give up my job. And I couldn't do that. So they created a position of Associate Editor for me, which was a wonderful opportunity. My function was to screen articles, notes and comments for the law review editorial board. So I read a lot of very interesting things about a wide variety of legal subjects. It was a terrific experience for me.

Caitlin McHugh

While you were in law school, in 1970, is when the Kent State massacre occurred. What do you remember about that?

James M. Lyons

Yes, I do. Remember the Vietnam War had not de-escalated, it had only escalated since 1968. I don't remember the exact number, but at its peak, the United States had about half a million soldiers in Vietnam. And it was still highly controversial, including the draft which was in full swing. I had applied for Navy OCS at Holy Cross but was rejected due to high blood pressure which, as I mentioned earlier, I continue to deal with today. And high blood pressure also made me ineligible for the draft.

Remember that in 1968 Martin Luther King, Jr. was assassinated in April and Robert Kennedy was killed in June. With his death, the Democratic nomination went to Hubert Humphrey, who then lost narrowly to Richard Nixon. And despite Nixon's claim that he had a secret plan to end the war, he did not. And so by 1970, the war was still very much continuing, raging if not escalating under a new president. So, that led to more student protests around the country, including at Kent State, which is a public university in Ohio. The National Guard was called in to Kent State, and for reasons never really clear, fired on a group of unarmed student protesters and killed four of them. And that just ignited the college campuses across the country into protests, including a call to strike at many colleges and universities, which happened at DePaul and at DePaul Law School.

At the same time, there were two young law professors up for tenure at DePaul who had encouraged this protest and were then denied tenure. And that was not acceptable to the students. So we staged a protest at DePaul, shut the law school down, struck the law school I should say, in the hopes that this tenure decision could be reversed. Ultimately, it was not. And the two professors both moved on to other law schools, unfortunately, because they were both very good professors. We got some notoriety in the local Chicago press for our protest and strike. But it was all a direct result of the Kent State massacre.

Caitlin McHugh

Were you the spokesman for the student group?

James M. Lyons

I was one of them and felt strongly about Kent State and treatment of the two professors. I was asked to be a student spokesman, in part because unlike the style at

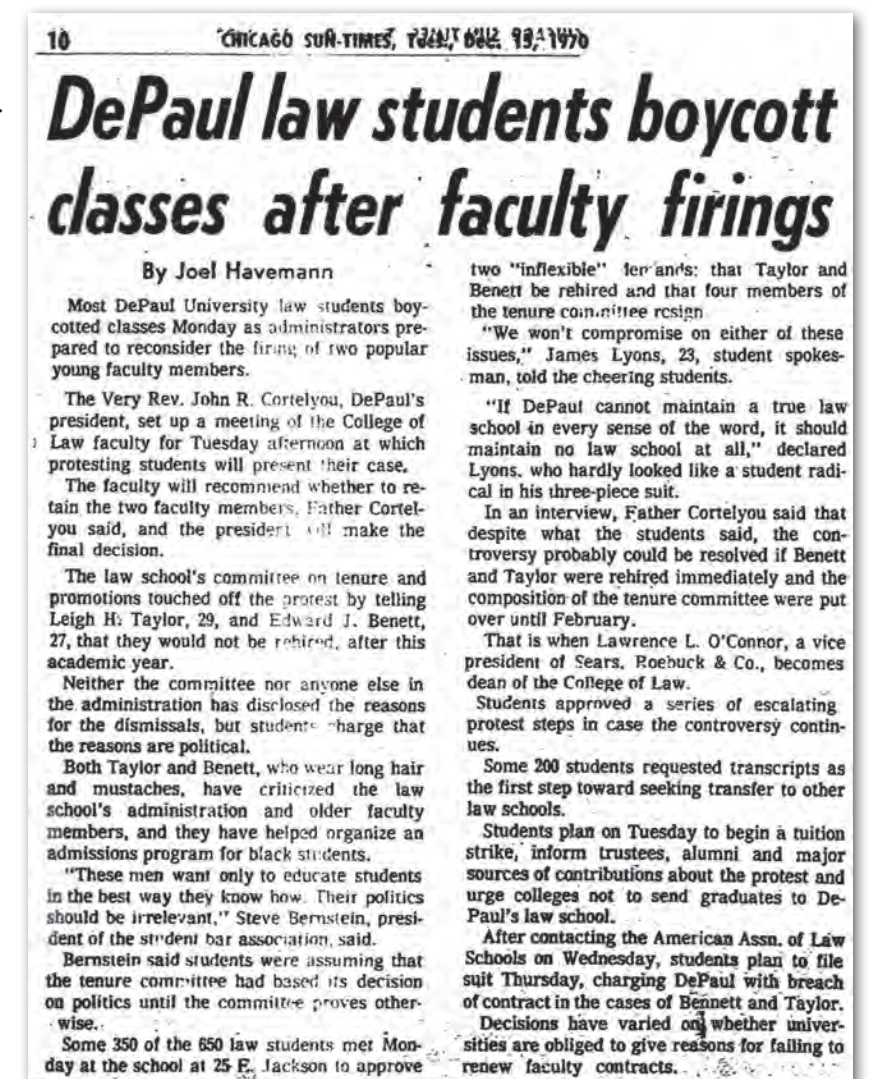
the time, I didn't have long hair and was clean shaven (the mustache came later). I also wore a suit because I went to work every day. So I was asked to speak at various student rallies, one of which was covered by the Chicago Sun Times, which I didn't realize at the time.

Caitlin McHugh

How did the press describe you?

James M. Lyons

I think they said I hardly looked like a radical or a hippie. But it's interesting, my father, who was a lifelong Democrat and Chicagoan, read the Chicago Sun Times story, called me and wanted to know if, in fact, this James Lyons being quoted in the Chicago Sun Times was me. And I confessed that it was. He was not particularly happy. He didn't discourage me, but I do remember he was not pleased.



Caitlin McHugh

Around this time, you also got your first taste of grassroots, street politics?

James M. Lyons

I did. There was an open City Council seat in Chicago, where a young lawyer named William Singer challenged the identified candidate of the Chicago machine as it was then known, the legendary Daley machine. And I got involved in Singer’s campaign. It was an insurgent’s campaign for the north side 42nd Ward—there were fifty wards in Chicago. Singer ultimately lost. But it was the first time I got involved in licking envelopes, making phone calls, walking precincts, the basic nuts and bolts of politics. And I liked it and have been involved in politics one way or another ever since.

Caitlin McHugh

When you graduated in 1971, what was your plan?

James M. Lyons

Well, I knew I could stay where I was with the bank management consultant company, but I really wanted to practice law. And I thought there’d be no better place than Chicago. I had offers from several major Chicago law firms and didn’t want to live in Joliet anymore. That was certain. I don’t think Marcia did, either. But she was hesitant about taking our life to Chicago and suggested that maybe if we look somewhere else, like out West, how would that work? And so we looked at a couple of places. We looked specifically at San Francisco and Denver. Denver came up because my sister Joan was going to college here at what was then Temple Buell, formerly Colorado Women’s College, and raved about Denver. So we looked at both. I ended up sending out resumes

to law firms in both cities. The first law firm to respond to me and invite me to an interview was Rothgerber, Appel and Powers in Denver.

Joining Rothgerber, Appel and Powers Law Firm

Caitlin McHugh

Tell me about your interview with Rothgerber, Appel and Powers.

James M. Lyons

Well, it was a small firm of about a dozen lawyers. I’d done some research on it through Martindale Hubbell, which was all that was really available then, and was fascinated by the fact that two of the named partners, Ira Rothgerber and Robert Appel, were prominent Democrats active in politics here. And the third named partner was William “Bill” Powers, who was active and prominent in the Republican Party. And I thought to myself, for a small firm with less than a dozen lawyers to have that kind of political balance, they must have something special. So there was that piece to my view of it.

My first interviews were with Ira Rothgerber and Bill Johnson. They were most interested in an article I’d written for the DePaul Law Review about legal aspects of state bank organization in Illinois and how state banks were organized. It turns out that’s exactly what they were doing here in Colorado. So they had a real interest in me, and what I knew about forming new banks. And I found them both to be really smart, very focused and, especially in Ira’s case, to have a great sense of humor.

Caitlin McHugh

Did you accept the offer?

James M. Lyons

I did, even though it was a pay cut from what I was being paid in Chicago. In part, I thought, and I think Marcia may have a different view of this, that since we didn't have any children yet and I didn't have any law school debt because I'd worked during law school and was to a large extent supported by Marcia while she worked in public health, that well, we'll come to Denver for a couple of years, you know, Rocky Mountain High, take advantage of the skiing and outdoor life, and then go back to Chicago and get serious about a career and family. Well, it didn't work out that way.

Caitlin McHugh

Did you take the Illinois bar just in case?

James M. Lyons

Yes, I took and passed the Illinois bar. And three weeks later, I came to Denver and took the Colorado bar. And that's, by the way, the only way to take bar exams in more than one state, back to back. This was before the Multi-State bar exam (MBE), by the way. So they were both full essay examinations over three days.

Caitlin McHugh

As you were studying for the bar, did you meet John Moyer?

James M. Lyons

Yes, I did. John was then an Air Force JAG officer at Lowry and was teaching part time at DU Law School. He also was teaching a concentrated two-week Colorado bar refresher course, which I took. And that's how we met. He taught three or four of the

refresher classes and was just spectacular. And we got to be friends and business partners in the bar review business here and in Texas. That friendship deepened with our wives and has endured now for over 50 years. I count him as one of my very best and closest friends in life.

Caitlin McHugh

A lot of our new associates took bar trips before they started with us this fall. Were you able to squeeze in a bar trip?

James M. Lyons

Yes, after I finished the Colorado bar, in late July, there was then a program that the airlines offered called the Youth Fare Program. If you were under 25, the fares to fly pretty much anywhere were heavily discounted. So we convinced each other, Marcia



Neuschwanstein Castle, Bavaria, Germany, 1971

and me, that we needed to go to Europe. We'd never been out of the country before. I remember we said we can't afford to go, but we can't afford not to go. So we flew to Switzerland, and spent two weeks driving around the mountain country of Switzerland, Germany, Austria and slivers of France and Italy. We picked that part of Europe on a theory that since we were moving to the mountain country of the United States, we ought to know something about the mountain country in Europe. It was a fabulous trip.

Caitlin McHugh

When did you start at Rothgerber Appel and Powers? And you're still here.

James M. Lyons

On September 28 1971, I walked in the door. I'm still here. I don't know what that says about me or the firm but here I am 50 years later.



Early days at Rothgerber Appel & Powers

The firm has seen changes over the years. It began in 1903 as Rothgerber and Appel after its two founders and then changed to Rothgerber, Appel and Powers after World War II, then to Rothgerber, Appel, Powers and Johnson in the 1980s and finally to Rothgerber, Johnson and Lyons in 1999. And in 2013, the firm merged with Lewis Roca, a regional law firm based in Arizona, California, and Nevada.

18 • INTERMOUNTAIN JEWISH NEWS • April 24, 1998

FINANCE • REAL ESTATE

BUSINESS SECTION

Name change honors attorney Jim Lyons

Firm's name changed to Rothgerber Johnson & Lyons LLP

Effective March 31, the law firm of Rothgerber, Appel, Powers & Johnson LLP changed its name to Rothgerber Johnson & Lyons LLP in recognition of long-time partner James M. Lyons. The firm, established in 1903, is Denver's oldest continuing legal partnership.

Lyons, who has served as counsel to President Bill Clinton and now serves as special advisor to the president and secretary of state for economic initiatives in Ireland, has been with the firm since 1971 and a partner since 1975.

Lyons also concentrates his practice in complex business matters and litigation, including corporate and securities law, class actions, health care and public law. His practice also involves international trade and business development.


Lyons is a fellow of the American College of Trial Lawyers and the International Academy of Trial Lawyers. He is a master barrister for the William E. Doyle Chapter of the American Inns of Court. He is admitted to practice in various state and federal courts including the US Supreme Court.

In November, 1992, Lyons was appointed counsel to the Office of the President-elect and served in Little Rock, Ark. and Washington DC. In 1993, President Clinton appointed Lyons to serve as the US observer to the International Fund for Ireland. This fund was created by the Irish and British governments in 1986 for the purpose of promoting economic development and reconciliation in Ireland.

In 1997 President Clinton appointed Lyons to succeed Sen. George Mitchell as special advisor and secretary of state for economic initiatives in Ireland.

Lyons is listed in "Best Lawyers in America" (business litigation). He has been honored for his public service in Colorado by former Gov. Richard D. Lamm, the Colorado Supreme Court, and Colorado Common Cause, and is a fellow of the Colorado Bar Foundation. He also serves as a trustee to the University of Northern Colorado.

Lyons is the 1998 recipient of the AJC Learned Hand National Award. He received his law degree from DePaul University College of Law in Chicago in 1971 and served as Associate Editor for the DePaul Law Review. He is a 1968 graduate of the College of the Holy Cross in Worcester, Mass.



Jim Lyons

ROTHGERBER, APPEL, POWERS & JOHNSON LLP

has changed its name to

ROTHGERBER JOHNSON & LYONS LLP

continuing 95 years of commitment to excellence in legal services to the Rocky Mountain region.

COLORADO SPRINGS	DENVER	CHEYENNE
Norwest Bank Tower Suite 1100 90 South Cascade Colorado Springs, CO 80903	One Tabor Center Suite 3000 1200 17th Street Denver, CO 80202	One Pioneer Center Suite 210 2424 Pioneer Avenue Cheyenne, WY 82001
(719) 386-3000 (719) 386-3070 fax	(303) 623-9000 (303) 623-9222 fax	(307) 638-6262 (307) 638-6565 fax
info@rothgerber.com www.rothgerber.com		

Caitlin McHugh

You've mentioned to me before that looking back on your career, you believe your career developed in stages. Maybe we can start by talking about what you thought of as stage one.

Career: Stage 1

James M. Lyons

Well, the first stage was a broader stage in the sense that we were a small firm at the time. Ira, Bill Johnson, and Bob Appel, the firm leaders, wanted to expose me to pretty much everything that the firm did, which was largely transactional work, estate work, real estate, and of course, the banking practice. And I did that for a while, but over time, gravitated toward what they'd hired me to do, which was to assist in the bank chartering work, either by way of representing groups applying for a bank charter, or representing incumbent banks opposing a new bank charter. And the firm's practice over the 1970s grew regionally. And we did that kind of work not only in Colorado but throughout the West.

Ultimately, it became national as Bill Johnson became widely known for one-bank holding companies and the advantages that that offered to owners of community banks. And it was Bill who taught me the ropes of administrative bank litigation and holding company formation and regulation. Often when he was unavailable, and as my skills developed, he would send me to represent clients or to community bank conferences around the country to explain bank holding company benefits and develop new clients. These were often memorable experiences in the Rocky Mountain region and the South where community banks thrived and branch banking was limited.

Caitlin McHugh

In addition to the banking work, did you also start working on other administrative law matters?

James M. Lyons

I did. The bank work actually was a form of administrative litigation that involved contested evidentiary hearings before the various state bank boards in Colorado, Wyoming, New Mexico, Nebraska and Montana. And for national banks, the hearings were before the Regional Administrator of national banks. Again, those were evidentiary proceedings and they were administrative litigation. So I had that litigation experience. Two things then happened. First, we were hired to represent the incumbent armored car company in Colorado, Wells Fargo, to oppose an application from a competitor named Purolator. And that led to contested hearings, appeals over an extended period of time, several years actually, at the Colorado Public Utilities Commission and in the appellate courts. And again, those were evidentiary proceedings, fully contested. The rules of evidence, and essentially the rules of civil procedure applied.

Purolator was represented by an experienced Denver motor carrier and trial lawyer named Ed Lyons (no relation, although he, too, was a Holy Cross graduate). Ed was a gifted lawyer and treated his younger and less experienced adversary with dignity and respect. Over the course of these Wells Fargo/Purolator cases, I learned a great deal from Ed who became and still is my good friend.

Because of that experience, we were asked by Sears, and then Montgomery Ward, to represent their interests in rate proceedings brought by Public Service Company in Colorado to increase electric and gas rates, which of course dramatically affected their

stores, and their ability to price products to consumers. So all of this PUC experience, which added to my banking work, is how I got into administrative litigation.

Caitlin McHugh

During this stage of your career, 1975 was a significant year. What happened?

James M. Lyons

A couple things. Marcia had gone to St. Francis Hospital School of Nursing in Peoria, Illinois, which is about two hours from Joliet. She was student nurse of the year, not any surprise to me, but I think she was surprised. And what she got from that was a nursing certificate, an R.N. She very much had wanted to get a bachelor's degree. And rather than take some shortcut, she enrolled at the University of Colorado School of Nursing at Ninth and Colorado, and basically started all over. But she got her nursing bachelor's degree, with honors I might add, in the spring of 1975. She was, at the time, five or six months pregnant with our first child, a son, John. And he was born in October of 1975. So in 1975, she graduated with her BSN *cum laude*, John was born and the firm offered me a partnership. 1975 was indeed a big year for the three of us.

Caitlin McHugh

During this time, you got to know Ira Rothgerber better. Can you talk to your friendship and mentorship with Mr. Rothgerber?

James M. Lyons

Other than my father, I don't think there's a single lawyer or person that had a bigger impact on me in my career than Ira did. I've been privileged to deal with some

of the very best lawyers in this town and frankly in this country, but Ira is in a category all by himself. To me, Ira was "the compleat lawyer." What made him so special was a variety of things. He was incredibly smart. He loved the law in a way I think very few people, lawyers and judges ever do. He regarded this law firm of his as basically his family. He had never married and had no children. He was independently wealthy. So he didn't depend on the firm for his income and could devote his full energy to it. He practiced law simply because he loved it. He just plain loved it. And you could not be around him for very long and not be affected by that. He also went out of his way, as I look back on it, to take an interest in me, in my career, my development, and mentored me in a way that I wish we could duplicate. He pushed me hard and would never settle for anything less than the very best, but he treated me in many ways like a son.

Caitlin McHugh

Is it fair to say that one piece of his mentorship was exposing you to more civil litigation in addition to the administrative law?

James M. Lyons

Yes. He determined that despite my reluctance to be a litigator or trial lawyer, that it really was my strength and what I could do best. And he was right.

Career: Stage 2

Caitlin McHugh

That may be a transition to stage two of your career.

James M. Lyons

Well, it is. Part of the Colorado Public Utilities Commission experience was not only representing companies like Sears and Montgomery Ward in rate cases with the Public Service Company, now Xcel, but also with the incumbent phone company, which then was Mountain Bell, later US West. And we had a longtime client called Sturgeon Electric, which diversified into what was then a brand-new industry called the interconnect industry or “CPE,” meaning customer provided equipment. By virtue of decisions of the Federal Communications Commission, business customers were now able to provide their own equipment to interconnect with the telephone system. And Sturgeon Electric wanted to diversify into that new line of business. Mountain Bell, like all the other Bell companies and AT&T, fought it tooth and nail at the state level. So because I had experience at the PUC in adversary proceedings, I undertook to represent Sturgeon Electric, which then became part of a national trade organization of these interconnect companies called NATA, the North American Telecommunications Association. NATA had been organized to fight these tariffs, these limitations in various states, as well as on a national basis in both the FCC, the federal courts and ultimately Congress.

Caitlin McHugh

During that time, I believe you got to know Ed Spievak.

James M. Lyons

Yes, Ed Spievak was with a firm in Washington, DC called Cohn and Marks, which was a specialized small firm dealing with communications issues. Many of the lawyers there had either worked at the FCC or had been involved in representing companies under FCC jurisdiction.

Ed had an interesting background. He was originally from Ohio and as a young lawyer worked at the Ohio statehouse where he learned how the legislative sausage was really made. He eventually moved to DC and found his way to Cohn and Marks. At the time we met, he was the General Counsel of NATA and had structured sort of a three-prong strategy to deal with the Bell monopoly. One prong was legislative, in Congress. One prong was regulatory, in both state commissions and before the FCC. And the third prong was public relations. And through him, I learned the value of that kind of strategy in appropriate circumstances.

But basically, Ed was intrigued by the ability here in Colorado before our PUC to conduct discovery and get access to underlying financial cost data that the Bell System had. We were also fortunate because the Colorado Public Utilities Commission, unlike some others, had subpoena power and was governed by the rules of civil procedure. So we not only had access to the records of Mountain Bell, but because Western Electric and Bell Labs had facilities here, we could reach them with third-party subpoenas as well. So Colorado became, early on, a fertile area for the second prong of the strategy that I described.

Caitlin McHugh

Did those cases stay in Colorado or did your experience expand?

James M. Lyons

One of the first major successes we had in front of state commissions came out of a case from Colorado called the Comkey case. Comkey was a pushbutton, multi-line system that Bell had developed to compete with interconnect systems being made overseas, largely in Japan, and being distributed by NATA members like Sturgeon

Electric in the US. And we were pretty convinced that they were underpricing it. Bell had the advantage of its monopoly where they could overprice monopoly services, like residential phone rates, in order to underprice competitive business services, which is simply a form of predatory pricing. So we proved that case here in Colorado with Comkey, and with that victory, Ed decided to take it to other state commissions around the country. So I packed my bags and traveled with Ed around to various states over the next few years to litigate those predatory pricing issues.

Caitlin McHugh

What was the result of those?

James M. Lyons

Well, in many states, we were just outgunned by Bell, but we successfully litigated in several states, including California. In Arkansas we were not entirely successful but got very important discovery and rate changes.

We were not successful in Georgia or in Texas which, by the way, at the time had local telephone regulations delegated to cities. So we tried the predatory pricing case in three or four different cities in Texas. I remember seeking a TRO in state court in Houston to prevent a predatory rate taking affect. The judge was elected and knew how to play to the press and the house, describing a TRO and preserving the *status quo ante* as “Latin for dealin’ with the mess we’re in” (he ruled against us).

Ultimately, Texas put statewide jurisdiction over telephone companies and rates in an administrative agency, equivalent to the Public Utilities Commission.

All this also caused us to consider bringing a federal antitrust suit, and we

eventually brought two of them. One was called *Jarvis vs. AT&T* and the other was called *Selectron vs. Pacific Bell*. Both of these cases we ultimately settled on very favorable terms for our clients. And those two cases caused the Justice Department, when they filed their antitrust case seeking to break up the Bell system, to include a series of claims that addressed this predatory pricing in the interconnect industry.

Let me just say one last thing about Ed Spievak, Bill Johnson, Ed Lyons, and Ira Rothgerber. At some point early on in my legal career and my travels, I started to realize that I was being exposed to some of the very best lawyers around, so I started my own Attorneys Top 10. And I can tell you that as of now, 50 plus years later, I still haven’t filled out the entire top 10. But Ira Rothgerber, Bill Johnson, Ed Lyons, and Ed Spievak are all enshrined in that pantheon. And so is Dan Hoffman, who we will talk about later.

Caitlin McHugh

What incredible opportunities to learn from.

James M. Lyons

I was just plain lucky to be exposed to people like that. Just plain lucky. But I think had enough presence of mind to learn what I could from the great lawyers whom I encountered.

Caitlin McHugh

During the period, did you handle other anti-trust cases?

James M. Lyons

Yes. We successfully represented a national movie distributing company against

charges of “block billing” which is the illegal practice of requiring movie theaters to take “B” movies in order to get “A” movies, like “Star Wars.” This practice had been outlawed since the 1930s by a consent decree with the Justice Department.

I also handled plaintiff’s federal anti-trust cases for a company in the HVAC market in Colorado and Wyoming and a Boulder discount grocery chain which was targeted by Dillon Companies (King Soopers). Both of these cases involved predatory pricing schemes much like AT&T had used. The first case was tried to the court and we lost. The second case was tried to a jury which ruled against us, despite an FTC cease and desist order to King Soopers which the trial judge excluded from evidence on Rule 408 grounds. Unfortunately, the Tenth Circuit affirmed both rulings without much understanding of predatory pricing theory.

Caitlin McHugh

I think sometimes Mr. Rothgerber taught you things in a way that would make other people nervous. Could you tell us about your first civil jury trial?

James M. Lyons

This was a case in Denver District Court in front of Judge Henry Santo, who had been a longtime district judge. Pretty good judge, as I remember, but irascible like many judges, I suppose. Anyway, I don’t remember the name of the case. I don’t even remember the issues in the case. It is that long ago. But I do remember it was a jury trial. And early on, Ira said, you and I are going to try this case together. I did most of the discovery and most of the motion practice, under his supervision of course. And as we were getting close to trial, he said, “I’ll pick the jury,” which was fine. I had no experience at that point picking juries. He said, “I’ll open. But I want you to close.”

And I thought, okay. So as we got closer and closer to trial, I started writing my closing argument. And I wrote it, and I rewrote it. And I rewrote it. And every time I would think of something new. Even if it was three o’clock in the morning, I would get up and change it, and I rewrote it and rewrote it some more. I had probably rewritten it eight or nine times by the time we got to trial. Well, he picked the jury, he opened and we split the witnesses. And at the end of the trial, Ira argued the jury instructions as I remember. I think he did that, not me, although I was there and involved. At the end Judge Santo said, “Mr. Rothgerber, closing argument.” And Ira stood up and said, “Your honor, Mr. Lyons will do the closing argument.” And I went to reach for my script and it wasn’t there. And I looked and looked. The jury is looking at me and wondering what’s the delay here. Finally, Judge Santo said, “Mr. Lyons are we going to hear from you or not.” I said, “Yes, your honor.” So I went to the podium and winged it. It turns out what Ira had done is taken my script. I don’t know if he put it in his briefcase, or he just sat on it. But he took it away without my knowing it. So when we took our recess, when the jury was out, I was not very happy with that. But he said, “Never, ever, ever read a closing argument. You have to look the jury in the eye, you have to be persuasive. And that all means you’ve got to know the case.” He said, “I knew you knew the case cold. You’d written it, you’d rewritten it, and rewritten it. What you didn’t know is that all that work would have gone for naught, could have gone for naught, if you just read it to them.” And I’ve never read a closing argument since.

Of course, I’ve used notes. And I’ve even used PowerPoints, although I don’t like that very much because I’m old school. But it was an invaluable lesson for me. And I think it also applies to opening statements as well. It’s an interactive business here in a courtroom. It’s a persuasive art. And the quality of the persuasion suffers when it’s being read.

There's a classic story told about one of the great American lawyers of all time, Edward Bennett Williams (also a Holy Cross graduate, by the way). And this was told to me by a young associate of his who later became his partner at Williams and Connolly and a good friend of mine. At one of his very first client meetings with Mr. Williams, while interviewing and talking to the client, Williams was apparently scribbling madly. And so the young associate later asked him, "So why did you do that? I was there, I was taking notes. What were you writing?" And Williams said, "I was writing my closing argument." He went on to say, "Now, I will change this as the case goes along. But from the beginning, our job is to know the case inside out and persuade judge and jury to a point of view. That's what a closing argument does."

Caitlin McHugh

Wow, there's so much to learn from that.

James M. Lyons

Yes, there is. When you're exposed to a great lawyer, the best thing you can do is just absorb, whether it's your co-counsel or adversary. Your style may be different than his or hers. And if you try to copy that style, it won't be authentic because it's not you. But there are things you can learn by watching that lawyer, or working with him or her, that you can engraft, envelop into your own style over time. And certainly, that's been my experience in my career.

Caitlin McHugh

I've heard rumors that you've adopted Mr. Rothgerber's tactic a time or two and maybe hid some notes from young lawyers?

James M. Lyons

I'm going to plead the Fifth Amendment.

Caitlin McHugh

Fair enough.

James M. Lyons

I do try to tell the lawyers here, and lawyers I've worked with elsewhere, that you reduce your effectiveness as a persuader, and sort of suggest that you don't know everything there is to know about the case, if you read your opening statement or closing argument. Now we handle big complicated cases. It's not realistic to think that you can do this without notes, or do this without a PowerPoint. But, standing in front of a jury after a complex case, and they're all complex to some extent these days, and reading a closing argument to them just doesn't work. My experience tells me that's just not the best way to do it. Is it more work for you? Yes, sure. But it forces you to know the case and know it well.

Caitlin McHugh

One case that you've spoken about from this time period is a case that's a little different than the other work you were doing, the pro bono case, the Pacheco case?

James M. Lyons

Yes. we have an obligation as a profession to offer our services *pro bono* to people who can't afford it and, frankly, to people who are maybe already prejudged by society or the system; the underdogs, if you will. This one came to me through Legal

Aid. And I don't know if it was Jon Asher who asked me to look at it, or how it got to me specifically. But I was asked to represent a young Hispanic man in a common law marriage. He and his wife had had a child die as a result of alleged child abuse. I did not represent him criminally. But I was asked to represent him because the state was trying to terminate his parental rights of another child, an infant girl. And I undertook that representation and was successful in convincing the available support system, Denver Social Services (DSS), Kempe Center National Center for prevention of child abuse, where parenthetically Marcia ended up working later on, to provide this young man and his common law wife with parenting skills, as well as supervision as a way to avoid termination of their rights to this child. The child, by the way, was in St. Joseph's Hospital, at the very same time my son John was born there in 1975. They were in the infant nursery room together.

The Pachecos did not lose their parental rights for this infant girl. They were subjected to intense supervision, parental schooling and meaningful counseling, all of which we made available to them as a part of our on-going litigation with DSS. The couple went on to have two more children. And in both cases, Denver Social Services wanted to terminate those parental rights so the work multiplied. So one case turned into three over a period of about five years. And it opened my eyes to a whole number of things, not the least of which was, these are the kinds of people that our profession doesn't often address. Yes, they have access to some legal help. But I thought it needed to be more than just legal help. I think we needed to make the system work for them. Now they had to meet the system halfway to make it work—ultimately it did.

I haven't heard from the Pachecos in a long time. The last time I did, their family had moved to New Mexico and were doing fine.

Caitlin McHugh

During this case you also begin working with Donna Mather?

James M. Lyons

I did.

Caitlin McHugh

Who is Donna Mather?

James M. Lyons

Donna Mather was an experienced legal secretary from Florida, who moved to Colorado. I don't remember exactly when or why. She had gone to work for another law firm, Gorsuch Kirgis, actually, which doesn't exist now. She had worked with a friend of mine over there, and she was unhappy with Gorsuch Kirgis. He called me about her and said she was the very best and we ought to at least look at her. And we did. And she became my secretary, my legal assistant. And as I'm fond of saying, when we were going to trial, i.e. in time of war, she was my chief of staff. We worked together for 36 years til she retired. She was simply the very best secretary, legal assistant and chief of staff any trial lawyer could ever have had. Without her, my career would have been very different and not nearly as successful or satisfying as I believe it has been.

Caitlin McHugh

Did you have other secretaries or legal assistants before and after Donna?

James M Lyons

Yes, I did. Before Donna, my secretary was Karen Weisman. I shared her with Ira which was a bit daunting at first. Karen was very experienced and, like Donna, took shorthand (a lost art). Karen was a wonderful teacher for a brand-new lawyer. She had a very dry sense of humor and knew when and how to use it. She passed away some years ago but I remember her fondly.

After Donna, Jonelle Martinez became my legal assistant. She was hand selected for me by Donna and, as usual, Donna was right. Jonelle has both undergraduate and master's degrees and is very skilled. Jonelle has served me very well, as well as the other five busy lawyers to whom she is assigned, which is no mean feat. She is always pleasant and has bottomless patience—something she needs to work with me.

Caitlin McHugh

So while you were working on the CPE cases around the country, and you had the other cases you described, you became involved with FirstBank, is that right?

James M. Lyons

Yes, I did. This was at a time when FirstBank was growing and expanding. And in order to do that, they had to apply for a new bank charter, either state or federal every time. Later Colorado changed the law to allow for holding company banking, and then branch banking, which is what we now have. And now FirstBank has over 100 branches in Colorado, Arizona and California with more than \$25 billion in assets. So I was pretty familiar with FirstBank and their operation from the bank chartering work.

During my time back in Chicago, with the management consulting company,

I had gone through training as a teller, as a junior loan officer, although I don't think I've ever made a loan on my own. And even spent some time with the repo department. This was long before the changes in the consumer laws. And if you were delinquent in your car payments, for some period of time, the bank could simply repossess your car with no notice or hearing. Now remember, we were on the south side of Chicago, by and large, south and southwestern suburbs, with some pretty rough neighborhoods. And so the bank hired a convicted former car thief to do repossessions. And I do remember his very pregnant wife would spend the day scouting where the car might be at night, so that he could then go "repossess." I didn't do it myself. But I rode along with him a couple of times, just enough to know that that was not something I was interested in, by way of a career.

And of course, Bill and Ira knew bank operations intimately. They were two of the founders of FirstBank. So they asked me in June, 1978 to serve on the FirstBank board, which I agreed to do at age 31. And I enjoyed it very much. But the problem was, as I said, every time FirstBank wanted to grow, they had to either buy or start a new bank, which meant by law when we did our monthly meetings, we went through each bank separately. So by the time the mid-1980s rolled around, we had a growing number of banks that we had to review every month. And that takes a lot of time to do it and do it right. I just got to a point where I said I just can't do this and also do the litigation practice that I now had. So I went to Ira and Bill and explained it to them. They said, "Okay, we understand." So I stepped off the board at FirstBank. I am still a FirstBank customer and a FirstBank shareholder. And it is the best banking organization around.

Career: Stage 3

Caitlin McHugh

I think we can transition to stage three now around the mid-80s to early 90s. How would you describe this stage of your career?

James M. Lyons

Well, this is when my litigation career, my trial career, really took off, as I look back on it. There were a number of major cases in which I got involved. This is about the same period of time when a young lawyer from New York named Fred Baumann joined us and quickly became my partner in crime. And this stage of my career, like the others, was pretty fascinating and exhilarating.

Caitlin McHugh

I'd like to talk about a couple of those cases during that time period. You've mentioned the Anschutz Section 5.11 cases before. What were those?

James M. Lyons

The Anschutz Company, which is owned by Philip Anschutz, had been involved in the oil and gas business in the West for decades. The company had entered into an agreement with two major oil companies, Mobil and Amoco, to develop an area in southwestern Wyoming and northeastern Utah, known as the Anschutz Ranch. The notion here was to develop the minerals, oil, and primarily natural gas, and then sell the natural gas under what were then known as "take or pay" contracts. These contracts meant that the utility or industry ultimately buying the natural gas either had to take it or pay for it as

if they did take it. This assured the buyer of a gas supply at a fixed price, despite market fluctuations, and gave the seller a reliable fixed market. So those producers like Anschutz that had take-or-pay contracts were in very good financial shape, but subject to claims by their business partners of entitlement to participate in the take or pay revenues.

The contract between the Anschutz Corporation and Mobil and Amoco had such a take or pay provision with Northern Illinois Gas Pipeline, as I recall. And it was our position that under this Section 5.11 of the contract, Amoco and Mobil were not parties to our contract with Northern Illinois Gas and were not entitled to participate in our take or pay revenues. So Amoco and Mobil and the other working interest owners in the ranch sued the Anschutz Corporation in federal court in Wyoming, claiming a share of the Northern Illinois Gas contract.

At the time, I knew almost nothing about oil and gas. But I did have experience in federal court litigation and trials. The Anschutz Corporation was represented by the then-Denver firm of Holme Roberts and Owen, which was one of the premier Denver firms and certainly one of the premier energy firms in this part of the country. But they had a conflict of interest because their senior partner had drafted this contract and Section 5.11 which had been negotiated over a period of months, literally months, with other working interest owners, including Mobil and Amoco. The partner's name was the late Ted Stockmar. Ted was clearly going to be a material witness. So Holme Roberts would not be able to continue as trial counsel under the then-prevailing ethics rules. It might be different now. So they were looking for a new trial lawyer and Holme Roberts put me on the short list of trial lawyers to be considered by the Anschutz Corporation. I met with the executives and in-house counsel there, and they hired me to do the case. I quickly brought in Fred Baumann and Brent Cohen, who had grown up in Cheyenne and knew his way

around Federal District Court in Wyoming where he had clerked. So we put together a team to do this case, which had claims and counterclaims. We tried the case in phases before Chief Judge Clarence Brimmer in US District Court in Cheyenne. The case went up and back to the Tenth Circuit. The half-life of the case, as I remember, was somewhere around four years. And at the end of the day, it was a mixed bag for us. We won on some of the counterclaims. We did not prevail on some of the other claims. But the end result was we formed a working relationship that continues with The Anschutz Corporation.

This case raised some novel issues of oil and gas law and contracts, particularly in the context of take or pay contracts. While I don't agree with the Circuit's interpretation of Section 5.11, it was sufficiently ambiguous for the trial court and the Circuit to have interpreted it as they did.

Caitlin McHugh

During this time, you were also working with Fred Baumann on some other cases. Is that right?

James M. Lyons

That's right. A word about Fred Baumann. Don't tell him this, but he's already in line for my top 10 list. He was a young lawyer in New York who graduated from NYU Law School. He worked for one of the preeminent trial firms in New York, Patterson Belknap. He met and married Barbara McClearn, who was from Denver. Barb's father was Bill McClearn, who was a legend in his own right and the preeminent trial lawyer at Holland and Hart. Barb worked for Amoco as a financial analyst. She has an MBA from Wharton in Finance as I remember. In any event, Amoco wanted to transfer her from Chicago to Denver and she wanted to come home to Denver, which meant Fred

was going to relocate to Denver. His father-in-law had given him two firm names, and names of people he ought to talk to, or interview. And our firm was one of them. We were immediately impressed with him. Dick Clark, our then hiring and managing partner, quickly offered him a job. And it was one of the very best hiring decisions we ever made.

So when I got involved in any kind of complex litigation, Fred was my go-to guy. And I quickly realized just what a superb lawyer and person he is. And so for the rest of my career, I looked for every opportunity to work with him and then do my level best to stay out of his way. I didn't always succeed, I'm sure he'd tell you. Working with him these past however many years has just been one of the highlights of my professional life.

As a matter of fact, he and I now share an office, like a number of our other lawyers in our new space at McGregor Square. And it is working fine. When I explained to my family that Fred and I would be "roommates," my 5-year-old grandson wanted to know if we would have bunk beds like him and his brother. I told him no, but if we ever did, I'd get the top bunk

Caitlin McHugh

Together, you guys represented and tried many shareholder class action defense cases?

James M. Lyons

Yes, over the years, we were retained by a variety of public companies, their officers and directors, and then very often by their insurance companies, to represent them in securities class action cases that were filed. Whenever a public company's stock price declined, or an adverse announcement was made that would affect their earnings,

invariably there'd be class action suits. This is something Congress has since tried to remedy with the Class Action Fairness Act and some other reforms. But back then it was just open season on public companies and their officers and directors when the company reported a downturn in earnings or an adverse event that materially affected stock price. So not very many of those cases went to trial. They went the full discovery route, and then eventually would settle, either with contributions from the company or their insurance companies. But we did a whole series of those cases in the 1980s. With the downturn of the economy, lots of public companies and their stock shares suffered. Invariably that would bring some of the well-known plaintiffs class action firms out of the woodwork to sue here in Denver.

Caitlin McHugh

Was the Petro Lewis case one of those?

James Lyons

Yes, it was. Petro Lewis was a major oil and gas firm in Denver that offered publicly traded monthly partnership investments to sophisticated investors to acquire oil and gas producing properties in the US and off shore. As the price of energy rose, so did the value of these acquired assets. However, when the recession hit Denver and this vulnerable sector of the economy in the late 1980s, the value of the oil and gas investments fell dramatically. This led to class action law suits in state and federal court and brought national attention.

We were engaged to represent the independent members of the Petro Lewis board. Eventually, we settled those lawsuits but the decline of the company and the energy market continued. The result of the continued decline resulted in a proposed sale in the hundreds of millions of dollars of these Petro Lewis oil and gas properties to a large

Louisiana based energy and mining company, Freeport McMoran.

Our clients, as the only independent board members, were charged with determining the fairness of the deal with the help of investment bankers and our advice. Their decision to go forward with Freeport McMoran after further negotiations and an increased price led to a second round of shareholder litigation in Denver District Court against the company and its board and an attempt to enjoin the deal. We tried the injunction case in Denver District Court and injunctive relief was denied. The acquisition was then completed and Petro Lewis then made distribution to its creditors and shareholders of the sale proceeds and ceased to do business.

Caitlin McHugh

In this time period, the mid 80s to early 90s, you also had a few very notable pro bono cases?

Judge turns back attempt to block Petro-Lewis buyout

By Peter G. Chronis
Denver Post Business Writer

An attempt to block a \$750 million buyout of Petro-Lewis Corp. and American Royalty Trust was denied Monday by Denver District Judge Clifton A. Flowers.

Flowers denied a preliminary injunction sought by six Petro-Lewis shareholders and unit holders in the royalty trust created from former Petro-Lewis limited partnerships. Disgruntled investors said Petro-Lewis and American Royalty Trust are worth \$900 million.

Meanwhile, Freeport-McMoran Inc.'s tender offers for Denver-based Petro-Lewis and American Royalty expired at 3 p.m. MDT Monday with no indication from the New Orleans-based company if it had succeeded. "We don't know yet, and we probably won't know until sometime tomorrow," FMI spokesman Joe Tice said Monday. The offers are considered crucial to Petro-Lewis' survival.

'Harsh and drastic action'

Granting a preliminary injunction, Flowers said Monday, is a "harsh and drastic, extraordinary action which should be exercised with utmost caution."

If FMI's July 24 offer to buy out Denver-based Petro-Lewis fails, the judge said, "The tender offer would be forever lost, and Petro-Lewis forced into bankruptcy."

"A strong public interest is served by letting shareholders and unit holders make up their own minds," he said.

Equity interests of the plaintiffs are "minimal" compared with the \$750 million offer made by FMI,

Flowers said, and the suits don't constitute a class action. "The evidence shows the financial condition of Petro-Lewis Corp. has been deteriorating, at least since late 1984 or early 1985," Flowers said.

Evidence showed that Petro-Lewis has a negative net worth of \$177 million to \$200 million and the company is on the verge of bankruptcy, he said.

In about March or April, Flowers said, Petro-Lewis retained E.F. Hutton, a New York investment firm, to seek potential buyers for all or part of Petro-Lewis, with no results until contacts with FMI in June.

Best efforts

The court found that the "officers and directors of Petro-Lewis have done all that could reasonably be expected of them in their efforts to keep Petro-Lewis afloat," Flowers said.

A committee of independent, non-management directors — Robert Katz, Robert Strawn and Robert Timothy — was formed to examine the offer, Flowers said. The committee hired the New York investment banking firm of Donaldson, Lufkin & Jenrette, which held FMI's offer of 73 cents a share for common stock and \$5.50 each for the trust units was fair.

Testimony by William E. Strevig, a Houston investment banker and petroleum engineer, that recent changes in oil prices wouldn't have had much effect on the fairness of FMI's \$750 million offer was "more credible" than evidence presented by the plaintiffs, Flowers said.

James M. Lyons

I did. The first one was Southmoor Park. If you're familiar with that part of town where the Continental Theater (now Regal Theater) stands, it's located just south of Hampden on the west side of Monaco adjoined by a large piece of property that's now an RTD parking lot. And a company called Harsh Development Company was to be the developer. Harsh was going to be the owner and bought this land and wanted to put up two office towers, that, as I recall, would be 10 to 12 stories high. Well, if you lived in Southmoor to the east of that, this would then create a wall that would block anything, including the view of the mountains, which then existed from Southmoor Park. And we lived in Southmoor around the corner from the park which lots of families like us used regularly.

I didn't get involved at the outset. But the neighborhood organized, wanted to get the property down-zoned, which the city wouldn't do and probably couldn't do legally. And then someone in the neighborhood asked me to come to a meeting. And we talked about alternatives. And one idea was to seek an ordinance which would protect the mountain view. The City and County of Denver already had in place several mountain view ordinances that protected the mountain view, for example, from the State Capitol. And at the time, I think there were five or six other mountain views. So we thought we could go to the city and convince the City Council to enact a mountain view ordinance to protect the view from Southmoor Park. And we did.

I do remember some reluctance on the part of the Mayor at the time, Federico Pena, to do this, but he did. And that resulted in a lawsuit being brought by Harsh Development Corporation and Landmark Land to overturn the ordinance. We tried the case, *de novo*, in front of Judge Warren Martin of the Denver District Court. Jeff Chase

was my principal adversary on the other side, a good friend then and a dear friend now. It probably took us three or four days to try the case with expert witnesses, photographs, and developers and neighbors testifying. Judge Martin went out to see if there was a mountain view to be seen from Southmoor Park and concluded that yes, in fact, there was. So he validated the ordinance.

The case then went to the Colorado Supreme Court. Harsh and Landmark then brought in Dan Hoffman at Holme Roberts to argue the case against me. And Dan was a dear friend and another great mentor over the years. The Court called us and asked us if they could videotape the argument because they wanted to use it in their educational programs around the state. They thought it would be an interesting issue and the first time the Court ever recorded an argument.

Fundamentally, the issue was, is this a valid exercise of the police power? Can a municipality protect its mountain views? And is that within the ambit of the police power? The standard in Colorado for overturning an ordinance, which I think is still the standard now, is you have to prove either bias or fraud. And I remember Dan Hoffman trying to convince me before we argued the case, that we should look at a broader standard of balancing of interests for a new standard, apparently like some other states have done. I remember telling him you have to think I'm crazy or stupid. I'm not going to agree to that. I don't think you can meet the standard of fraud or excess of the police power. And he couldn't.

The Supreme Court affirmed the district court, whereupon Harsh filed a petition for writ of certiorari to the Supreme Court of the United States. They brought in Rex Lee, who had been Solicitor General of the United States to write the petition for cert. When I read it, my heart sank, because I also knew, and he had referred to in his papers, that there was a

Court leaves mountain-view law intact

By Judith Brimberg
Denver Post Staff Writer

A group of Denver residents scored a major victory Monday when the U.S. Supreme Court refused to hear a challenge to a mountain-view law prohibiting high-rise development west of Southmoor Park.

Citing the lack of a "substantial federal question," the justices left intact Colorado court rulings that the 1982 ordinance didn't represent a "taking" of property that requires "just compensation."

The ordinance and several others provide mountain-view protection to eight areas in Denver.

Southmoor Park neighbors and their lawyers, who have battled developers for more than five years, were delighted Monday.

"When we bought our homes, everybody assumed there was a height restriction," said Felicia Muffie, who was president of the 600-member Southmoor

Park East Neighborhood Association when the controversy began.

But in the early 1980s, the Landmark Land Co. of Carmel, Calif., proposed a 21-story office building on the site of the Continental Theater.

Neighbors dismayed

Neighbors were dismayed to find the city had no height restrictions along South Monaco Street south of East Hampden Avenue.

Muffie said they tried unsuccessfully to negotiate with Landmark and two other developers — Harsh Investment Co. of Oregon, owner of the Howard Johnson and a gas station off East Hampden Avenue, and Southmoor Park Shopping Inc., owner of the adjacent King Soopers site.

They then turned to the Denver City Council for help, and the council passed the height ordinance in 1982.

"They were talking about building a

fixed-line transit system with Southmoor Park as a major transit stop, and we knew high-rise office buildings would go up unless we did something," Muffie recalled.

Southmoor Park neighbors had an uphill battle until Federico Peña was elected mayor in 1983.

The Denver Planning Board had opposed them, and Mayor Bill McNichols did not take a stand on the issue.

But the Peña administration supported their efforts, and Bob Kelly, an assistant city attorney, abetted them in state court. Lawyer Jim Lyons defended the neighborhood group without pay throughout the drawn-out fight.

The developers fought the mountain-view ordinance in state court, but the judge dismissed the case.

An appeal to the Colorado Supreme Court also failed.

In an opinion written by Justice Luis Rovira, the Colorado Supreme Court

ruled on Dec. 2, 1986: "It is the well-settled rule in Colorado that, in order to establish that an ordinance which restricts the use of land is unconstitutional, it must be shown that the ordinance precludes the use of the property for any reasonable purpose."

To take a look

Harsh Investment, which took the appeal to the U.S. Supreme Court, will take a look at the situation, said Jeff Chase, company attorney in Denver.

In their appeal to the nation's high court, Harsh lawyers had argued that Colorado courts wrongly used a "total loss of value" test in determining whether the mountain-view ordinance represented a taking.

Their appeal said the 1982 ordinance destroyed "at least 60 percent of the value of the landowners' holdings under otherwise controlling city zoning regulations."



case out of California pending before the Supreme Court with regard to beach access, and whether or not the State of California or private landowners could restrict beach access as an exercise of police power. And this would have been a companion case to that.

We wrote the opposition with the help of a gifted young legal intern from Ireland named Brian Murray. Brian was spending the summer with us. Brian returned to Ireland, finished law school and became one of the top barristers in the country. He was recently appointed to the Supreme Court of Ireland, the capstone of a brilliant career.

In the end, the Supreme Court decided to take the California case but did not take our case. So we prevailed.

Caitlin McHugh

And is the ordinance still in place today?

James M. Lyons

Yes, it is.

Caitlin McHugh

I'll have to go to Southmoor Park and see the mountain views.

James M. Lyons

Well, it's a little different now because the vegetation, the trees have grown considerably. But this time of year when there are no leaves on the trees, you can see it pretty clearly. And actually, you can see it even during the summertime. Go to the high end of the park on the east side, where it rises up to a hill just south of Hampden off Poplar. It is a panoramic view. There is nothing that's been built on the property to obstruct the view. As I said, it's an RTD parking lot.

Caitlin McHugh

During the late 80s, did you become involved in what became known as the Silverado case?

James M Lyons

Yes, I did. Silverado was a \$2.5 billion savings and loan association which failed due to sham lending practices and poor real estate loans. The federal government through the Federal Deposit Insurance Corporation (FDIC) took over the thrift and paid out the eligible depositors. The FDIC then sued the officers and directors in federal court in Denver. One of the directors was Neil Bush, the president's son.

We—Fred and I—represented National Union, the insurance company for an outside director who had director and officer liability insurance through his employer, Beatrice Company, the former owner of Silverado. Beatrice had taken back a promissory

note as part of the sales transaction and was entitled to a board seat which was held by our insured, Richard Vitkus, one of Beatrice's attorneys. He was represented by the late Roger Thomasch, a good friend and one of the very best trial lawyers in Denver.

Because of the size and prominence of Silverado in the Denver financial community, it was called the worst banking debacle in the history of Colorado. This and the notoriety of the president's son caused the case to receive national attention.

After much discovery and with trial looming, the trial judge, Chief Judge Sherman G Finesilver, ordered us into an intensive, multi-party settlement conference over several days (and nights). The result was a settlement funded in part by insurance and individual contributions from the officers and directors.

We then represented the insurance company in litigation against Beatrice to recover amounts paid on behalf of its insured, Richard Vitkus. This resulted in a judgment by the late US District Judge Richard Matsch in favor of our client for about \$14 million. This brought an end to the Silverado saga, except for criminal charges and the conviction of its president and CEO, Michael Wise.

Ruling ends battle over Silverado

By IAN OLGEIRSON

Business Journal Staff Reporter

A U.S. District Court judge has ordered Beatrice Co. to pay about \$14 million to the insurer of former Silverado Banking Savings & Loan director Richard Vitkus.

The decision made by Chief Judge Richard Matsch to make Beatrice pay \$10 million plus interest and fees marks one of the final legal skirmishes that sprouted from the Silverado debacle.

Vitkus became a member the Silverado board of directors after Beatrice sold a financial institution to Silverado, but continued to hold a note on the bank.

Vitkus was not active in the daily workings of the savings and loan, serving as an outside member to watch out for Beatrice's interest in the savings and loan.

When the S&L collapsed in the late 1980s, the Federal Deposit Insurance Corp. went after the directors of Silverado to recoup its losses. Vitkus had left Beatrice to become general counsel for Emhart Corp., putting its liability carrier, National Union, into the fray.

National Union paid the FDIC in a settlement in 1991, but argued the burden of liability insurance belonged with Beatrice.

"National Union was very pleased to have its position vindicated," said Jim Lyons, the insurance company's attorney.

Beatrice is expected to appeal the decision after Matsch issues the final judgment.

Silverado collapsed under the weight of bad real estate loans, and the bailout cost depositors \$1 billion. Its board was filled with high-profile people including Neil Bush, son of former President George Bush.

The 1988 collapse of Silverado was the worst banking debacle in the history of Colorado. After the government seized the \$2.5 billion-asset thrift, the Front Range real estate market went into a death spiral and Congress held hearings on the causes of the S&L's failure.

"Barring any appeal, the Silverado chapter of Mr. Vitkus' life is closed," said his lawyer, Roger Thomasch.

Caitlin McHugh

Another memorable case from that time period is the Toevs case?

James M. Lyons

Yes. During the course of my long, close friendship with Judge John Kane, I came to know his former law partner, Irving Andrews, who was an African American, and probably the best criminal defense lawyer of his time, Black, white, or green. Irving was originally from Pueblo, Colorado, graduated from Colorado College on scholarship and served in the Navy. He went to law school and overcame the discrimination Black people and Black lawyers faced.

John Kane had been partners with Irving, before John left to go to India in the Peace Corps. When he came back, he went to Holme Roberts, which is where I got to know him in the 70s.

In any event, Irving was a real character. I mean he had a great stentorian baritone. He could quote Shakespeare, he was an extraordinary, extraordinary talent. He had once tried something like 40 capital murder cases, without losing a client to the death penalty, when there was still a death penalty. Irving was kind of in the twilight of his career and had been appointed to represent a young man, 19 years old, named Janos Toevs, who was accused of first-degree murder of a drug dealer. The co-defendant was a 15-year-old young man who was represented by the Haddon Morgan firm; his family apparently had resources. So one night when we were together, Irving was lamenting the fact that he had taken this appointment. Because he was a sole practitioner, and really didn't have the resources or support, he was concerned that the motion practice and everything else would overwhelm his client and him. And Irving was a friend of mine by then, too. And I remember saying

to Irving, “We can help you out. I’ve got people at the firm, I’m sure, who’d be delighted to donate their time to be involved in something like this, because it’s so different from what we ordinarily do and would enjoy working with you.” And I didn’t think any more about it because I didn’t hear anything from Irving, which didn’t really surprise me. But then a couple of weeks later I get a call from Judge Martin, who I knew pretty well anyway, saying, “I’ve got Irving Andrews here in my chambers telling me you’ve agreed to co-counsel this case with him.” I said, “Whoa, whoa, wait a minute, Judge. Wait a minute.” I told him what I’d said to Irving that we’d help with the motion and anything else. Judge Martin said, “Well, you’re either in or you’re out. It’s up to you.” And I thought, well, I did tell Irving I’d help him. I said, “Alright, Judge. I’m in.” He said, “Okay, come on over here and I’ll get you appointed.” So that’s how we became co-counsel to Janos Toevs.

We tried the case to a jury. It was a first-degree murder case. The 15-year-old had taken a plea agreement, which put him into the juvenile system which meant, of course, he was never going to go to prison. He testified against us, that it was our client who did it, and did it by himself. We had a jury of 12, no alternates that I recall. Two of the jurors were black women. Irving picked the jury. We split the witnesses. He wanted me to close and I said no, no, no, no. This is yours to close. He did, and it was masterful and gave a brilliant working definition of reasonable doubt, comparing it to a step ladder where each material element of the alleged crime—a rung—needs to be climbed to get to the top, a verdict of guilty. He pointed out how the prosecution had missed several rungs such that the ladder of guilt could not be climbed

Well, the jury went out. I think they were out a couple of days, maybe a little less, and they hung. And the prosecution, a really fine lawyer named Bill Buckley, a Senior Deputy District Attorney was just beside himself. So we went back to interview the jury,

which you can do in state court without permission of the judge, although I asked Judge Martin if we could do it. I remember him saying, “Lyons, this is state court. You’re not in federal court. Yes, you can go interview them.” And it was 10 to 2 for conviction. The two holdouts were the two Black women. And Bill Buckley just pressed them. “What didn’t I prove. What made you vote for acquittal?” Finally one of them in exasperation said, “If lawyer Andrew says there’s reasonable doubt, there’s reasonable doubt.” And that was it.

So we tried the case, again, this time to an all-white jury. We had worked very hard with our client to consider a plea agreement, which was a pretty favorable under the circumstances, which he rejected, repeatedly, including on the record. The trial this time is was in front of Judge Robert Hyatt, who is still one of the best trial judges I ever had the pleasure to appear before. And there’s a series of cases, as you probably know, that require an admonition from the court which Judge Hyatt gave. He found, and Toevs agreed, that he wanted to go to trial. He did. He testified in the first case, but not the second one. The DA had a transcript of what he’d said before, so it was really high risk to put them on the second time, and he agreed with us not to testify the second time.

He was convicted and sentenced to life because it was a mandatory statutory sentence. He’s not eligible for parole till he turns 65. He later filed a case against me and Irving, who by this time had died, claiming ineffective assistance of counsel. That case was tried before Judge Starrs, Elizabeth Starrs. She found that our representation was not ineffective. The Colorado Court of Appeals affirmed that decision and he is still incarcerated as far as I know.

Caitlin McHugh

Are there any other cases, perhaps of an unusual nature, that you recall from this period?

James M Lyons


Yes, the “Pearl of Allah” case comes to mind. This involved execution on a federal court judgment for a judgment creditor from California who sought to execute on a large gemstone thought to be here in Colorado and known as the “Pearl of Allah” or the “Pearl of Lao Tze.”

According to legend as reported in the press, the Pearl was a football sized pearl discovered in the Philippines by a Filipino tribe in a giant clam. This tribe apparently attached religious significance to the Pearl which was said to bear a resemblance to the face of the Prophet Muhammad. It was given to a US archaeologist for saving the tribal chief’s son. Due to its size and rarity, it was said to be quite valuable and had gone through a succession of owners, including our judgment debtor who owned a share of the Pearl with several partners. It was also said to be cursed and would bring bad fortune or even death to non-believers.

At the time of our case, the Pearl had been estimated to have a value of upwards of \$40 million by various gemologists and had been exhibited at Ripley’s Believe It or Not in New York.

We located the Pearl in a bank deposit box in Colorado Springs and sought a Colorado federal court order to seize it and have the court clerk hold it for auction or sale to satisfy the judgment. We filed an emergency case here in Denver and got an order to seize and attach the Pearl from the late Chief Judge Sherman Finesilver before the judgment debtor could abscond with the Pearl.

The US Marshals executed the court order and brought the Pearl to Denver whereupon Chief Judge Finesilver held a hearing and asked me to remove it from its box and confirm its authenticity. I told him that I had only seen pictures of the Pearl and



Pearl's tale to end at auction

By SUE LINDSAY
Rocky Mountain News Staff Writer

Some say the furrowed surface of the fabled 14-pound Pearl of Allah contains the image of Mohammed, Buddha, Confucius or even Christ, depending on the beholder. Others might say it contains the image of a dollar sign. And it's the issue of dollars that concerns U.S. District Judge Sherman G. Finesilver. Finesilver is making plans to sell the giant gem at auction, with sealed bids starting at \$10 million. Appraisals have put the pearl's worth as high as \$42 million.

Prospective buyers have included several unidentified sheiks. The football-sized pearl has spent the past two years nestled in a musty vault of a Denver bank as four factions contest its ownership in court.

The four claiming a piece of the pearl are:

- Beverly Hills jeweler Peter D. Hoffman, who claims 50%.
- His former partner, Victor Barbish, who also claims 50%.
- Joseph Bonicelli of Colorado Springs, who claims 32.3%.
- Parveneh Hargrove, an Iranian princess and gem dealer, who claims Hoffman promised her \$2.8 million of the proceeds if the gem were ever sold.

“The sum total of claims adds up to a hell of a lot more than 100% of the pearl,” said attorney Jim Lyons, who represents the creditors with a judgment against Barbish. “We don’t care who sells it or how much it’s sold for as long as we get paid.”

The object of this legal fury is a pearly white, wrinkled blob that looks like a prop from the 1953 thriller *Donovan’s Brain*. It’s listed in the *Guinness Book of World Records* as the world’s largest pearl.

And the legend surrounding it is as convoluted as its surface, as complex as the conundrum that Finesilver faces. Some say it may be the long-lost Pearl of Lao Tzu, the ancient Chinese philosopher who founded Taoism. But gemologists agree it is indeed a pearl and that carbon dating puts its age at 6,000 years.

An American named Wilburn Dowell Cobb first encountered the pearl in the Philippines in 1934. According to Cobb’s account, a Philippine island tribes-

“We don’t care who sells it or how much it’s sold for as long as we get paid.”

Jim Lyons,
attorney representing creditors

man searching for conch shells in the ocean was crushed in the jaws of a giant Tridacna clam the size of a bathtub. An island tribal chief came upon the gristy scene and, beholding the pearl in the clam, exclaimed he saw the turbaned visage of Mohammed and fell down to pray.

Cobb tried to buy the pearl but the chief refused on religious grounds. But two years later, when Cobb returned to the islands, he saved the life of the chief’s son and the chief presented him the pearl as a gift.

Cobb put his treasure on display at Ripley’s Believe It or Not.

See PEARL, page 21

Sun., Aug. 21, 1988, Denver, Colo. Rocky Mountain News—21

PEARL / from page 12

Not Museum in Manhattan in 1939. One day, while Cobb was lecturing about the pearl, a mysterious Mr. Lee appeared.

Lee took one look at the pearl, “uttered a cry, staggered back and burst into an hysteria of trembling and weeping,” according to Cobb’s account.

Once he had regained his composure, Lee, who claimed he was a descendant of Lao Tzu, told Cobb that some 2,500 years ago, Lao Tzu gave his nephew an amulet and instructed him that it should be passed on from father to son, with each succeeding generation transplanting it into a larger clam. He offered Cobb \$3.5 million for the pearl, but Cobb declined.

Over the years, Cobb remained adamant in his refusal to sell the pearl despite dwindling financial resources. He exhibited the pearl occasionally but finally had to stop because he couldn’t afford to insure it.

Cobb died in 1980 at age 75. A single line in his will mentioned the pearl: “I own a certain precious stone which is commonly known as the ‘Pearl of Allah.’”

After some haggling with Cobb’s estate, Hoffman bought the pearl for \$200,000. Hoffman then sold part ownership to Barbish.

Barbish said he and Hoffman formed the World’s Largest Pearl Co., with plans to exhibit the pearl all over the world and “make a lot of money selling regular pearls. But Hoffman could never come up with any money.”

Barbish himself sold part interest in the pearl to Bonicelli and gave him the gem as collateral on

a \$750,000 loan.

The pearl traveled to Colorado Springs in 1986 after Bonicelli claimed to have found a buyer. But the sale didn’t go through.

The Denver federal court became involved because Barbish’s sale of the pearl violated a California federal court order directing that proceeds of the sale were to

satisfy a \$476,564 judgment against Barbish by various creditors. The California court also ordered that the pearl wasn’t to leave the state.

So U.S. marshals seized it in 1986, and it’s been ensconced in a Denver bank vault ever since.

Barbish has objected to Finesilver’s proposal to sell the pearl,

claiming a sale by sealed bid in Denver won’t attract the offers that a sale in Los Angeles or New York would.

Still, Barbish would like to put the pearl affair behind him.

“Finally, the madness got to me,” he said. “I almost had a nervous breakdown over all of this. It’s something special and should

go to high class people with a lot of money. . . . But you don’t meet too many legitimate people with a lot of money any more.”

Finesilver just wants to get the troublesome pearl sold.

“The pearl is intriguing, and the story is fun, but the court is not in the gem business, you understand,” he said.

jokingly said I would not touch it as it was said to be cursed.

Unfortunately, the press in the courtroom picked this up and the story of the “cursed Pearl of Allah” in Colorado went public.

In the end, the Clerk of the Court transferred the Pearl to the US Central District of California which had issued the judgment. Our judgment debtor eventually satisfied the judgment from other assets and I don’t know what then happened to the Pearl.

Fortunately for me, no curse has befallen me—yet.

Caitlin McHugh

So during this stage of your career in addition to civil litigation you also were working with, at that time, Governor Bill Clinton, is that right?

James M. Lyons

No, he was Attorney General Clinton when I first met him in 1976. As I mentioned earlier, as we were doing these NATA interconnection cases around the country in front of state PUCs, one of the state PUCs we identified was in Arkansas. Arkansas was then the territory of Southwestern Bell, which we regarded to be one of the major predatory pricers in the Bell System. So I went down to Little Rock to do some discovery, to review documents and that sort of thing. I thought I'd be there a couple of days. And this is when document review was done the old-fashioned way. You went to a musty warehouse and a paralegal or assistant watched you so you didn't steal any documents. You can make all the notes you wanted. And I finished early, because frankly, there wasn't that much there that was of interest we didn't already know. There were some things that were unique to Southwestern Bell and Arkansas that we wanted.

Before I went to Little Rock, I happened to have dinner here in Denver with an old friend Mike Driver, who was a lawyer here in town, now with Patton Boggs, or Squire, Patton, Boggs. Mike said, "If you get any spare time when you're in Little Rock, you should call Bill Clinton." I said, "Who's Bill Clinton?" I thought he said, he is *with* the Attorney General's Office. I asked how Mike knew him and he told me that they had met in DC during the big anti-war protests organized by Sam Brown (later Treasurer of the state of Colorado). I told Mike I would give Clinton a call if I had time. I knew from Mike that he was about our age and I just assumed he was an assistant AG,

So when I finished what I was doing in the Southwestern Bell warehouse, I called the office of the Attorney General and asked to speak to Bill Clinton. He came on. I told him who I was, how I got his name. And he said, "Well, if you have got any time, come on by. I'd like to meet you. We'll have a cup of coffee." So I went over to the Attorney General's Office, walked in, asked for him, met him, we were chatting, very nice. He wondered why I was there. And I told him, and he said, "Why that's very interesting. You know the Attorney General's office here, like most states, has responsibility for consumers. And what you're saying is that Southwestern Bell has been gouging consumers so it can be more effective as a competitor." I said that's exactly what we're saying in our complaint before the PUC. And he said, "Well, that's interesting. What do you think we ought to do?" And I said, not missing the opportunity, "Well, I think you ought to get involved with the case. Perhaps you could intervene. And I'd be happy to make the case for it to the Attorney General." He looked at me and said, "I *am* the Attorney General." Now, the story then diverges. He says I said something I'm sure I didn't, which was, "You're shitting me." I never said that. I'm certain I never said that. But in any event, he took me by the arm. We walked back out to the vestibule of the office and the outer glass doors of the office. And there it was, the seal of the great State of Arkansas, Bill Clinton, Attorney General, and I'd walked right through it without even noticing. We both laughed at my *faux pas*. And, in any event, that's how we first met.

The Attorney General did intervene. Not Attorney General Clinton himself, but he had one of his senior people intervene and work with us. We got a mixed result, but we got what we really wanted out of it. And out of that experience, we became friends. He at that point was running for Governor and got elected in 1978. And it was a two-year term then in Arkansas. So he ran again but lost in 1980 to a fellow named Frank White, a businessman. After some real soul searching, he ran again in 1982 and was reelected. He has not lost an election since.

Arkansas then changed the Constitution to a four-year term for governor. But when it was a two-year term, it was like being in Congress. I mean, he was constantly trying to raise money around the country. He was clearly a rising national star in the Democratic Party. And he would come to Denver and we would do fundraisers for him here. He'd come to Aspen every summer for the Democratic National Committee meetings, and we'd raise money for him there. And we stayed in touch.

He first considered running for president in 1988. And he invited a small group of us from around the country, about eight of us, to Little Rock to talk about it. We spent the weekend. And he decided not to run in 1988. But I knew that he had gotten the presidential virus. And the only cure for that is embalming fluid. So I knew he was going to run at some point.

We stayed in touch. And when he decided to run in 1992, he got the same group together, we then all met with a bigger group in Washington and got the campaign started. And I gotta tell you, I thought, I've told him this since ... I thought he was going to run in 1992, mostly for exposure, and to figure out how best to put together a national campaign for President in 1996. George H.W. Bush was running for a second term. He just finished the Gulf War, he was enormously popular, the economy seemed to be doing fine. It's always very, very difficult to take on an incumbent. So I thought it was a dress rehearsal for 1996, when the seat would be vacant. Well, that's why he's Bill Clinton, and I'm not. He saw that there was real discontent with George H.W. Bush on the domestic front. He gave a speech in May at a meeting of the Democratic Leadership Conference, the D.L.C. His speech to the DLC was about "the third way" for which he later became famous. It means take the best from the left, take the best from the right, and put together a third way to address the nation's problems and future. And he just blew them away. I mean, he just blew them away.



On the campaign plane, 1992

So I got committed to the campaign. At first, I was committed regionally. He very much wanted to do well in the Rocky Mountain states, particularly Colorado which was becoming more liberal and less conservative than many of its neighbors. We put together a group of governors to support him, including my old friend, and our former law partner, Mike Sullivan, who was then Governor of Wyoming. Mike became the first sitting Democratic governor to endorse him for President. And I remember, during the campaign, we flew up to Cheyenne. And James Carville was on the plane with us, complaining that we're wasting our time going to Wyoming. Well, we all knew that weren't going to carry Wyoming. We knew that. But Governor Clinton wanted to make sure that the Bush campaign knew that we were going to put every state we could into play, even the unlikely ones. And Mike Sullivan, Governor Sullivan, diad a wonderful

rally for us. He turned out like 10,000 people at the airport at Cheyenne. I didn't think there were 10,000 Democrats in the whole state of Wyoming. But Mike did a great job. And we flew around to the other Rocky Mountain states that had Democratic governors, including New Mexico and Nevada.

And after that, he and Hillary asked me to spend more time on the national campaign in Little Rock. So I did that. I made arrangements here to make sure my caseload was covered. I took a leave of absence for a few months to help get the campaign organized. And during that time, he and Hillary asked me to head an *ad hoc* group called Lawyers for Clinton. We had a group of about a dozen lawyers around the country, all of whom were old friends of one or both of them and all of whom were well established practitioners. We met by phone regularly, and our job was to make sure that in each of our states, in each of the regions to which we were assigned, we got ballot access and qualified for federal matching funds. This was for two reasons: one, the obvious reason to make sure he was on the ballot and the other was to qualify for matching funds. This qualification allowed us to borrow money secured by the matching funds and meet the campaign's immediate financial needs.

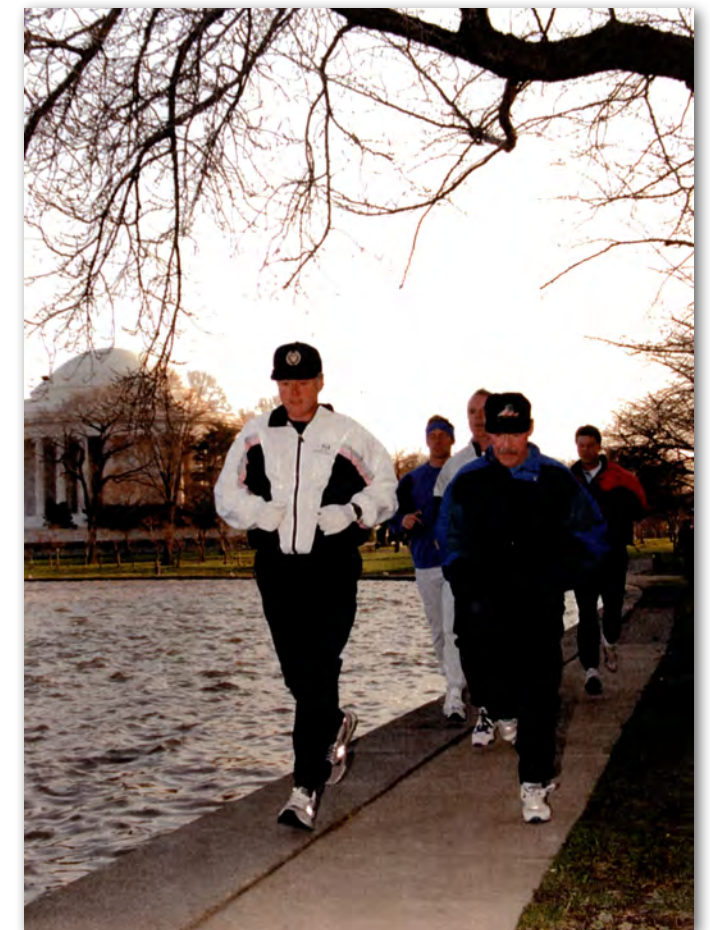
There was a heated primary season which included Senator Paul Tsongas of Massachusetts and Senator Bob Kerry of Nebraska. And Governor Mario Cuomo of New York was the odds-on favorite to enter the race as the front runner. Ballot access in a state and support of a certain number of citizens in that state qualified a candidate for matching federal funds. I think that's still the law, but nobody uses it anymore. Because if you take federal funds, you cannot take private funds, or significant private funds. And we did need those matching funds. In 1996, we elected to raise money without matching funds and I don't think any candidate has ever since.

So I was involved with the *ad hoc* lawyers group until the primary in February in

New Hampshire, where the campaign almost came to an end. A Little Rock woman named Gennifer Flowers made public allegations about being his longtime mistress while he was Attorney General and Governor. But he, despite the furor this caused, he finished second in New Hampshire. And the press gave him the nickname, "The Comeback Kid." And from there on, we never looked back.

By March we had the nomination in our pocket, all but formally, when we carried both Michigan and Illinois. So we went to New York in 1992 for the convention.

And in New York, a very strange episode took place. Marcia and I were assigned to the same hotel floor with the Clintons and some other senior campaign people. Most mornings, he wanted to go for a run; part of our relationship involved that. I would run with him when he was in Denver, Little Rock, or later when he was President in Washington. And so he wanted to go run. So we went over to Central Park. He had Secret Service protection by then. We ran around the reservoir most mornings. We were coming back one morning, and as we're getting out of the limousine, a protester came out of the crowd. And it was not a big crowd, but there was a small crowd there, and this protester threw something at us. And it was bloody. It



Running with POTUS, 1994

was an anti-abortion protester that threw what turned out to be some type of animal fetus. And it splashed both of us. I don't know how this guy got by the Secret Service, but he did. They hustled us into the hotel to be safe. I later had to testify about what I saw, as this guy's criminal trial was coming up; I testified. I gave a deposition that they then used I think before the grand jury. Bill was nonplussed by it. But you know, I've never had anything like that happen to me. So I was pretty shaken.

In any event, he was formally nominated in New York and immediately left on a bus tour with Al Gore. By mid-summer, after intense campaigning across the country, we had a campaign stop in downtown Chicago, outdoors at noon on a weekday. I invited my parents and in-laws to come up to Joliet to meet the Clintons and the Gores. They were star struck and got to meet the candidates and their wives privately. I remember Hillary telling my mother how pleased she was to meet her because, she jokingly said, "I thought Jim was raised by wolves." My mother immediately replied, "He was."

By the late summer, we had a pretty good sense that this campaign was going well. Ross Perot had gotten into the race, which cut directly into H.W. Bush's support. So we began to think about post-election and transition. The Clintons then asked me to leave the campaign and set up a separate organization, funded by private money, to put together a transition plan. We did that very quietly. The press never made an issue of this; I thought they would, but they never did.

Once we had the Clinton Transition Foundation organized, we began to understand what was necessary and available to us to do a presidential transition. Keep in mind that there'd been no Democratic presidential transition since Jimmy Carter 20 years earlier. So there was not much current institutional knowledge about how to do this. My job, with a pretty good but very small staff, was to begin to organize a transition so that it could

be in some coherent fashion for him should he be elected. Because you have about 70 days from the election until the swearing in, the inauguration, to form a government; we needed to move fast but quietly. So we did that.

And then, once he won the election in November, he appointed three people to head his transition committee, Warren Christopher from California, Vernon Jordan from DC, and Governor Jeanne Shaheen from New Hampshire (she's now the Senator from New Hampshire. Vernon Jordan died last year. And Warren Christopher has died as well. He was Deputy Secretary of State at one point and then Secretary of State).

And Christopher moved to Little Rock to take over as director of the transition. I went to see him when he arrived and said, "Here's what I've been doing. I'm happy to fill you in. But I'm also stepping aside. You should have the ability to appoint your own lawyer here and not be stuck with me. And I think the best way to do that is for me to resign." He said, "Well, I understand that, and let me think about our legal needs. But thank you." So I came home. And I was at one of the boys' soccer games a week or so later, and my pager went off. You probably don't even remember what a pager is.

Caitlin McHugh

I'm familiar.

James M. Lyons

And it was Warren Christopher, asking me to call him. I called him and he said, "I appreciate what you did. I've thought about it. I want you to come back and be our lawyer." So I did.

Then once the transition itself started, I was general counsel with two or three

others, including my friend, Jack Quinn, who was a close confidant of Senator Gore. And Jack and I had become close and really good friends. We were both in Little Rock for the transition from basically November until mid-January. And even though we had a big transition apparatus in Washington with surplus government space, which is called for under the statute that governs transitions, all the major decisions were being made in Little Rock. That's where the key people were. So I did that until Christmas.

I extended my leave of absence. The firm was very forgiving in that regard. A number of my partners covered for me, especially Fred. I came home for Christmas. Basically, we were as far as we could go until the Senate would start confirming people after the first of the year.

And Marcia, the kids and I we went to the Inaugural celebration. And much to my surprise, on Inauguration Day, Marcia and I were seated on the platform on the west side of the Capitol, probably 25 feet from where President Clinton took the oath of office. And it was just astounding to me. It was just magical. To watch him – my good friend – take the oath of office as President of the United States of America while looking out over the Capitol lawn and see, you know, a quarter of a million people.

So as I say, in my book, when I flew home, I figured this was the end of this chapter in my life. I'd still want to stay friends with the two of them. I told them both that. I wasn't looking to go to Washington, I wasn't looking for a job or to do anything formally in the administration. I didn't want anything from them but to continue to be their friend. However, this was about the first time that I was offered a federal judgeship and declined. I did that, in part because I'd been away from my law practice and away from my family. I felt an obligation to them, my family, to my law partners, and to my clients. And I didn't think I'd feel comfortable in Washington anyway. This turned out to

be a very smart decision on my part. So that was sort of how we went from meeting in 1976 to his inauguration in January 1993. Probably much more than you wanted to know.

Caitlin McHugh

This is fascinating. Can you talk a little bit about your role in the Whitewater investigation?

James M. Lyons

During the campaign, a reporter for the New York Times named Jeff Gerth ran a story that a business partner of the Clintons named Jim McDougal had owned and operated a savings and loan called Madison Guaranty in Arkansas and had approached the Clintons about investing in a separate real estate development in a resort area of the Ozarks in Arkansas, on the Whitewater River. And the Clintons, not having very much money at all, saw this as a legitimate investment opportunity. I mean, Governor of Arkansas at that point was probably the lowest paid governor in the union. Hillary was a working lawyer at the Rose Law Firm, and she made decent money, but neither one of them were wealthy or came from wealth. So their friend offered them this opportunity to invest, which they did.

The New York Times ran Gerth's story that linked the Arkansas development with the failure of the Madison Guaranty Bank. Gerth's article argued that Madison Guaranty, a federally insured savings and loan, had improperly been used to fund a failing real estate development known as Whitewater in which the Clintons were involved. So knowing my banking background and legal background, the Clintons asked me to look into it. They provided me what records of the investment had been given to them by McDougal, which were by no means complete. I contacted Les Patton, here in Denver,

who is still my mind the best forensic accountant I ever worked with, and an old friend (he was also a Republican for what that's worth). He assisted me and did most of the financial analysis in about 30 days and without access to internal documents in the possession of the government or McDougal. And we concluded that the Clintons were not in any way involved in Madison Guaranty. And there was no evidence to support the notion that they were aware that federal funds might have been used to support this development. In effect they were passive investors and only passive investors. So Les wrote the report to support those findings and the analysis of his team, which included, by the way, Norris Weese. Norris was an accountant and also former quarterback for the Denver Broncos. And I wrote a cover letter to the Clintons summarizing the report. And the report thereafter, because of my cover letter, became known as the Lyons Report.

Our report settled the issue, at least for the campaign. Well, Gerth wouldn't let it go, particularly once Clinton won and became President. And the New York Times and Washington Post revitalized the story to the point that the public, at least the Republican Party, was calling for the appointment of an independent investigator. At the time there was an independent counsel statute, which has since expired. And Janet Reno, the new Attorney General wanted to appoint a special counsel to look at this. She has the inherent authority as Attorney General to do that. And she appointed a prominent New York attorney named Robert Fiske. I think he was with Davis Polk at the time and had formerly been a senior official in the Justice Department. And I knew of Bob from the American College of Trial Lawyers.

Fiske did a thorough investigation. I remember he had people talk to me, among many others. Fiske also had access to documents we did not. The Clintons waived the attorney-client privilege so I was free to tell him everything. He and his team investigated

the Gerth allegations and concluded there was nothing there. Well, that didn't satisfy the Republicans.

And I believe, but cannot prove, that they convinced then Chief Justice Rehnquist to invoke the statute and appoint a new independent counsel, basically overlooking what Fiske had done as special counsel for the Justice Department. The appointment of an independent counsel was done by a three-judge court in the District of Columbia, which is what the independent counsel statute provided. I strongly suspect that they were directed what to do by Rehnquist. I can't prove that. But, in any event, they appointed a former federal appellate judge named Ken Starr.

And that started the whole Starr saga, which took on a whole new life of its own with allegations by Monica Lewinsky and Paula Jones, and my good friend Vince Foster's suicide. And last but not least, Madison Guaranty was investigated—again. I was summoned before two criminal grand juries to testify, one in Little Rock and one in Washington DC. I was asked to give a deposition by the Senate Banking Committee which was then chaired by Alphonse D'Amato of New York. And I forget the name of the Senate Committee lawyer, as I'm sitting here, but he was very full of himself, a young guy who figured I'd be terrified. And he said they wanted me to come to Washington, appear for a deposition, and then perhaps testify for the Banking Committee. I said I'm not going to do that. He told me that the Committee would issue a subpoena and I would have to come to DC. And I said, "No. I'm standing here in my office in Denver, and I'm looking three blocks over and I see a federal courthouse. And I'll move to quash your subpoena, and you'll come to Denver to try to enforce it. Good luck with that."

Well, Hal Haddon was my lawyer, and we ultimately worked out a process where I would give them a deposition over the phone, which I did. And that was the end of it.

Nothing ever happened with the Senate Banking Committee. Oddly enough, when I then took on my role in Ireland, and needed to appear before committees of Congress to justify the annual funding that they were giving us, one of our good supporters was Senator D'Amato. Politico that he was, D'Amato realized that there were an awful lot of Irish Americans in his constituency. And he was helpful to us.

So the Starr investigation went on for years and looked into anything Starr felt like, whether directly authorized or not. For example, one of Starr's deputies, Brett Kavanaugh, undertook on himself to call into question Vince Foster's suicide, even though the US Park Service which had jurisdiction over the park where Vince's body was found and the FBI had both unequivocally concluded that it was a suicide. This part of the investigation was claimed to be justified in order to rule out murder – possibly directed by the Clintons – which of course was beyond ridiculous.

During my time in Little Rock, during the campaign and transition, Vince, who was a partner at the Rose Law Firm, and I got to be really good close friends. He was also a member at the American College of Trial Lawyers, and I knew him a little bit from there.

You may not remember "Travelgate." This is when the Clintons cleaned house in the White House travel office and brought in their own people. And that created a scandal, a false scandal. And Vince had been involved in that because he was deputy White House Counsel. He had called me and asked me if I'd be his lawyer and that he thought he might need his own lawyer. I said, "Sure, of course I will. And when do you need me?" He said, "Well, I'll get back to you about that." So about a week or two went by. I hadn't heard from him. So I called him and said, "I'm coming to Washington anyway on some other business. Why don't we get together and have dinner and you can fill me in?" It turns

out that was the last call he got before he committed suicide. I called him on the morning of his suicide; I didn't reach him but left a message. And because my call message was obviously in the White House records, they wanted to interrogate me, in particular, this Brett Kavanaugh and his staff. And I told them that my conversations with Vince were privileged. And since he was dead, there was no way for the privilege to be waived. I was not going to go talk to them. They got pretty abusive but I thought I could handle that sort of thing. So that was my contact with now Justice Kavanaugh. And I have other thoughts about him as well, but I won't burden you with them.

So Ken Starr spent seven years and about \$70 million of tax payer money to conduct his investigation. He left before it was completed. And a former assistant US Attorney named Robert Ross took it over and issued a final report. The Ross Report concluded that my initial report, the report that Pillsbury, Madison and Sutro, the San Francisco law firm had done of Madison Guaranty for the federal insuring agency and Ross' own investigation, all reached the same conclusion, namely that the Clintons were not involved in the management or in any other way in Madison Guaranty, and they were

TROUBLE-SHOOTER
Helping a true friend in deed

Among the phone calls to the office of presidential aide Vince Foster in the hours before his death last July was one from James Lyons, a Denver lawyer and an old friend. The two men had grown close over the course of two hectic years working for Bill Clinton. Lyons was coming to Washington for a visit and wanted to invite Foster out for dinner.

A few days after Foster took his life, in a quiet park above the Potomac River, investigators scouring White House phone logs discovered the call from Lyons and asked the Denver attorney what the two men had talked about. Lyons wanted to discuss business and personal matters, he told the police. Given Foster's suicide, and Lyons's particular knowledge of the Clintons' financial affairs, much has been made of that answer. *Too much*, Lyons says. "That report got leaked to the press," he says, "and it took on a life of its own." Still, the suspicions have lingered because both Lyons and Foster had tried to sort out the Clintons' tangled problems with the Whitewater Development Co. Inc.

Behind the scenes. Lyons has had a unique window into the Clintons' private lives. He played a part during the campaign in putting down rumors of womanizing and draft dodging. Lyons assumed, too, the task of explaining details of the Clintons' Whitewater investment.

A business litigator, James Lyons met Bill Clinton in the mid-1970s. Lyons had a case in Arkansas and looked up Clinton on a friend's suggestion; he was amazed to learn that the fresh-faced Clinton was the state's attorney general. The two hit it off and have kept in close touch. Lyons frequently helped out with Clinton's governor's races, lending lawyerly advice and support behind


the scenes. "Campaigns, no matter whose it is, are always [staffed with] mobs of 23-year-olds," says Buie Seawell, a Denver lawyer and former Colorado Democratic chairman. "Jim was the adult who gave them order."

He tried to impose the same kind of order when the Whitewater issue first attracted the attention of news reporters in February 1992, as Clinton's presidential campaign was beginning to accelerate. Lyons enlisted a Denver accounting firm he had used in his own law practice. Together they examined public records, the Clintons' accounts and Whitewater's ledgers, checks, bank notices and other documents. The latter category was a problem, he says, because not all of the Whitewater paperwork could be located.

Still, Lyons says, the information he does have makes sense. His March 1992 verdict is well known: The Clintons lost at least \$68,900, probably more. A good chunk of that, Lyons says, can be found in investment interest deductions on tax returns filed since 1978. The Clintons decided not to claim the rest—\$20,000 to \$30,000—as a capital loss. But in the final report, the accountants hired by Lyons offered one important caveat: "In many instances, documentation as to various transactions was incomplete or unavailable."

When questions persist about the Clintons' gains and losses, Lyons responds with exasperation: How can a new scandal be fueled by such old numbers? Lyons is also angry at suggestions that Bill and Hillary Clinton did anything improper. "The punch line for me," Lyons says, "is: 'There ain't no there there.' It's called politics."

BY STEPHEN J. HEDGES



Lyons, Valued advocate

Report vindicates Denver lawyer

Clintons passive Whitewater investors

By Fred Brown

Denver Post Political Editor

Denver lawyer Jim Lyons, longtime friend of and occasional attorney for President and Mrs. Clinton, said an independent investigator's report leaked earlier this week verifies and vindicates what he told the Clintons about their Whitewater investments three years ago.

"Absolutely," Lyons said yesterday, "and for a whole lot less time and money."

The report to the Resolution Trust Corp. by Jay Stephens, a Republican critic of the president, shows that the Clintons were passive investors in Whitewater Development Corp.

It found no proof that they were aware of the fiscal maneuvers of Jim McDougal, their partner in the Ozarks land deal and owner of the failed Madison Guaranty Savings & Loan.

"Given his (Stephens') background and his stated criticisms of the president, his conclusions are even all the more significant," Lyons said.

"He reached the conclusion that the

Clintons were passive investors, personally at risk, and played no active role in Whitewater except after McDougal became incapacitated."

McDougal became ill in 1986, seven years after the Whitewater deal was put together.

The Clintons asked Lyons to look into Whitewater after it surfaced as a comparatively little noticed campaign issue in early 1992, Lyons said. He was then chairman of a group of lawyers supporting Bill Clinton for president.

He said the Clintons wanted him to "review . . . the available facts and financial and corporate records" associated with Whitewater.

"From the available records," Lyons reported in 1992, it is clear that at all material times the McDougals or their agents exercised total control over the management and operation of the corporation and its investments.

"Your interest in this investment," he continued, "was limited to that of a 50 percent shareholder in a corporation. However, there is no evidence



Lyons

anted that you would profit or that your interest would be in any way 'carried.' The facts confirm that not only was there always the potential that you would lose money, you in fact lost significant sums."

Lyons at the time said the Clintons had lost \$59,000. That figure since has been amended to about \$46,000.

"The Stephens report calls it \$42,000," Lyons said yesterday, noting Stephens, as he did, had to cope with a sloppy paper trail and some documents "no longer in existence."

His 1993 report also said the Clintons "inadvertently" claimed \$5,133 in interest deductions to which they

weren't entitled, giving them a tax benefit of "approximately \$3,000."

Those deductions were for the corporation, not its stockholders, to claim, he said. Lyons said he felt he had "a green light" to release the attorney-client communication dated March 23, 1992, because "now that the Stephens report is in the public domain, I now have the opportunity to comment on it publicly."

He noted he spent \$35,000 over several weeks to hire accounting help in assembling the 1992 report. Stephens "spent more than a year and \$3.5 million of public's money."

When Stephens was hired as an independent investigator last year, White House aides were worried. A Republican and a ex-U.S. attorney, Stephens was an "outspoken" foe of Clinton's policies, Lyons said.

Lyons said he and Clinton have known each other since 1978, when Clinton was Arkansas attorney general. "And we've had some professional dealings over the years." Lyons was a "major participant" in a White House conference on trade and investment in Ireland, but in terms of any official duties for Clinton, "that's about as close as it gets," he said.

in fact passive investors in Whitewater who lost significant money. If you care to read the exact findings, see, Final Report of the Independent Counsel in Re Madison Guaranty Savings and Loan, Volume II, Part A, pp 72-78, January 5, 2001.

Caitlin McHugh

Wow, what an incredible amount of time and money.

James M. Lyons

Well, it did take a lot of time and wasted taxpayer money. It also took a lot of energy, mostly negative. You know, nobody likes to be in the crosshairs of the federal government, whether rightly or wrongly, and certainly appearing before a grand jury is not an experience anybody wants to have.

I will tell you that when I appeared before the grand jury in Little Rock, I had

provided them my Whitewater notes in advance. There was a husband and wife, both special assistants U.S. Attorneys, who were assigned to this case. And I think their name was Jahn, out of Texas. And my handwriting is not the best. So I had Donna Mather, who could read my handwriting, transcribe all my notes. And we sent my original notes, plus the transcription to the Jahns, before I appeared before the grand jury. Hal Haddon came with me to Little Rock, even though in the federal grand jury, as you know, you're not entitled to have a lawyer in the room. In theory, I could leave after every question and go consult my lawyer. I didn't need to do that. But as I concluded my testimony, making various reference to my notes, the grand jury foreman asked if any of the grand jurors had any questions. And there was a woman grand juror in the back who said, "Well, I have a question for Mr. Lyons." She said, "Your notes are illegible, or we can't read them or understand them. Was that done by you deliberately, so that no one would know what you did?" And I said, "Well, I apologize. My handwriting is not the best. But I had my notes transcribed, and I sent them to the two government lawyers here. And it sounds to me like they have not given you that information. So I have a copy here." And the two assistant US Attorneys started objecting, so I turned to the grand jury foreman, and I said, "You know, I don't want to make as big an issue out of this as I could by taking it to the judge supervising this grand jury. But this is simply not fair. I'm here to explain what I did. My clients have waived the attorney-client privilege to which they are entitled. My notes are an open book, which is why I undertook to transcribe them. The government didn't ask me to do that, but I did it. And I gave it to them in advance and now they're withholding critical material from you." And now, of course, the Jahns are screaming and yelling, blah, blah, blah. The foreman shut them down and said, "We'll go forward with your notes and with your transcription. And thank you very much." There were no further questions from the grand jurors.

Caitlin McHugh

They accepted the transcribed set?

James M. Lyons

Yes. But I was pretty angry. Because they were obviously trying to ambush me. And I thought it was unethical, and that we should file a complaint with the Justice Department and the supervising judge. But we never did and nothing came of it.

But that just goes to show you how the Starr people were manipulating the system. I regard that whole process to have been corrupt from the beginning and unnecessary, even if you didn't accept my report at face value. The report of Robert Fiske did all that was necessary but didn't satisfy the partisan political gargoyles, if you will, who went after the Clintons, from the day he got elected. I don't want to get too far into that. But it was a total misuse of not only government resources, but it was a misuse of the criminal justice system and the independent counsel law.

Caitlin McHugh

During this time, as you were being subjected to subpoenas, press and grand jury testimony, you also were trying to run your law practice.

James M. Lyons

Yes, I was.

Caitlin McHugh

During this time, did you become involved in pro bono litigation over the GAVEL

amendment to the Colorado Constitution?

James M Lyons

Yes, I did. GAVEL was an amendment in 1988 to the state constitution which prohibited legislators from committing their votes in a party caucus such that each legislator was given his or her own vote. It became known as GAVEL— “give a vote to each legislator.”

The Republican caucus tried to get around GAVEL by holding a caucus and then adjourning to permit legislators to commit their vote in the hallway and then return to the caucus to vote as committed. On behalf of the Colorado Lawyers Committee, I joined attorneys Bob Hill and Ron Wilcox of the firm of Hill and Robbins and Pat Flaherty of our firm to challenge this practice in Denver District Court and have it enjoined.

The trial court initially dismissed the case on the basis of legislative immunity of the speech and debate clause of our constitution. We appealed to the Colorado Supreme Court which reversed the trial court and held that the speech and debate clause did not apply to violations of the GAVEL amendment. *See, Colorado Common Cause v. Bledsoe*, 810 P.2d 201 (1991). The case was then remanded to the trial court where we settled it with the defendants by agreement and stipulation to no longer use this subterfuge.

Career: Stage 4

Caitlin McHugh

Can you tell us about some of the cases you had during this time period? I think we could think of this as stage four, the mid 90s to 2000s.

Colorado Lawyers Committee Report

Colorado Supreme Court Upholds GAVEL Amendment Complaint

by Ronald L. Wilcox

The Colorado Lawyers Committee is a non-profit organization whose members include twenty-eight major Colorado law firms. For over ten years the member firms have been committed to providing free legal services and assistance on poverty, civil rights, and children's issues to individuals and groups throughout Colorado. Attorneys from two member firms represented the plaintiffs in this case.

The Colorado Supreme Court recently declared in a case of first impression that state legislators are not absolutely immune from civil actions to enforce a newly enacted constitutional amendment designed to prevent abuses of the legislative process. The court held in *Colorado Common Cause v. Bledsoe*, 810 P.2d 201 (1991); 20 Colo.Law. 1284 (June 1991), that the Speech and Debate Clause of the Colorado Constitution did not confer absolute immunity on state legislators from civil judicial proceedings. It concluded that members of the state House majority party caucus were properly named as defendants in an action seeking declaratory relief under the GAVEL Amendment.

The GAVEL Amendment, an acronym for "Give A Vote to Each Legislator," which was adopted by the voters in November 1988 by 72 percent of the voters cast, amended the Colorado Constitution, Article V, §§ 22a and 22b, by prohibiting members of the General Assembly from requiring or committing themselves or other members to vote in favor of or against any legislative measure through a party caucus or similar procedure before the measure is debated in the General Assembly.

The amendment, sponsored by Colorado Common Cause and numerous



Plaintiffs' lawyers for the Colorado Lawyers Committee (l. to r.): Patrick Flaherty, Robert Hill, James Lyons and Ronald Wilcox.

other groups, was designed to eliminate the long-standing practice of requiring members of the majority party to make commitments during party caucuses as to how they would vote on issues on the floor. This practice allowed the majority party to predetermine votes on legislation presented to the General Assembly without giving minority party members a meaningful opportunity to debate the issue. As a result, arguments of minority members were denied serious consideration when bills were presented to the General Assembly for a vote.

Shortly after the GAVEL Amendment was enacted, a citizens group consisting of Colorado Common Cause, minority House member Wayne M. Knox and taxpayer Renita Greenberg, represented by the Colorado Lawyers Committee, filed a complaint for declaratory and injunctive relief against the House majority party caucus members alleging that certain of their activities during the 1989 legislative session were in violation of the GAVEL Amendment. Bob Hill and Ron Wilcox of the law firm of Hill & Robbins, P.C. and Jim Lyons and Pat Flaherty of the law firm of Rothgerber,

Appel, Powers & Johnson represented the plaintiffs on behalf of the Colorado Lawyers Committee.

The caucus members moved to dismiss the complaint based, in part, on the ground that the Speech and Debate Clause of the Colorado Constitution conferred absolute immunity for their activities. That motion was granted by Denver District Court Judge Sandra Rothenberg on June 16, 1989. The dismissal was appealed to the Colorado Court of Appeals and, prior to a ruling, petition for *certiorari* was granted by the Colorado Supreme Court.

While the Colorado Supreme Court held that the Speech and Debate Clause did provide legislative immunity from injunctive relief, state legislators were declared not to be immune from declaratory relief in actions seeking to redress violations of the GAVEL Amendment. The court remanded the action back to the District Court for further proceedings.

Ronald L. Wilcox is a shareholder in the firm of Hill & Robbins, P.C.

James M. Lyons

Mostly what I was doing in the early Clinton years, even during the Whitewater years, if you want to call it that, was sort of standard commercial business litigation and trial work here for clients. Some of these clients I had represented in the past but a number of new and interesting clients came my way as well. As time went on, the complexity of those and the opportunity to do more complex cases developed for me.

One that comes to mind is the DIA case in 1997 where I represented the City and County of Denver in a securities fraud class action brought by bondholders of the Denver International Airport. These plaintiffs alleged that the city did not fully disclose the material risk of the automated baggage system software failures which the airport experienced after its opening. Plaintiffs claimed that the city knew the baggage system would not operate properly as early as 1990 and withheld this fact from the public and the bondholders.

At the time of the litigation, bags were routinely lost or damaged, causing the airport to default to the standard "tug and cart" system. This had drawn national press attention and was even the butt of jokes on late night television (eventually, the baggage system software was repaired and functioned as expected).

The city was sued along with a consortium of investment banks who sold the bonds, including Goldman Sachs, Lazard Freres and Dain Bosworth. On behalf of the city, we asserted the relevant securities laws did not apply to municipal bonds and that the city was immune from liability under the 11th Amendment which protects states and their instrumentalities from being sued in federal court. Finding that the securities laws made no express exception for municipalities and that the city was not an instrumentality

Settlement reached in DIA suits

Brokerages, not city, to pay bondholders alleging fraud

By Jeffrey Leib
Denver Post Business Writer

The city of Denver and brokerage houses that underwrote billions of dollars of Denver International Airport debt have agreed to settle class-action lawsuits brought by investors who alleged they were defrauded when they bought DIA bonds between 1990 and 1994.

An ebullient Jim Lyons, a Denver attorney hired by the city to help defend it in the case, said the city "did not have to pay one nickel" in the settlement.

A consortium of bond brokerages, including Lehman Brothers, Piper Jaffray Inc., Lazard Freres & Co., Goldman, Sachs & Co., and Dain Bosworth Inc., has agreed to pay bondholders several million dollars to settle the case, according

to sources close to the agreement. In all, Denver sold about \$4 billion in bonds to build DIA.

"We regard this as complete vindication of our position — that the city had no liability, that no investor has suffered any damages and that the city did nothing wrong," Lyons said, explaining Denver's hard line in refusing to contribute financially to the settlement agreement.

"I would not say this was a victory or a loss, but I believe the underwriter defendants' group is pleased the action is resolved," said George Curtis, a Denver attorney who represents Lehman Brothers.

The pact still needs to be approved by U.S. District Judge Zita

Please see **SETTLE** on 26A

Thursday, May 22, 1997

Settlement reached in DIA bond lawsuits

SETTLE from Page 1A

Weinshienk. Attorneys for Denver, the brokerage houses and bondholders said they must submit the settlement proposal to the judge in the next 30 days.

Weinshienk will then hold a fairness hearing to allow bondholders to comment on whether the settlement is adequate. In the end, it will be Weinshienk's decision to approve or reject the pact.

Attorneys on both sides of the lawsuit would not reveal the precise settlement amount.

But Denver lawyer Jeffrey Villanueva, one of the bondholders' attorneys, said that between 1,000 and 2,000 investors will share proceeds of the settlement if it is approved by the court. "We believe the settlement is fair for the class under the circumstances," Villanueva said Wednesday.

The first bondholder suit was filed against the city on Feb. 27, 1995, a day before DIA opened. Other similar suits that followed added the brokerage houses as defendants. Four federal court suits were consolidated in June 1995.

They alleged that Denver made false and misleading statements to the investing public when the city sold DIA bonds and that, specifically, Denver misrepresented the design and construction status of the automated baggage system and DIA's opening date.

The original investor suit against the city said Denver officials knew as early as 1990 that the automated baggage system would not perform as designed and would force the city to delay the opening of the airport. In fact, construction difficulties at DIA caused four delays in its opening.

By concealing facts from the public Denver and the other defendants tried to artificially inflate the market price of the bonds, investors said in their suits. That led to bondholders paying more than they should have when they purchased the deb securities, investors said.

In response, city officials said there was adequate disclosure and they pointed out that the Securities and Exchange Commission in October dropped a two-year investigation into whether investors were defrauded after finding that there had been no wrongdoing by Denver officials in selling the bonds.

Earlier this week, Denver City Attorney Dan Muse noted that DIA's success and the steady increase in the value of the airport bonds prove investors have suffered no "damages." At that time, Muse reiterated Denver's position that the city was prepared to take the investors' suit to trial.

Earlier, Denver had tried to get the bondholders' suits dismissed by arguing that issuers of municipal bonds should be exempt from private securities-fraud law suits. On Monday, the U.S. Supreme Court refused to hear Denver's appeal of a federal appellate court decision that said bondholders could bring suit against the city.

The high court's decision sent the bondholders' case back to Weinshienk's court for trial. Villanueva estimated that the earliest the case would have gone to trial was late 1998 or 1999.

If the settlement is approved by Weinshienk, it will settle all outstanding lawsuits brought against Denver and the brokerages by bondholders, including an action brought in Denver District Court that paralleled the federal suit.

Another good example is the Summitville case. Summitville is the name given to a mining town camp in south central Colorado, not far from Del Norte. There in the late 19th century gold had been discovered in South Mountain. And a large portion of South Mountain had been excavated for gold mining. The first time I saw it, it looked like a giant Bundt cake that someone had simply sliced in half. And it's at altitude, it's I think about 10,000 feet. The old 19th century ghost town that is still there, was still there at the time. An entrepreneur from Canada, although a US citizen named Robert Friedland, had organized and owned a company called Galactic Resources, Ltd. which owned Summitville Consolidated Mining Co (SCMC). SCMC used a new gold extraction process which took the mined ore, crushed it, put it into an arsenic-based solution in a huge settling pond. Arsenic will free gold from the crushed ore. The fluid is then filtered or drained and the resulting gold flakes taken. The arsenic then evaporates.

However, the pond leaked. This pond had been designed by Bechtel, one of the major industrial contractors in the world, financed by Bank of America and constructed by a Montana company called Industrial Constructors, but the pond leaked. And the allegation of the EPA and the State of Colorado was that the fouled water, the leakage, had gotten into the Arkansas River and destroyed 17 miles of it, killing fish and everything else. And they sued Mr. Friedland seeking \$200 million damages, alleging this damage and that this was his liability, even though he'd resigned from the company two years earlier. The bad news, even though we thought we had some excellent defenses, was that Mr. Friedland was quite wealthy and hence a deep pocket target.

Hal Haddon had been representing Friedland on the criminal side, and had recommended me to undertake the defense of the Superfund case, the CERCLA case. So Fred and I and our team undertook to do that. And at the end of the day, after

of the state, the trial court denied our motion to dismiss on these grounds and the case was upheld by the Tenth Circuit. And the US Supreme Court denied our petition for certiorari. The case was then postured to go to trial on the merits.

Settlement discussions then took place between the plaintiffs and the investment banks. On behalf of the city, we declined to participate in any financial settlement and demanded that any settlement release the city from any liability. Eventually, the parties reached a settlement which the court approved after a fairness hearing. The city was dismissed and released without having to make any financial contribution to the settlement. And we were delighted with that result.

considerable discovery and third-party practice, we successfully negotiated a settlement with the federal government and the State, which was then represented by Attorney General Ken Salazar. At the time, it was the largest CERCLA/Superfund case pending in the country.

Caitlin McHugh

I think during this time, you also were working on some shareholder class actions related to the Qwest Board, is that right?

James M. Lyons

That's true. Qwest had been the original vision of Phil Anschutz, when he bought the Southern Pacific Railroad. I'm not telling anything that's not public. When he bought the Southern Pacific Railroad, along with it throughout California came rights of way. These rights of way extended on either side of the railway roadbed which is not uncommon. It's actually very common, standard procedure for railroads. And his idea was you could lay fiber optic cable in that

State sues Summitville builder, 4 former operators

By Theo Stein
Denver Post Environment Writer

Jan. 3, 2001 - Colorado's attorney general has sued the giant construction firm that built the cyanide-based heap-leach mining operation at the Summitville Mine and reached back to include four previous operators of the blighted site.

The suit, the first filed this year in U.S. District Court in Denver, seeks unspecified damages to compensate the state for expected costs of dealing with the damage caused by acid drainage from the infamous gold mine high in the San Juan Mountains.

"We believe the new defendants added significantly to the pollution created by or at the Summitville Mine," Attorney General Ken Salazar said Tuesday.

The five companies are Bechtel Corp., Sunoco, Atlantic Ritchfield, A.O. Smith Corp. and ASARCO Inc.

The new suit, which legal experts say is likely to be consolidated with other Summitville lawsuits, was filed two weeks after the state and the federal government settled their case against financier Robert Friedland, a former owner of the company that ran the mine in the mid- and late 1980s.

Salazar said the money due the state under the terms of the \$27.5 million settlement with Friedland would reimburse the state for past cleanup actions and future work at the 1,400-acre site for the next 10 years.

The settlement includes \$5 million to help restore the Alamosa River.

The lawsuit filed against the five new defendants is designed to insulate state taxpayers against further cleanup costs in the decades ahead, Salazar said.

Salazar said the state didn't specify the amount of damages it's seeking because the final cost of the cleanup hasn't been determined.

"If the cleanup requires long-term water treatment on the Alamosa River, Friedland's settlement provides a significant beginning," Salazar said. "But that may not be sufficient to cover long-term costs."

Jim Lyons, Friedland's Denver attorney, said the state's move substantiates Friedland's claim that other companies were responsible for a significant part of the mine's environmental problems.

"Clearly, the fact that the attorney general has taken this step vindicates our view that there are a number of companies and individuals who had substantial hands-on involvement at Summitville Mine and for which they should be held accountable," Lyons said. He noted that the five companies previously were sued by either Friedland or Industrial Constructors Corp. "The litigation simply makes them directly subject to claims brought by the state, which we applaud," Lyons said.

Salazar said the defendants could be grouped into three categories. Bechtel, the world's largest construction company, built and operated the ore-crushing and cyanide systems that contributed to acid mine drainage in the 1980s, he said.

ASARCO leased the mine for six years in the 1970s. Atlantic Ritchfield is the successor to Anaconda Minerals, which did significant exploration and site work at the mine, work that contributed to heavy-metal runoff into the Alamosa River, Salazar said. The EPA previously settled its claim against both companies after determining they played very minor roles in the calamity, said EPA attorney Nancy Mangone.

The third group includes Sunoco and A.O. Smith, which mined the site back in the 1930s and 1940s.

"In our view," Salazar said, "they were the second-largest contributor to the problem besides Galactic Resources," owned by Friedland.

This is the second time the state has amended its original 1996 lawsuit. Salazar said the state may add yet another company to the suit.

Copyright 2001 The Denver Post. All rights reserved.
This material may not be published, broadcast, rewritten or redistributed.

right of way and begin to provide high speed telecommunications data service, as well as voice service. Again, it's just part of his business genius. And the company he founded to do that was called Qwest Communications or Qwest.

Over the next few years, Qwest grew throughout the country by building, leasing, or using what are called IRUs or indefeasible rights of way. And what that basically means is you buy or rent capacity on these fiber optic cables. And they are freely bought and sold by telecommunication companies then and now. An issue arose as to how they were accounted for. The SEC had put out some guidance about how they should be accounted for which Qwest's auditors, Arthur Andersen at the time, had followed. But because of a huge downturn in the market and an accounting change for IRUs announced by the SEC, Qwest had to announce a reduction in its revenue and earnings, which impacted its share price. Predictably, shareholder cases were filed in federal and state courts around the country. That was the same sort of thing that Fred and I had dealt with in the 1980s for other companies. So I was asked to consider representing the independent members of the Qwest board and to interview with each of them to serve as their counsel. Mr. Anschutz and the two other Anschutz directors on the board were to be represented by Holme Roberts' Bruce Black, who was then chairman of their litigation department. Bruce is now the Executive Vice President/General Counsel for the Anschutz Corporation and an outstanding lawyer.

So I interviewed with these directors. I flew around the country to do it. And it was an all-star group. It included Craig Barrett, who is the Chairman and CEO of Intel. It included Vinod Khosla, who had been a founder of Sun Microsystems and was now with a prominent venture capital firm headed by John Doerr in San Francisco. The Qwest board also included Tom Donohue, who was president of the US Chamber of

Commerce and Tom Stephens who had been President and CEO of Johns Manville here in Denver. It also included Frank Popoff who was a retired Chairman of Dow Chemical in Michigan. So I flew around to meet with each of them. And they each agreed that we could represent them.

So Fred and I became the team again and over the next almost five or so years represented them in the federal shareholder cases and the state shareholder cases that had been filed. There was also a major SEC investigation initially begun with a subpoena to Qwest for information concerning other high-tech communications companies with whom it had done business. Eventually, there was an investigation by the Justice Department for possible criminal wrongdoing. Hal Haddon represented Qwest there. I recommended him to the Board, among others, and they were wise to choose Hal.

As the press coverage mounted, Congress began its own investigation into high tech communications companies, including Qwest. This included public hearings in Washington. And we represented the independent Board throughout all of that.

Ultimately the litigation was settled. There were no criminal charges or SEC sanctions. There was no congressional action at the end of the day. But Qwest had to change auditors and restate earnings to the tune of about two and a half billion dollars, which then was huge. It is still a lot of money. But it was even more so then. Eventually, Qwest merged with Century Link which now owns and operates Qwest's assets and networks.

Special Advisor / Ireland

Caitlin McHugh

About this same time, President Clinton came back to you with a new offer to be part of his administration?

James M. Lyons

Yes. In mid-1993 or the fall of 1993, the White House contacted me through a good close friend of mine from my Chicago days, Kevin O'Keefe. Kevin served in the Administration as Deputy Director of the White House Office of Personnel. This Office handles the thousands of appointments that a President makes. He said, "I know you turned down Hillary and the President when they wanted you to be the general counsel of one of two agencies, major agencies, but I have a godfather offer for you." And I said, "Okay, what is it?" He said, "Well, are you familiar with the International Fund for Ireland?" And I said, "No, never heard of it." He said, "Let me tell you what it is. And you can do some research on your own. It is an entity known as the IFI that was created as part of the Anglo-Irish Agreement during the Reagan Administration. And it allows the United States to contribute money directly, not through the State Department and not through United States Agency for International Development (USAID) to this fund. The IFI is charged with economic development in support of peace and reconciliation in Northern Ireland and the six border counties of the Republic of Ireland. This is 12 counties out of the 32 counties that are on the island. The legislation calls for a presidentially appointed US Observer or board member to the IFI, and we have vacancy. The President would like you to accept that appointment." And I said, "Well, what's involved?" He said, "You obviously have to learn what they're doing, monitor these projects and go to Ireland for



International Fund for Ireland



Presentation of KPMG Report on the Fund to President Clinton, by Mr. James M. Lyons, US Observer to the International Fund for Ireland.

President of the United States of America, William J. Clinton.

"The United States has been a strong supporter of the International Fund for Ireland since its creation almost a decade ago. I am confident the Fund will continue to meet its twin objectives of promoting economic regeneration and reconciliation, which are so important at this time of hope in Northern Ireland."



The President of Ireland, Mrs Mary Robinson, officially launched an International Fund development project in the cross border village of Pettigo/Tullyhommon (November 1995). Left to right: Community Representative, Mr Pat Britton, International Fund Chairman, Mr William McCarter, The President of Ireland, Mrs Robinson and Mr Nicholas Robinson.

President of Ireland, Mrs Mary Robinson.

"I am glad to have the opportunity to come and see the specific cross community and cross border initiative that this project represents because I have opportunities to be in the donor countries, in the United States of America, in countries of the European Union, in Canada, Australia and New Zealand and to thank these donor countries for having supported the International Fund for Ireland."

"Promoting Progress and Reconciliation in Ireland"

The disadvantaged areas of Northern Ireland and the Southern Border Counties have been the primary focus of the International Fund's work aimed at building a peaceful and secure future for all the people of Ireland.

The International Fund was established in 1986 by the British and Irish Governments to actively pursue economic progress and to foster reconciliation between the two traditions on the island of Ireland. By consciously prioritising initiatives which have a real cross-community or cross border ethos, the Fund is actively contributing to the creation of a new climate of peace on the island.

The commitment of the Donor Countries to the aims and work of the Fund is demonstrated in the generous resources they have made available over the last nine years. The recent assessment of the Fund's performance, undertaken by KPMG Consultants, was presented in November to the President of the United States of America. The KPMG Report confirmed a jobs impact of 24,000 in projects supported, together with a major influence on the promotion of dialogue and reconciliation. Apart from the US the other contributors to the Fund are the European Union, Canada, New Zealand and Australia.

With offices in Belfast and Dublin and working closely with state and non-governmental organisations, the Fund has enabled a wide range of projects and initiatives to be realised. In doing so it has attracted resources from the public and private sectors into the most disadvantaged areas of Northern Ireland and the Southern Border Counties. This leveraging of additional funding has meant that the Fund has had a dynamic effect way beyond the significant funds it has made available.

When you are in Ireland, those involved in the Fund would be very pleased to have the opportunity to fully brief you on any issue relating to the work of the Fund to date, and indeed to outline the plans for its continued success. There is also a Press Pack available including an information video.

President of the EU Commission, Mr Jaques Santer.

"The European Commission recognises the outstanding achievements of the International Fund for Ireland in its efforts to promote reconciliation and economic regeneration in those areas most adversely affected in recent times. The formula chosen for operating the Fund has proved to be successful. Independent findings have confirmed its important contribution to job creation"

Irish Deputy Prime Minister (Tánaiste) and Minister for Foreign Affairs, Mr Dick Spring, TD.

"The Fund has been a wonderful success story which, through careful use of its resources, has achieved outstanding results on the ground. The Government is very pleased to endorse and support all of this good work".

Secretary of State for Northern Ireland, Sir Patrick Mayhew, MP.

"I am very pleased indeed that the KPMG Report has confirmed the very significant contribution made by the Fund"

Ireland — The International Fund at work



— Northern Ireland
— Border counties of the South
— South



William McCarter

William T. McCarter, Managing Director of Fruit of the Loom International Ltd is current Chairman of the International Fund for Ireland.

Mr. McCarter was educated at Coleraine Academy, Trinity College, Dublin and the Massachusetts Institute of Technology, Cambridge, USA.

As one of Ireland's most respected and successful businessmen, William McCarter has extensive business involvements in the textile industry. Fruit of the Loom is one of the largest manufacturing employers on the island of Ireland.

Mr. McCarter was a member of the Board of the Fund from 1989 to 1992 and was appointed Chairman on 1 January 1993.

International Fund for Ireland

QUESTIONS & ANSWERS

Q: What are the objectives of the Fund?

A: To promote economic and social advance in those areas of Ireland most affected by the instability of recent years and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland.

Q: What difference has the Fund made in Ireland?

A: By focusing especially on the local communities in the most disadvantaged areas of Northern Ireland and the border counties of the Republic of Ireland, the Fund has established a model of effective cross-community and cross-border co-operation. To date the Fund has committed £270M over 3,000 projects. The recent KPMG Report on the Fund confirmed the outstanding success to date of the Fund in meeting its core objectives.

Q: Where does the Fund get its money?

A: The Fund is supported by the United States of America, the European Union, Canada, New Zealand and Australia.

Q: How does the Fund operate?

A: The Fund operates through a range of sectoral programmes with an emphasis on both economic regeneration and community development. It has been very successful in leveraging further investment from the private and public sectors. For each IRE allocated to projects by the Fund another IRE1.70 on average is levered from other sources, thus increasing the overall regenerative impact in the most disadvantaged areas.

FOR INFORMATION:

International Fund for Ireland

Dublin Secretariat – Tel: Dublin 478 0655. Dublin Press Office – Tel: Dublin 661 4666.

Belfast Secretariat – Tel: Belfast 768832. Belfast Press Office – Tel: Belfast 428232

their meetings. They meet four times a year. And you'll have to write an annual report to the President that he can provide to Congress as the authorizing statute requires so that there is an accounting for how the money has been spent, and whether additional funds will be authorized in the future." I said that I would look into it and get back to him and asked for some material to study. I looked at it all and did my own due diligence. And I concluded that I could do this. I can go to Ireland four times a year, I certainly knew about serving on boards. I had served on the FirstBank board and I had some background in economic development from my time in Chicago with the bank management consultant company. So I accepted the appointment. Armed with briefings from the White House, my own research and a new US diplomatic passport, I headed to Ireland for my first IFI meeting in the fall of 1993. Little did I know where that would take me.

By 1995, I'd been to Ireland now a number of times. The administration had committed \$100 million to the IFI over four years, \$25 million a year. The European Union (EU) was the other major donor country to the Fund and basically matched what the United States put in. And Canada, New Zealand, and Australia, which all had substantial Irish populations, made up the other donor countries and Observers as well. However, the US and the EU made up the bulk of contributed funds to the IFI.

In the meantime, President Clinton made good on a campaign promise to appoint a "peace envoy" to Northern Ireland. Initially, this was not very popular with the British. Nevertheless, the British and Irish Governments came to the Administration and asked that the President consider appointing a person to help mediate and orchestrate talks between the various political parties in Northern Ireland, to see if some sort of solution could be found, both socially and politically, to the so-called "Troubles," and put an end to sectarian violence.

The President chose Senator George Mitchell for that role, and gave him two portfolios. One was the political one I just described, and the other was economic, which brought him into fairly immediate contact with me and what I was doing. And we worked on that for about a year maybe, at which point things really heated up and became very intense on the political side of his portfolio. So Senator Mitchell reported to the White House that he could not do justice to both portfolios, and that they ought to find someone else to pick up the economic portfolio. That set off a bunch of infighting in the government. The State Department wanted that portfolio to be within the State Department. The Commerce Department thought it should be with them. USAID, which was then still separate from the State Department, thought they should get it. And I got a call from the White House, a couple of calls actually, asking me what I thought should happen. And so I wrote a memorandum, less than two pages long, to the White House and the President. I basically advised that, whatever you do, don't put this portfolio out of the White House. The White House needs to keep this. This should not go to the State Department. This should not go to the Commerce Department, and not go anywhere else. Because if this portfolio is moved out of the White House, it could easily be interpreted as a significant reduction of interest by the President in achieving the objectives of reconciliation in Northern Ireland, peace, and some sort of return to social and political stability. I didn't think anything more of it after I sent the memo.

A few weeks or maybe even a month later, the President came to Denver for some function. Marcia and I were part of the receiving line when he got off Air Force One. As he's coming through the line, he gives Marcia a big hug and kiss, and turns to me and gives me a hug, and says, "I read your memo and I want you to take the job." And I remember saying, "Whoa, whoa, wait a minute." And he just kept going down the receiving line, calling over his shoulder, "We'll talk later, we'll talk later." Marcia asked, "What is he

talking about?” So I had to explain it to her. I am not sure she thought this was a good idea but she did not object, even though it would put more of a home load on her.

Caitlin McHugh

Oh, no.

James M. Lyons

So, he and I did talk later. And he said, “You’re the obvious guy to do this. I mean, you already know the ground there. You’ve been working on the ground there already for a few years. You know everything about this. And we can take the IFI role that you have and put it together with this role, which will give us even more resources and you know, I trust you and folks will know that you have direct access to me. And I know you’ll always give it to me straight.” I said, “Well, I’ve got to think about what this means.” He said, “Okay. Call me when you’re ready but very soon.” I talked it over with Marcia. She asked what this was going to involve. I said, “Honey, I have no idea. I know what I do with the IFI. But it’s gonna take more than that and I’d like to give it a go.” With her blessing (once again) I accepted.

I was offered Senator Mitchell’s old office, which was in the State Department and a secretary and an assistant. So that’s how I was appointed “Special Advisor to the President of the United States and the Secretary of State of the United States for Economic Initiatives in Northern Ireland and the Border Counties of the Republic of Ireland.”

Caitlin McHugh

The title?

James M. Lyons

Quite a title—like a medieval potentate. But, like everything else in government, it was reduced to an acronym. And the first time I saw it was when Donna came in to me, just chuckling, and said, “Here’s your new acronym.” I looked at it, and it was SAPASS— “Special Advisor, President and Secretary of State.” When we both stopped laughing, we agreed to have it changed to “Special Advisor/Ireland.”



The State Department identified three foreign service officers as candidates to be my assistant or that could be my assistant. And I looked at their resumes and ended up interviewing all three. But the third one, who turned out to be a remarkable woman named Katharine Koch, was a Foreign Service Officer who knew nothing about Ireland. As a journalist before she’d been a Foreign Service Officer, she had interviewed Muammar Gaddafi, at his tent village out in the desert of Libya. I mean, she was just something. The other two were qualified but they did not seem to have the spark that Katharine did. Keep in mind that this was clearly not a good place for her career, to be assigned to this political guy that the White House has suddenly planted here in State. And he was likely to be seen as undercutting the people who are already working on Northern Ireland from the UK desk, and people who are working in Ireland from the Ireland desk. “Desk” by the way, is an old traditional expression in the State Department. At the time the State Department was formed, each country literally had a desk. And

that's all they had. Now "the desk" is not just a desk; it is a whole organization that deals with that country and the surrounding area.

Anyway, I interviewed Katharine. I remember saying at the end of the interview, "You're pretty impressive here. I obviously need someone who's got your kind of background and skill and could spend this time. But I have a question for you." She said, "What's that?" I said, "Are you a spy?" She said, "Excuse me?" I said, "Are you a spy for somebody else in this building? Because you report to me, you work for me. And if I find out you're reporting our work to anybody else, without my permission, or knowledge, you're a spy and I'll fire you." She sort of looked at me like you are now, then gained her composure and said, "Well, I'm not a spy. And if these are the requirements for us to work together, I can easily meet those requirements." So, I hired her.

Over the years we worked together, she was nothing short of spectacular. I ultimately made her my deputy and was told by the State Department that I couldn't give her that title. I said, "I already have. Whether you recognize it or not, doesn't matter to me. But when I'm not able to be on the ground in Northern Ireland, or in Dublin, I want whoever she deals with to know that she speaks for me." And it worked out fine. And she was just marvelous. She's retired now and lives in France. We do try to stay in touch.

Caitlin McHugh

During your time as the Special Advisor/Ireland, how often were you commuting back and forth?

James M. Lyons

I used to get asked that question a lot, and the answer is I stopped counting at

fifty. And I do not count the trips I made on Air Force One with the President and his entourage. Because that's just a magical experience.

One funny story I'll tell you about was when we went over on Air Force One to our first visit. Christmas of 1995. The Clintons, President and Mrs. Clinton, had been invited to come over and appear in Belfast, and then go to Dublin. And in Belfast, the signature event was lighting the Christmas tree in downtown Belfast, which had never been done before, let alone by a President of the United States. And it was a huge deal and the Secret Service estimated there were well over 60,000 people in downtown Belfast on a cold December night. As we're flying over about midnight, and I'm thinking now I can finally get some sleep, the staffer came to get me and said, "The President wants to talk to the Irish team now. Come on down to the conference room." So I go down to the conference room. I sit down and Senator Mitchell was there as was Bill Daley, who was then Secretary of Commerce, who was an old friend of mine from Chicago. We were there with a few others. And they went through the sort of briefing, mostly to answer any questions that the President had from his briefing book. And Clinton being Clinton, he had a lot of questions. So we finished all that. Now it's about one thirty in the morning. And I think we're finished and the staffer says, "Mr. President, we have the CIA here for the classified national security briefing on the issues." He said, "Bring him in." So I started to get up to leave the conference room. And the President said, "Where are you going?" I said, "Mr. President, frankly, I don't think I've got the security clearance for this." He said, "Well, you do now. Sit down." And so I did.

After the briefing, Bill Daley and I were headed back to our seats. And Bill said, "Did you hear anything there that you didn't already know or had seen on CNN?" I said, "No, not a thing."

So the other story about a subsequent trip. This was to Dublin after the Good Friday Agreement in the fall of 1998. And it was a big celebration. There were over 100,000 people in downtown Dublin, in front of the Bank of Ireland, to hear him speak. And I had convinced Marcia that she needed to be here for this. I said, "This is just historic. And I want you here. Get a sitter and I'll fly you over." And she did. She flew over. We went to the event, spent the night. We flew back the next day. Marcia was literally in Ireland 24 hours, less than 24 hours. That's true love. But I had already gone over with the President. So she flew over by herself. The staff picked her up at the airport and brought her to the hold room before the big event outside. And there were maybe 50-60 people in the room. Mostly VIPs, Irish government officials, and our team. And I'm standing there talking to this guy, whose name is Paul, I never did get his last name. And he's got a young man with him who is his son who was like eight or nine years old. Nice guy. And we're chatting for a few minutes. And then it's time for everybody to go out and take their seats. So he leaves and Marcia, who'd been over talking to Hillary, comes over to me and says, "Do you know who that was?" And I said, "That was Paul. I never did get his last name." She looked at me and she said, "Jim, I haven't gotten much sleep, but even I know that was Bono you were talking to." And I said, "Oh no, really." She said, "Yes, it was." In my defense, he did not have on his trademark glasses. But it was Bono. I said, "You can never tell the kids that I didn't recognize Bono."

Caitlin McHugh

Shameful.

James M. Lyons

Later I did talk to him when U2 did a concert here, and it coincided with the President being here for something. And we ended up having lunch over at Strings.

And I don't think he made this up. But when the President introduced me to him, Bono said, "We've met." And he picked up the story. And then we all laughed, because Bono remembered, which really impressed me, really impressed me. I like his music, too. A few years later, he and The Edge played the opening of the Clinton Presidential Library in Little Rock. And I got a chance to chat with him again for a few minutes and thank him again for their work in support of the peace process.

Caitlin McHugh

I know you detailed a lot of your work in the book you wrote about this, "Peace Meets the Streets: On the Ground in Northern Ireland 1993-2001" (Amazon), so I don't want to go through everything that's in your book. But would you mind talking a little bit about how you approached your work in Northern Ireland to try to find commonality between two communities that were so bitterly divided and had been for generations?

James M. Lyons

Well, the initial problem we faced was a suspicion on the part of the Loyalist, Unionist, Protestant community that we were "green." In other words, that community believed that we were biased in favor the nationalists or Catholics and that we were working for a reunited Ireland. And we had to spend, in my case, it was several years working with the people in the unionist community to dispel that. We needed to have them know that they could trust us and that we were there not to impose any solution. Any solution to be made was theirs to make with the other community. But we were there to try to see if we couldn't find common ground. And that the money, the financial resources we had, were to be equally available to both communities. In fact, we would fund no project unless both communities were involved and supportive. We just wouldn't.

And that took a long time to negotiate and make happen.

So when I finally realized that, I made a real effort whenever I was there, or whenever I was in contact with both communities for that matter, to let them know that they could trust us, that we didn't have a bias, other than we wanted to see an end to this. We wanted to see social stability and political stability, and an end to the Troubles. And that was the common ground we had. Nobody of good faith in either community wanted this to continue.

And one of the most powerful voices in all of that, as you know if you read

16A • THE DENVER POST Sunday, April 23, 2000

THE SUNDAY DENVER POST

April 23, 2000 Voice of the Rocky Mountain Empire ***50¢ — May vary outside metro Denver

NORTHERN IRELAND'S 'TROUBLES'

'God help us if we go back'

Denver lawyer's mission is a peace-by-peace effort

By Bruce Finley
Denver Post International Affairs Writer

CROSSMAGLEN, Northern Ireland — Head south from Belfast to the embattled green pastures and villages of County Armagh, and see what Denver lawyer Jim Lyons is up against as he tries to secure peace.

Five British soldiers crouching in full combat camouflage, lugging machine guns, creep through the Crossmaglen market square. Townspeople look away, shopping for fish, flowers, newspapers, pushing small children in strollers. Military helicopters clack overhead. A fortified brown tower, surveillance camera swiveling on top, looms over the square.

One soldier listens through an earpiece. "It's a normal patrol," he says on this recent spring morning, "like what police would do in any town, any city in the world."

Angry farmers in Paddy Short's pub complain about helicopters landing in their pastures. "The war won't end," 81-year-old pubkeeper Short declares, "until the British soldiers leave."

But from Britain's perspective, military towers and regular patrols, conducted by 15,000 British troops in Northern Ireland, provide necessary protection. Crossmaglen lies in what the British call "bandit country," an Irish Republican Army-controlled region where weapons are oiled, wrapped and stored in plastic containers buried on farms.

Please see IRELAND on 16A

NORTHERN IRELAND'S 'TROUBLES'

Fragile peace falters

IRELAND from Page 1A

British authorities say the bomb that killed 29 people in the southwestern market town Omagh in August 1998 entered Northern Ireland through this county. Earlier this month, 20 miles or so west of here, an IRA splinter group tried to fire a mortar rocket from a car into a Royal Ulster Constabulary police base.

Peace is faltering this Easter morning in Ireland, the ancestral homeland of 44 million Americans.

The U.S.-brokered Good Friday Agreement, which two years ago established a framework for the first lasting peace after centuries of sectarian strife, is no longer a done deal. The agreement set up a shared Catholic-Protestant government in Northern Ireland, ending 18 years of British rule. The government got started. But both sides balked at surrendering weapons.

Britain reimposed direct rule on Feb. 11. Tensions between Protestants, who want to remain part of Britain, and Catholics, who want to join the Republic of Ireland to the south, have risen ever since.

Ester Lyons, a special adviser to President Clinton on Ireland, who went to Belfast this month to try to help turn things around.

It was the 19th trip to Ireland for Lyons, 52, who's been a close confidant of Clinton since the 1970s. More than seven years of unpaid work here, his closeness to Clinton, his influence bringing in \$1.5 billion of investment through an international foundation, and his dispute-resolution skills have won Lyons access to all sides in the conflict, which since 1970 has claimed 3,500 lives. On this trip, Lyons met with deadlocked politicians, urging them to stay the course toward compromise. He also worked with community leaders on economic projects he believes are crucial to ending Ireland's "Troubles."

Hard-line paramilitaries, Lyons said, are threatening an uneasy equilibrium in Northern Ireland. Police report nearly one political shooting a night, and four attempted attacks on security forces over the past two months.

Yet Lyons believes most Irish people are motivated, beyond politics by a desire to move ahead economically. He argues that peace will lead to prosperity.

Lyons works behind the scenes in a personal, blunt-spoken way that can clash with bureaucratic sensibilities. He refuses security, and usually travels alone.

The hope is that sustained attention from a friend of President Clinton can add heft to U.S. foreign policy. And in the waning days of Clinton's presidency this may be his best chance for an unopposed foreign policy success. Clinton calls Ireland to check on peace negotiations no less than once a week, said Dermot Gallagher, a senior Irish government official and former Irish ambassador to the United States, and sometimes twice a day.

Lyons' task is "to remind people that there is an economic stake in the peace process," said Dick Naismond, a National Security Council supervisor in the White House. After former U.S. Sen. George Mitchell stepped out of his negotiating role this year, Lyons emerged as a key inside figure, said Gallagher.

"Jim Lyons is a player here, and is listened to very attentively indeed," Gallagher said. "The guy is fair."

And he likes his fish and chips.

During a break between official meetings, Lyons bolted for the bitterly torn Ardoyne neighborhood in West Belfast. There, razor wire curbs atop brick walls, metal barricades separate homes, and paramilitary marks on sides of buildings are carefully maintained.

Lyons walked into the crowded Annie's Home Bakery and Cafe on the Cromlin Road dividing Catholic and Protestant sections.

The building was a burnt-out shell when Betty and Annie McGuigan moved in a couple years ago. A \$1,500 loan from a micro-credit organization Lyons started gave them a boost. Banks had rejected their project as too risky.

Lyons ordered. He began eating.

The McGuigan sisters approached, timidly, suspecting this American in the blue business suit might be important. Lyons handed them his card with its gold-inked seal. Betty McGuigan informed Lyons proudly that thanks in part to the loan, business doubled over the past five months.

But to stay open, "we need to draw trade from both sides," Betty said, meaning Catholic and Protestant customers. That's been the secret to their success so far. A political stalemate that drags on much longer could ruin everything.

On Feb. 11, British Prime Minister Tony Blair suspended Northern Ireland's 16-week-old shared government — set up under the Good Friday deal George Mitchell brokered — because the Irish Republican Army refused to disarm by a May 21 deadline. Surrender of IRA weapons, and the continuing British military presence, are primary obstacles stalling peace.

Unionists who favor continued British rule contend Northern Ireland shouldn't begin to govern itself until the IRA gives up its guns. Sinn Fein, the IRA's political wing, argues that weapons are in storage and won't be used.

After more than two months, this impasse and the government shutdown leave political leaders such as Nobel Peace Prize winner David Trimble, head of the Ulster Unionist Party, and Sinn Fein leaders Gerry Adams and Martin McGuinness, increasingly powerless.

While they occupy tomb-like offices in Stormont Cas-



A British commando patrols the Crossmaglen market square this month in the embattled Armagh region of Northern Ireland. Crossmaglen residents say patrols and helicopter flights have increased since Feb. 11, when Britain suspended Northern Ireland's government and reimposed direct rule.



In Belfast this month on a mission to try to boost Northern Ireland's faltering peace process, Denver trial lawyer Jim Lyons, special adviser to President Clinton on Ireland, ducked into Annie's Home Bakery and Cafe in the divided Ardoyne neighborhood in West Belfast for fish and chips. U.S. Foreign Service officer Katherine Koch, center, who assists Lyons, looks on as Annie and Betty McGuigan, right, explain how a \$1,500 loan from a micro-credit program Lyons started in Northern Ireland helped their business survive.



Foreman Clifford Nettle-ship, 37, on the factory floor at EM Solutions — a Colorado-owned high-tech manufacturing plant west of Belfast — says "everyone still has an opinion" on the future of Northern Ireland. "But because of the nature of our politics, it's not talked about on the shop floor." He wants his children to have a more peaceful life than he had growing up, when bombs exploded in the middle of neighborhoods and "nobody escaped the threat of violence."

U.S. offers work visas as Irish aid experiment

By Bruce Finley
Denver Post International Affairs Writer

BELFAST, Northern Ireland — In one of the world's most recalcitrant trouble spots, the United States is dangling a new kind of incentive designed to foster peace: visas to work for three years in America.

The first of 12,000 workers from both sides of Northern Ireland's sectarian conflict begin arriving this week. Among them are 40 headed for the Broadmoor Hotel in Colorado Springs.

"I'll be working as a door attendant here," Aaron Dixon, a beefy teen from predominantly Protestant Whitehead, announced proudly at an orientation session here.

Standard U.S. methods of helping people in trouble spots — sending money, in-kind aid, or peacekeeping troops — are costly. In contrast, this program to help others also may help U.S. business, which increasingly demands access to workers abroad to ease labor pressures at home.

The hope is that young workers from Northern Ireland will learn about democracy and tolerance while in the United States, then return home and promote cross-community cooperation.

"This is definitely the first visa of its kind," said Eyleen Schmidt, spokeswoman for the U.S. Immigration and Naturalization Service in Washington, D.C. Department of State investors say it's too early to tell whether the new Q class visas later will be offered in Balkan, Middle Eastern and African trouble spots.

But broader application is "yet beyond the realm of possibility," said Jane Part, the U.S. consul general in Belfast. "Let's see how this works. We are very much at the beginning of the program."

Daily administration was contracted out to the Washington, D.C.-area firm Logicon. Each visa expires after three years. Workers must be between 18 and 35, and promise to return to Northern Ireland. So far, the visas are offered for

Please see VISAS on 17A

Ireland's troubles
The roots of the problems between Ireland and England go back centuries.

- 17th century** England establishes plantations in northeastern Ireland.
- 1816** Easter uprising in Dublin begins Irish revolution against British control.
- 1821-22** Southern Ireland wins independence. Britain rules Northern Ireland.
- 1898-99** Catholics in Northern Ireland lead civil rights struggle. Protestants who make up more than half the population control institutions and prosper under direct rule from London.
- 1912** Bloody Sunday. British soldiers fire on civil rights marchers in Derry on Jan. 30, killing 13 unarmed people. This accelerates a split from non-violent civil rights struggle to guerrilla war as Catholics in Northern Ireland seek reunification with the Republic of Ireland to the south.
- 1954** Irish Republican Army declares cease-fire in August. Northern Ireland Protestants who support direct rule by Britain also declare a cease-fire in October. The shift away from violent conflict opens opportunities to discuss the fundamental dispute over whether Northern Ireland should remain part of Britain, become part of Ireland, or move toward self-government.
- 1995** Anglo-Irish Agreement in which governments of Britain and Ireland promise to work together to resolve conflict in Northern Ireland.
- 1998** U.S.-brokered Good Friday agreement sets up gradual shift toward self-government by political parties representing clashing interests in Northern Ireland. The agreement leads to an end of direct rule from London for the first time since 1922, sets a timetable for disarmament, calls for reform of the Royal Ulster Constabulary police force.
- 2000** Britain suspends 10-week-old Northern Ireland government on Feb. 11 because Irish Republican Army has failed to give up guns and resumes control over Northern Ireland.

Please see IRELAND on 16A

Peace seen as key to N. Ireland's prosperity

IRELAND from Page 16A

tle, the seat of Northern Ireland's short-lived government, paramilitary groups are active in neighborhoods. Royal Ulster Constabulary police statistics show increased shooting incidents during the first three months this year.

Lyons' main job on this trip was to encourage the marginalized politicians, whom he worried might be frustrated enough to lose heart.

His message: The United States will do anything it can to facilitate compromise, and President Clinton cares passionately. But time's running out. The presidential election looms in the United States. Restarting Northern Ireland's government after the May 22 deadline for getting rid of IRA weapons will be even harder than it seems now.

Making his rounds to political leaders, Lyons met first with Trimble at Stormont.

Trimble acknowledged that, without self-government, Northern Ireland "is going to miss out on opportunities."

Lyons was convinced that Trimble is "very much committed to going forward" in the coming weeks. But Trimble faces dissent from hard-liners within his unionist party. Those who demand IRA "guns before government" constrain his ability to compromise.

And with a Protestant majority



A boy jumps a fence in West Belfast, a patchwork of Catholic and Protestant enclaves. Sectarian tensions have risen recently.

Carlos Lopez-Barajas
Special to The Post

in Northern Ireland, there's plenty of support for not giving ground.

Consider the experience in Coleraine along Northern Ireland's north coast. In 1992, a phone call to police announced that the town center complex would be blown apart in two hours. Police cleared the area. A 50-pound IRA bomb exploded.

Memories of that attack still are fresh for residents such as Michael Ferguson, the owner of the Happy Haddock fish-and-chips shop. No government's possible, in his view, until the IRA disarms. And he doesn't expect that to happen.

"Back to square one," said Ferguson, whose son plans to visit Colorado Springs on a church exchange this summer to "just get away" for awhile.

"There is no chance of keeping the government going," Ferguson

major surgeries.

Where Hume lives in Derry, people once struggling economically are benefitting from peace. Since the Good Friday agreement, companies such as Fruit of the Loom, DuPont and Sega have opened plants, giving young people a chance to earn a living without moving away.

The government must be up and running "as soon as possible," Hume said. In an interview, he called for compromise now.

The problem, he said, is continuing "distrust between two of the parties, Sinn Fein and the unionists, which arises out of the past." Hume assured Lyons "we're still working to break the barriers down."

Lyons turned last to Sinn Fein. Party leader Martin McGuinness greeted him, and nobody minced words.

Some sort of "constructive movement" is crucial, Lyons said. McGuinness acknowledged that he knows what's at stake. "Unless we provide a stable political situation," "business investment that Irish people need 'isn't going to be available.'"

Yet McGuinness contended in an interview that it's up to unionist leaders "to face down their own rejectionists." He blamed the British

government for "a terrible mistake" in suspending Northern Ireland's shared government.

Sinn Fein officials said that approaching IRA "hard men" and asking for disarmament to revive the government would draw laughter.

But Lyons noted later that McGuinness in private talks "didn't rule out" some gesture.

Lyons dined with economic leaders including Sir George Quigley, chairman of the Ulster Bank and former chief of Northern Ireland's civil servants.

Business leaders are pressing political leaders to compromise, Quigley said.

They point to the economic take-off and improving standard of living in southern Ireland, dubbed the "Celtic Tiger" in Europe. "Provincialism and isolationism," Quigley said, are holding Northern Ireland back.

On the streets beneath Quigley's Ulster Bank office that day, a green tank rolled toward Belfast City Hall — not to attack but to film a popular television sitcom called "Give My Head Peace." The show airs stereotypical sectarian views, much as "All In The Family" exposed Archie Bunker's racism.

Please see IRELAND on 18A

Sunday, April 23, 2000

THE DENVER POST

19A

N. Ireland emissary makes the rounds

IRELAND from Page 18A

ism, in hopes that humor might ease tensions. In this episode, an actor portraying an elderly IRA diehard drove the tank to Protestant diehards and offered it as a gesture of peace.

Producer Colin Lewis said he's counting on more than a nominal success.

"God help us if we go back," Lewis said.

Northern Ireland today actually "is a safe and reliable place to do business," said Mark Stevenson, chief executive of Colorado-based EM Solutions, which invested about \$20 million in a factory in Lisburn, west of Belfast, that employs 479 workers. Michael Best, managing director at the factory, said sectarian tensions haven't hindered production of computer and telecom equipment. A strict no-politics policy forbids workers from wearing soccer jerseys, because soccer rivalries reflect sectarian divisions.

"Everyone still has an opinion," said Clifford Nettleship, 37, a Protestant foreman. "But because of the nature of our politics, it's not talked about on the shop floor. . . . If the most powerful man on Earth [the means Clinton] takes an interest in your local politics, you gotta think maybe something's gotta be done."

Lyons worked neighborhoods, too, trying to encourage compromisers, hoping that high-level U.S. support of street-level deviants will avert violence.

He relies on his relatively neutral background, as an Irish-American Catholic whose mother was descended from Northern Ireland Protestants. He goes running regularly with an ex-prisoner with ties to Protestant paramilitary groups. Most importantly, he has a record of finding financial support for groups committed to cross-community cooperation.

As the official U.S. liaison to the International Fund for Ireland, which receives \$20 million a year from the United States and about \$20 million more from Europe and

Northern Ireland adviser an old Clinton friend

When President Clinton committed to trying to bring peace in Northern Ireland, he turned to his old friend Jim Lyons, a trial lawyer based in Denver.

Their friendship began in 1978, when Lyons dropped into Little Rock, Ark., while Clinton was attorney general. Lyons was working on an antitrust case against a telephone company, and another Denver lawyer had suggested that he visit with Clinton.

They kept in touch over the years.

In 1992, Lyons agreed to represent Clinton in the Whitewater real estate investigation. Lyons' review of Clinton investments cleared Bill and Hillary Clinton of wrongdoing. Later, a report by the Resolution Trust Corp. confirmed and

corroborated Lyons' findings.

The issue resurfaced in September 1999, when Clinton nominated Lyons, who has won awards from leading national legal associations, to serve as a federal appeals court judge. U.S. Sen. Wayne Allard, R-Colo., accused Lyons of being "a political operative" and has blocked that nomination.

In 1994, Lyons became Clinton's liaison to the International Fund for Ireland, a foundation devoted to peace through economic cooperation.

In 1997, as U.S. Sen. George Mitchell focused on political negotiations in Northern Ireland, Clinton appointed Lyons to take on an additional role as special adviser for economic initiatives in

Australia. Lyons influences spending on major projects such as business incubator centers. The \$1.5 billion in direct investment that the foundation has leveraged since 1993 struggled some 30,000 jobs.

One of the latest projects Lyons set up is the Aspire micro-credit loan program that gives loans to small businesses that banks won't help, such as Annie's bakery in the Ardoyne.

Lyons checked in at Aspire's central office.

"How many loans?" he asked Niamh Goggin, the local director.

"Ten." All recipients were making their payments.

"Anything I can do to help?"

The challenge is converting people in the poorest neighborhoods, Goggin said. "They don't believe anyone will help them."

Lyons later dropped in on a hairdresser of African descent. She recently received a

small loan, used it to pay off debts for her "Samara" salon, and now is repaying the loan. She told Lyons his micro-credit lenders "are the first ones who believed in me." Small businesses struggling now, she said, "are the ones that will build up the community."

Later, in a converted linen mill, Lyons shared a pint of Guinness with Father Myles Kavanagh and Sister Mary Turley, who run an array of social services projects he helped fund. They urged him to consider inviting Clinton to introduce Ireland's President Mary McAleese at a fundraising event next month in Washington D.C.

At a business incubator facility that provides phones, faxes and work space in east Belfast, he met fellow Denver Broncos fan Gerry O'Reilly, 36, who graduated from high school in Denver. O'Reilly moved home to Belfast for college, then launched

a coffee business. Now his Black Mountain Coffee sales are increasing through the Internet. Young entrepreneurs in Belfast favor political compromise and self-government, O'Reilly said. "I'm depressed," he said. "You can see a cloud coming over this place again. . . . If it goes back to the way it was, I'd pack my bags and go."

Lyons even worked Sinn Fein president Gerry Adams' neighborhood, where veteran community worker Geraldine McAleer handed him an 80-page draft proposal to create a business park and asked for his opinion.

Because that's a Catholic neighborhood, Lyons made a point of following up with a visit to Shankill, a Protestant neighborhood devastated economically when textile factories closed. It's a stronghold for paramilitary groups now.

Lyons checked in with unionist community leader Jackie Redpath.

"People are mixed up, very mixed. . . . I think people are fed-up. . . . It's very difficult to see a way back from where we are at the moment, Jim," Redpath said. "Sorry to be so depressing."

Lyons nodded. "That's probably a very realistic assessment," he said. "We're doing what we can."

He dropped at the home of Margaret McKinney. Her youngest son, Brian, mentally disabled, was murdered more than two decades ago. Goaded by neighborhood boys, he'd used a toy pistol to hold up a store. When he showed the stolen money to his parents, they returned it to the store and apologized.

But the IRA group that policed the neighborhood decided to discipline Brian. Hooded men showed up at the McKinney home one night. They told Margaret they would only scare her son. Instead, they apparently killed him. Two decades later, she finally found out what happened after visiting the White House with an Irish women's group. She met Lyons there, and when he asked what had happened, she told him about Brian.

Lyons told Clinton, then began pressuring Sinn Fein president Gerry Adams to do "the right thing." Last year, IRA leaders arranged for excavation of a field across the border in the Republic of Ireland. Police unearthed Brian's body and brought it home for burial in Belfast.

McKinney told Lyons she feels much better now. A picture of her with Clinton sits on the mantle with pictures of Brian. But she still clings to the white tennis shoes found on his body — "with the see blue stripes up the sides," she tearfully told Lyons in her tidy sitting room.

Lyons hugged her.

And he handed her a packet of flower seeds. People in Colorado know the pain of losing children, he said.

McKinney planned to plant the seeds the next day. She was hoping one might sprout by Easter.

my book, were the women in these communities, Catholic and Protestant. They'd had enough. They had seen what had happened to their communities. They saw what this did by way of a limited, if impossible, future for their children. Leaving aside just the safety issues, they saw what it was doing to destroy their society. So I spent a lot of time as you know from my book, with the women in those communities.

Hillary had done a series of events around the world called Vital Voices, which was a program she created to convince women and train women to be involved in their communities, in their society and their government and give them tools how to do that. She did a conference in Belfast on Vital Voices and asked me if I would introduce her. And I was only too happy to do that. And I remember saying at the time, "The women of Northern Ireland are Vital Voices. And for years and years, they were the only voices here calling for peace." And I remember great applause for that. But I believed that about the women of Northern Ireland. I believed that then, I believe it now.

And once we established that sort of lack of bias, trust, confidence, we were able to make some progress. And Senator Mitchell experienced the same thing on his side, although he was dealing with the political leadership, which in many ways was disassociated from the people. I mean the people wanted this to happen in the communities and the responsible members of the Unionist community knew they would have to give, and the responsible members of the Nationalist community knew they would, too, if peace was going to be made. And ultimately it was the leadership and courage of John Hume and David Trimble who made this happen politically. They both got the Nobel Peace Prize for that. I also thought that George Mitchell should have shared that prize, frankly.

George Mitchell is a remarkable, just a remarkable, human being. I regard him to be a good friend. We did a conference together a couple years ago in Belfast on dealing with

sectarianism. And I haven't talked to him much since. But he's in his late 80s. He flew all the way over to Belfast to do this because he still believes in this, as do I. There's still work yet to be done here. But unfortunately, the administrations after the Clinton Administration never put in the time and the effort that, had it been done, could have solidified the situation. It's still pretty shaky now, made shakier by Brexit, which is a major blow to Northern Ireland, who depended on funds from the EU for any number of structural and other projects. And that's now gone. But, the Good Friday Agreement, which was modified a bit in what became known as the St. Andrew's Agreement, because that's where it was negotiated in Scotland, continues to hold in terms of its governmental structure and political stability.

I haven't been back to Northern Ireland during the pandemic. I'm anxious to get back and see some old friends and renew old acquaintances. You know, the last time I was there, it was almost like Denver. I couldn't believe the cranes, the construction and everything else showing growth and economic activity. But that was all before Brexit.

So I've wandered off topic here, but fundamentally what I learned in Northern Ireland which I now use, as best I can, in my mediation practice, is that you have to listen to people. And they have to know that their point of view, their case, is being understood, respected and appreciated. And if you can form that kind of relationship with both sides, then eventually I think you can get to a point of saying, okay, here's you, here's me. But there's space here in the middle. It's not space apart, it's space in the middle. And nobody's going to be perfectly happy with this. But it's going to be better than the alternatives. And I think that's what happened in Northern Ireland.

Caitlin McHugh

What was your day like in Northern Ireland after your daily duties?

James Lyons

My day in Northern Ireland did not end at seven o'clock or six o'clock, because it was noon time here in Denver. And this is before e-mails, texts, and everything else. So I'd be on the phone or reviewing faxes when I finished in Northern Ireland at seven, and usually be up til about midnight, and then get up the next day and do it again. And I had help here. Donna, Fred, and the others who were helpful to me made that possible to a large extent.

It's an old saying, "I never regret what I didn't say to the press." And the Irish press in both Northern Ireland and the Republic, is pretty aggressive. They've got a very open society. They are parliamentary systems. So governments have to be very sensitive to the will of the people and they rely on the media to a large extent to do that. Well, one evening, I got pushed. It was someone from the Belfast Telegraph, which is the largest Unionist newspaper in Northern Ireland. I forget the reporter's name, and he was really being aggressive bordering on impolite, but he pushed me pretty hard. I finally said, "Look, this Administration does not care about a reunited Ireland. What we care about is an agreed Ireland, and the agreement is yours to make, not ours." The minute the words were out of my mouth, I thought, jeez, I maybe should have done that a little differently. I was tired, it was late. And I was right. I mean that was true. So I got back to the hotel. I go to bed. And my phone goes off about five o'clock in the morning. And it's the White House. And it's my contact in the National Security Office—her name was Nancy Soderbergh who was Deputy National Security Advisor. And Nancy, in a very chilling voice said, "I'm reading this quote in the Belfast Telegraph. And I want to know if this is what you said." I thought, "Well this is the end of my job here. I'll be on the next plane home." I said, "Yes, Nancy, it is. And do you want me to explain the circumstances?" She said, "No. I want you to know that the President has seen this and we're going to take

credit for it. Do you have a problem with that?" I said, "Absolutely not." At the end of the day I didn't say anything that was new policy for the Administration. I was just perhaps a little less diplomatic than I might have been.

Caitlin McHugh

Sometimes some directness can have results

James M. Lyons

Sometimes.

Caitlin McHugh

Just this past year you conducted an interview with President Clinton. Can you speak briefly about that?

James M. Lyons

Sure. The American College of Trial Lawyers does two programs a year, a spring meeting, and an annual meeting. And generally, the speakers at these programs are from diverse backgrounds, providing viewpoints on a wide variety of topics that are not necessarily legal, which is what makes the program so attractive. Mike O'Donnell, who is my first cousin by the way, and was then the incoming president for the College and has responsibility for doing these programs, called me and asked me if there any possibility that either Bill or Hillary Clinton might be willing to be interviewed. It would be taped wherever they chose and they wouldn't have to travel anywhere. I said, "I don't know, Mike. I can ask." And I did. I spoke to the President and his staff and I said, "If you'd be interested, we'd sure like to interview you." He said, "Who is going to interview me?"

I said it would be me. He said, "Oh, yes. I would be happy, happy to do it." So I circled back to Mike, told him we were going to do it. The President agreed to do it. We'd have to arrange the logistics to get a film crew, which the College does regularly anyway, to his home in Chappaqua, New York. I put together an outline, and sent it to him and his staff. And he was fine with it. I wanted to have a sense of—we had less than an hour—the topics I wanted to address. And mostly I wanted to address things that weren't partisan like, what was his view of the United States in the world now, particularly with both the economic and political competition from Russia and China? What did he see as how we could move forward from the division that is now so rampant in the country? And then some lighter topics like, so what are you reading, because he's an eclectic, voracious reader. And we had a habit, during the White House years, whenever I went back, I'd bring him a book or two that I thought he might like to read. Because he didn't have the ability to go out like he did when he was Governor and wander a bookstore, which for him was a wonderful way to spend a few hours. And then we talked about some personal things. How is he coping with the pandemic? How are things with Hillary at the moment, and Chelsea and his grandkids? What was going on with his Foundation, which is where he has put most of his time and energy since he's left the White House. The missions he undertook on behalf of his successors, and his successors' requests to, for example, provide tsunami relief to Indochina after that terrible tsunami there, to provide relief to Haiti after the earthquakes and floods that they have suffered. He has led a pretty full and active life for an ex-President. Not unlike Jimmy Carter, for example. So we did the interview. It was great fun for the two of us. It's on the website of American College of Trial Lawyers. And I think it's the website here at the firm under, I think, my biography. So if someone wants to see it, they can look under my firm bio for the link.

Caitlin McHugh

Before we move away from your time working in the Clinton Administration and your relationship with the Clintons, I want to ask you about your judicial nomination to the Tenth Circuit in 1999. Can you speak to that?

James M. Lyons

Yes. I had been approached by the White House in both the first Clinton term and the second Clinton term about my willingness to accept a nomination to the federal bench. The first one was in the aftermath of the inauguration in 1993. It was for the federal district court here. And I considered it, but politely declined. As I said before, I just didn't feel the time was right for me. I'd been gone a long time from the firm, and my clients during the campaign. And I just didn't feel like I was ready. So I was flattered, but politely declined.

The second time was in 1996 for a position on the Tenth Circuit. And even then, I just didn't feel comfortable doing it. I still had children to educate for that matter. But although the job position was certainly attractive to me, and appealed to my sense of public service, I just didn't feel the timing was right.

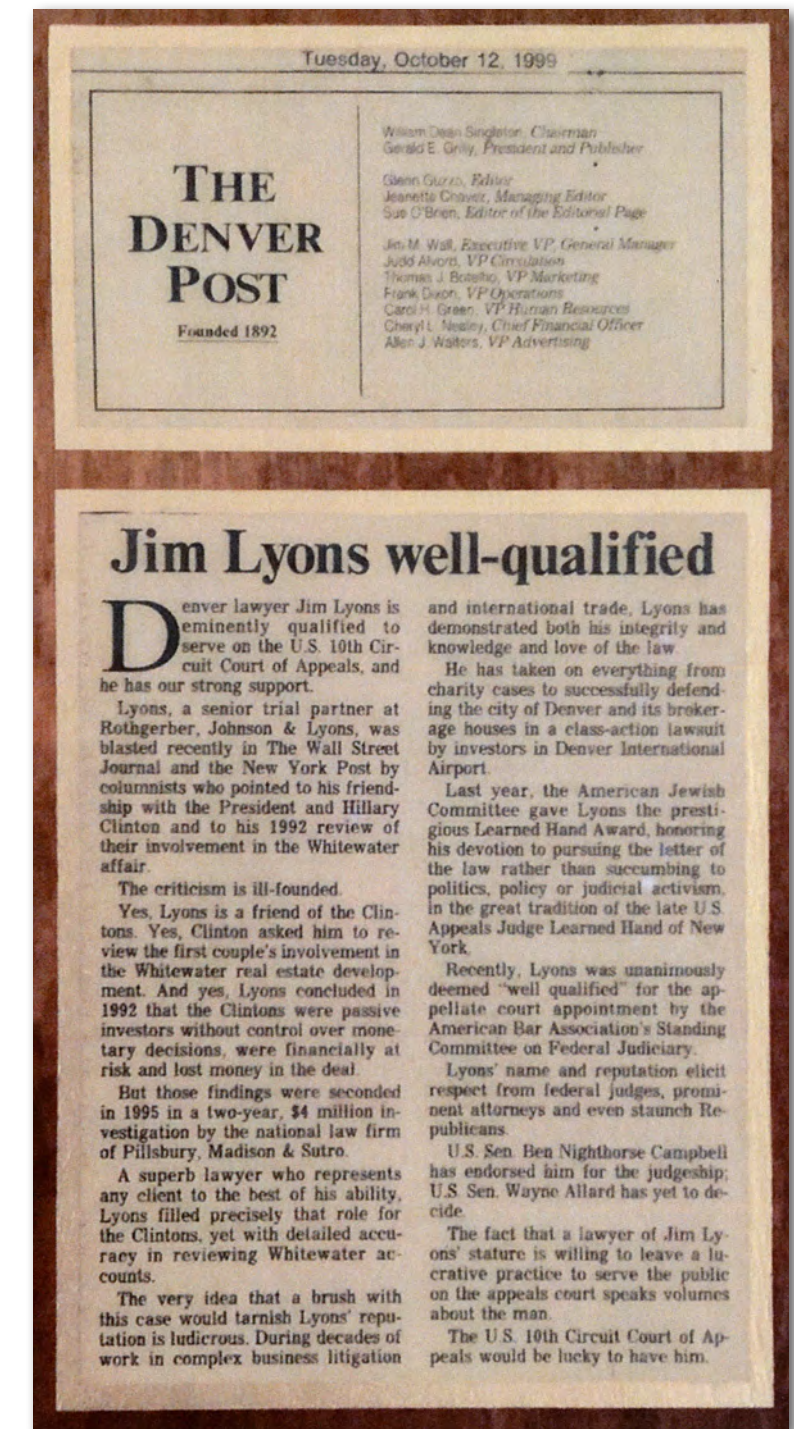
Well, the third time was the charm. In 1999, with a year left in his presidency, a vacancy occurred on the Tenth Circuit. Judge Porfilio announced his retirement, and that created a vacancy, a Colorado vacancy, on the Tenth Circuit. And I thought about it long and hard. I talked long and hard with Marcia. I talked with Fred. I talked with a few others that knew me and knew me well and decided that I would accept the nomination. So I was nominated for that vacancy.

Caitlin McHugh

What happened once you were nominated?

James M. Lyons

Well, first of all, I was interviewed by the American Bar Association, which had a Committee on the Judiciary. It still does and meets with every candidate for the nominee for the federal bench at whatever level, trial court, court of appeals. I don't know about Supreme Court. And they determined that I was well qualified, which was the highest ranking that they had. The local support was, to me, very gratifying. The clients that I had represented, many of whom were Republicans, were almost uniformly in support of this. There were a few that lamented the fact that I wouldn't be their lawyer anymore, but understood that this was something I was quite interested in. The Denver Post wrote an editorial on my behalf. But there was some political opposition, which I expected being



that I was a Democrat and an activist. I met with the two senators, Senator Ben Nighthorse Campbell, who had been a Democrat before he switched parties. And I met with him. I knew him, and he was supportive. I met with Senator Allard several times. He was the junior senator and a Republican. And he wanted to give the matter some thought and ultimately decided for political reasons that he would not support me.

Caitlin McHugh

During that time can you describe how it felt to have a nomination without a hearing?

James M. Lyons

Well, the Democrats were in control of the Senate. I felt fairly confident that I could get a hearing before the Judiciary Committee, but not over the opposition of the incumbent junior senator who has the ability to not return a blue slip, as it's called, which indicates that essentially he's blackballing the nominee. So I was counseled by the White House to be patient. And that ultimately perhaps something could be worked out. I was not comfortable with that. My life was in limbo. I put the firm to some extent in limbo, in terms of my ability to attract new clients and service existing clients on into the future. So I made the determination after Senator Allard made it clear he would not support me, I made the determination to withdraw my nomination, and I did.

Caitlin McHugh

Since then, you've gone back to practicing law? Continued, I guess.

James M. Lyons

I did. I put this whole what I call judicial misadventure in the rearview mirror.

Caitlin McHugh

There's been a lot of fascinating cases you've had since. We'd like to talk about a few of them. Around the same time as the judicial nomination you represented a group of pro bono prisoners in a class action case?

James M. Lyons

I did. A friend of mine, a lawyer in Colorado Springs named Dennis Hartley, an excellent criminal defense lawyer who by the way had been appointed by Judge Matsch to represent Tim McVeigh, the Oklahoma City bomber after he was convicted and sentenced to death. Dennis was his death penalty lawyer, having had experience in several cases.

Dennis is an old good friend. He called me and said he had a case on behalf of a few state prisoners suffering from Hepatitis C who were not receiving adequate treatment from the State. He assembled a couple of very reliable and credible experts from around the country, medical experts who had developed a protocol within prison systems for prisoners to get adequate treatment which, in Colorado, they were not. So Dennis had filed this lawsuit on behalf of these prisoners, and called me to see if I would assist him with it, since he knew I was familiar with the civil federal court system. So we met and discussed it. And I became convinced as Dennis that we should turn this into a class action, which we did. The case was initially assigned to Magistrate Judge Patricia Coan, who, by the way, is a former nurse. Not very many people, I suspect, knew that. And we were able to negotiate with her assistance a settlement with the State to put in state-of-the-art Hepatitis C treatment protocols in the State prisons. And neither one of us, Dennis nor I, were paid for that. It was a pro bono case that I was happy to help him resolve.

Caitlin McHugh

Another case you were working on around this time was with Blue Cross Blue Shield.

James M. Lyons

Yes. I was hired by the Board of Directors of Colorado Blue Cross Blue Shield to represent them in connection with an Insurance Department investigation regarding rate structures in Colorado and the adequacy of their insurance procedures. Joel Glover was our partner at the firm who was an insurance regulatory expert and I brought him in to work with us and he was brilliant.

And in the course of that, it became evident to Blue Cross Blue Shield that they would need to attract additional capital to continue to provide a quality level of health insurance in the State. They were a not-for-profit. And their ability to attract capital as a not for profit was pretty limited, if nonexistent. So ultimately, it was determined that they should convert to for profit, which would require a legislative change in Colorado. And assuming that they were approved to become for profit, the value of the for-profit business would need to be recognized, quantified and put into a trust for the benefit of the people since the people had supported Blue Cross Blue Shield as a not-for-profit from the beginning. Other states had done that. Not very many, but a few, and we looked to them for a model and ultimately crafted legislation, sponsored the legislation, appeared and testified in support of it. And a bill approving Blue Cross Blue Shield to transfer to become a for-profit institution and transfer the incremental value I described to a trust for the benefit, or foundation for the benefit, of the people of the State was created.

Caitlin McHugh

That's fascinating. It took a lot of creative thinking to get a solution there.

James M. Lyons

Well, actually, if you think about it, it's an old common law doctrine in the nature of *cy pres* which can be used to recognize the value of publicly created institutions when they are privatized. So what we basically did was take that concept, as I said as a few other states had, and put it into a statutory mechanism to allow it to happen.

Caitlin McHugh

It's a good way to help your clients get the result they need in a way that maybe hadn't been done before, at least, in Colorado.

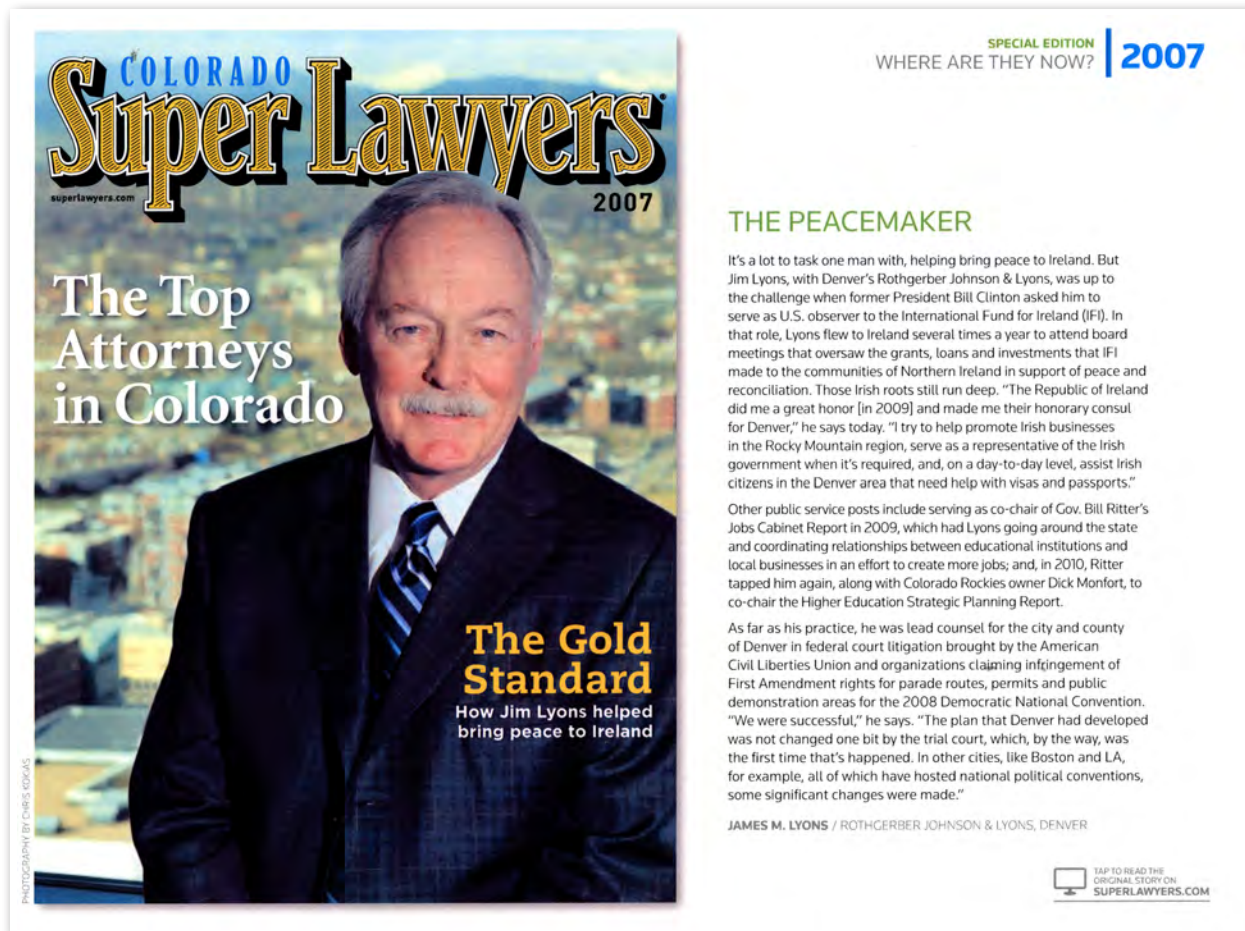
James M. Lyons

That's right. And we had to go through a hearing, actually several hearings, with the Division of Insurance to approve this process and arrive at this value, which we ultimately did. And once Blue Cross Blue Shield had then converted to for-profit, it was able to attract capital in the form of an acquisition merger with Anthem, which is currently operating in the state.

Career: Stage 5

Caitlin McHugh

Now fast forward a little bit. So what we talked about is roughly stage five of your career, the mid-2000s forward. There're several cases during that time period that are very defining cases. One was your work with the Democratic National Committee in Denver in 2008.



James M. Lyons

Yes. The City and County of Denver had competed for, and successfully won, the Democratic National Convention to be held in Denver at what was then called the Pepsi Center in 2008. Part and parcel of that was the City, as had other cities hosting national conventions, was required to provide adequate parade protest space, First Amendment exercise, right procedures, and protocols for those who wished to protest, either the Democratic Party, its nominee, its policies, whatever.

So the City had been working with the State, with the Democratic National Committee or DNC, and the Secret Service, to work out those protocols. And it became evident several months before the convention that a number of protest groups were

going to attack these plans, or challenge these plans. So the City hired us, along with the Democratic National Committee, to represent its interests in federal court when these challenges were filed. They were filed in the late spring, early summer, shortly before the convention was to begin which, as I recall, was in July. So we put together a team here, which included Mike Plachy and Alex Myers, now Judge Myers, to represent the City and the DNC in a case that was assigned to Judge Krieger.

We did a preliminary injunction hearing over the period of about three days. I was concerned that there would be significant changes made to the parade routes, the parade times, the structures, and protocols. And that it would take a great deal of effort to accommodate those changes, given the fact that what had been developed was literally done over a period of years from the time that Denver was awarded the convention in 2006 until the time the convention was held in 2008. And it had to be choreographed with not only the City and its traffic department and its police department, but also with the Secret Service, which has the responsibility for protecting the nominee and the nominee's family.

We did a three-day hearing before Judge Krieger, an evidentiary hearing, at the end of which she took argument from us and ruled denying any injunction and made no significant change at all that I recall, to what the City and the DNC had developed. It was a major victory in that regard, because every other city that had had this experience had had to accommodate some changes as ordered by the court. But not here.

Caitlin McHugh

Another important case during this time period was the Douglas County school vouchers case.

James M. Lyons

Well, before we get to that, let me just say something else. The protester organizations here, which included the ACLU, were represented by a really fine group of lawyers from Tom Kelley's firm: Steve Zansberg, Chris Beall, all three of whom are well regarded, well established, First Amendment lawyers. They did a really outstanding job here. We had a great working relationship and I have great respect for each of them.

We did encounter one bubble, if you will, and that is, after Judge Krieger denied the injunction and affirmed the plans we had in place, Senator Obama and his campaign determined that he wanted to do his acceptance speech at Mile High Stadium instead of the Pepsi Center. We had not considered that. And there was a real concern about could we accommodate the concerns, legitimate concerns, of the protesters on short notice, with a parade route that would allow them to demonstrate at the Pepsi Center, from the Pepsi Center to Mile High stadium, and then again at Mile High Stadium. So I negotiated with those lawyers, sort of a free speech zone over near Mile High Stadium, which required the protesters to have visible access and audio access to people entering and leaving the stadium in the Pepsi Center for that matter, so that their protests could be heard. The area we negotiated, which was the north parking lot off Mile High Stadium, satisfied that interest. Except I then learned that the Secret Service either wanted to bring Senator Obama from his hotel in downtown Denver, to the Pepsi Center by car or vehicle, which would necessitate shutting down I-25 coming and going, at rush hour.

Caitlin McHugh

Oh, no!

James M. Lyons

You can only imagine the problems that would have caused, not only in terms of traffic, but politically. So the solution to that was to move the nominee, Senator Obama, from downtown Denver to Mile High Stadium by a helicopter. And you guessed it, the only place that helicopter could really land was the free speech zone that I had negotiated with the plaintiff's lawyers. So once again, I had to call them and say, we need to meet, we need to work this out. And we did, we were able to get their agreement to allow the helicopter to shut down the free speech zone for enough time for the helicopter to come in and come out, and otherwise be available. And in the meantime, while the helicopter was there, we created a sort of secondary area, just to the east to accommodate this. I don't think that could have been done with anybody but really good lawyers on the other side. And I give those three lawyers in particular great credit for that.

Caitlin McHugh

Impressive that everyone was able to work together and you didn't need to go back to the court.

James M. Lyons

We did not need to go back to the court.

Caitlin McHugh

But some things can't be resolved outside of court.

James M. Lyons

Some things can be resolved outside of court with good lawyers on the other side

trying to do the right thing and still represent their client's interests, which they did.

Caitlin McHugh

Another significant case during this time period was the Douglas County school vouchers case?

James M. Lyons

Yes. The Douglas County School Board during this timeframe had determined that it wished to offer what they called a "choice scholarship program" as a pilot. Basically, the program was a voucher program that would allow a select number of students the ability to take 75% of the equivalent of what the State pays per pupil to each school district and take that to pay tuition at private schools, sectarian or not. The 25% holdback was kept by the school district to cover the administrative costs of the program. Also, there was no financial impact on those taxpayers in the school district who did not participate in the pilot program. And the Douglas school board at the time, as I say, wanted to offer this as a pilot to see what the appetite would be, to see how this program would work, and if it would be worth continuing or not.

Well there was a group of parents in Douglas County supported by groups like the ACLU that felt that this was a fundamental breach of the church-state relationship under both the federal Constitution and the State constitution, which prohibits the spending of public money to support any private institutions. This amendment in the state constitution was known as a Blaine Amendment, named for James Blaine, who was the Speaker of the House in the late years of the Grant administration. He had determined that this amendment was necessary in order to make sure Catholic schools, in particular, would receive no public money. This was at the height in the 19th century of the Know

Nothing party, the anti-Catholicism, anti-immigrant attitude that a number of people in government had developed.

Blaine first tried to do this to the federal Constitution. He was Speaker of the House of Representatives from upstate New York, and it failed to win passage in Congress. So then he came up with the strategy to insert it into the constitutions of those territories seeking to become states, which included Colorado. So that's how it found its way into our constitution. Our legal team thought that this was a violation of the federal Constitution, Equal Protection. So with minimal discovery, because it was basically a legal question, we tried the case in front of Judge Michael Martinez in the Denver District Court, who granted an injunction against the program at the behest of these parents and the ACLU and some other supporting organizations.

We appealed that to the Colorado Court of Appeals who overturned Judge Martinez, two to one. We knew the case would go to the Supreme Court of Colorado, and it did. And by a vote of four to three, the Supreme Court reinstated the injunction that Judge Martinez had issued.

We filed a petition for certiorari to the Supreme Court of the United States, which was opposed, of course, by the plaintiffs. Our petition was considered by the Supreme Court after it decided a similar case out of the Eighth Circuit called Trinity Lutheran. Trinity Lutheran determined that a Missouri construction program which allowed sectarian use—Missouri also had a Blaine Amendment that prohibited using public funds for sectarian purposes—was unconstitutional. In that case, it was surplus asphalt and a church, Trinity Lutheran, wanted to acquire some of it from the state to improve its parking lot. And the trial judge and then the Eighth Circuit determined that it could not be done, given the Blaine Amendment in the Missouri Constitution.

The Supreme Court reversed the lower courts in the Trinity Lutheran case, and then issued an order in our case overturning the Colorado Supreme Court and sending the case back to it for further consideration. In the interim, the composition of the Douglas County School Board had changed. And the conservative, so-called conservatives, who had put the voucher program, choice scholarship program, into place were no longer in control. And the new school board decided they no longer wanted to proceed with the pilot. So the case ended.

There was a great deal of press in the State here as the case proceeded, up until the point that we were able to get the US Supreme Court to reverse the Colorado Supreme Court. But when the US Supreme Court reversed, there was hardly any local press.

Caitlin McHugh

During this period, you were also active in professional activities with the courts. Can you speak to that?

James M. Lyons

Yes. Earlier than this time frame, in the early 80s, I was one of the founding members of the first Inn of Court in Colorado, Doyle's Inn, named for Tenth Circuit Judge William E Doyle. The movement has taken hold here and there are now a number of Inns in Colorado which include students, practicing attorneys, and judges in a Chambers. Each month there is a substantive or topical program which a Chambers will present to the Inn as a whole.

I was also a founding member of the Faculty of Federal Advocates organized by US District Court Chief Judge Richard Matsch. This organization served as a liaison

between the District Court and the federal trial bar here. I later served as president of the FFA and helped to organize the annual bench-bar roundtable to discuss current topics of interest and develop a better understanding of the needs of the bench and the trial bar. Colorado was one of the first districts to have such a program which is a great opportunity for informal exchange between bench and bar.

Also, I twice served on the Magistrate Judge Selection Committee, including a term as chair. This statutory body is charged with interviewing candidates for magistrate judge positions and making recommendations to the District Court. The District Court then makes its own selection for confirmation by the Tenth Circuit.

With my colleagues in the Colorado chapter of the American College of Trial Lawyers, I helped lead the effort to offer pro bono mediation services for pro se litigants in the Denver District Court. The number of these cases has risen dramatically over the years, in both family law and civil courts. It is sad result of lack of access to lawyers and justice. This pro bono program is ongoing and I have handled several of these cases myself and have been able to settle some.

Caitlin McHugh

In addition to these cases and this professional work, you also remain involved in politics. For example, can you speak to your role for Governor Ritter during his transition and his term in office?

James M. Lyons

Yes, I knew Bill Ritter, not well, but I had known him for some time. He came to prominence when he was initially appointed by Governor Romer to fill a vacancy in the

office of District Attorney in Denver. He then was elected at least twice. He decided to run for governor and was elected by the largest margin, 17 points, that any governor in Colorado history has ever had. He knew of my involvement with the Clinton transition back in 1992-93, and asked me if I would undertake to be the executive director of his transition from the time of his election to his taking office in January. And I agreed to do that.

What that entailed was assisting him in assembling, first of all, a credible slate of candidates for the various cabinet and sub-cabinet positions he needed to fill and identifying also the principal issues that each of those departments would face once the new administration took office. Governor Owens was the outgoing Governor, having served two terms. And we worked closely with him, his administration and his senior staff to make this as seamless a transition as possible. And Governor Owens, who I also regard as a friend, went above and beyond to make that happen, including some financial help. He felt a real responsibility to make sure that the State's interest was served and that the transition of power was as seamless as he could make it. And he and his team did that for us.

Caitlin McHugh

That type of bipartisan cooperation is encouraging to hear.

James M. Lyons

It is a relic of the past, I fear.

Caitlin McHugh

Switching topics a little bit, as I was preparing for this interview, and thinking back on your career, it struck me that in the early part of your career, there often weren't women, at least as lawyers. But since I've been working with you, we're approaching 10 years, I

noticed that there are almost always women on your teams, and in prominent positions. One example that sticks out to me, is the Gaylord hotel case. And you put the young senior associate and now partner, Jessica Fuller, as the person who did the oral argument at the Court of Appeals. Can you speak to the decision to have Jessica argue that case and how specifically, and also more generally, you staffed your cases with a consideration for women?

James M. Lyons

Well, we talked about the Gaylord cases before. And with regard to the appeal, it was a fairly easy decision on my part. Jessica is a brilliant lawyer to begin with. She had done most of the legal research, most of the legal writing. She knew the case better than anyone, including me, I think. And she was simply the right choice to do this. It was the right decision to have her argue the appeal and cross appeal, as I explained to the clients. And she did a masterful job. I told her at the conclusion of the argument and I meant it then and I mean it now, it may have been the best oral argument I ever saw. Not only did she prevail on the claims of the appellants against us as the appellee, but she prevailed on our counterclaims as well, which ultimately led to us recovering some costs. So in that sense, I don't think it had anything to do with her gender. She was certainly the best qualified lawyer to make the argument and I think she proved the wisdom of my decision.

As far as women attorneys generally are concerned, that goes back to how I was raised and by whom. I come from a family of very strong women. My paternal grandmother was one of the first college graduates in the late 19th century in Wisconsin. My maternal grandmother was a small business woman who owned a millinery shop in Joliet, Illinois. These women raised their children, particularly the females, to be strong women. My mother, my two aunts, her sisters, were all strong women. My father's sister was a strong woman as well. She was Mike O'Donnell's mother, by the way. My sisters

are strong women and I certainly married an independent woman and have one in our daughter. And I always was raised with the notion that women should be treated with respect and fairly, and should be given every opportunity that a male is given. That was certainly the case in my family with four boys and two girls.

When I got to law school, I realized that my background and upbringing was different in that respect. In my law school class, there were probably somewhere around 100 of us when we finally graduated, and only eight of them were women. And I remember that quite clearly. And they were all capable, strong women. And they struggled, just like we've heard from Justice Ginsburg, and Justice O'Connor. I mean, they struggled in terms of their treatment in law school, enduring jibes that they were taking a place that should go to a man and why weren't they at home raising children. It was a real challenge for them to get a lawyer's job and just to be treated fairly on their merits. And that just struck me as wrong. And it is.

Women are now more than 50% of our profession and many of them have pressures that men don't. For example, women with young children, I still don't know how they do what they do. And it's not just women with children. I mean, there are extraordinary demands on us in this profession. But, as you well know, they are different for women. And those who can manage that expectation, whether it's societal or not, are remarkable in my view. In my view, it is a) wrong and b) stupid to not give these individuals—more than half of the talent pool—the opportunity they deserve and the opportunity they've earned. It's as simple as that to me.

Caitlin McHugh

You're often the most senior decision maker on the legal teams. How do you advocate

for the women on your teams, specifically in greater equality in our profession generally?

James M. Lyons

Well, the lifeblood of our profession is very simple, talent. And if you can identify talent that is committed to developing his or her talent with you and your firm, you've got a real opportunity for chemistry. So when we recruit, we look for talent, clearly. And it's not just how well you did in law school, what your grade point, or class rank was; we try to look beyond that. What are the intangibles that will make you a successful lawyer, a contributing part of the community, hopefully with us and what we do. Because as you've heard me say before, what we can do as lawyers is a long and wide spectrum. What we do in this firm is just a narrow slice of that spectrum. And that's not for everybody. But, if you can recruit talent, as I've described it, you then must train that talent, develop that talent, and mentor that talent. I also think there's an additional step you need to take at an appropriate point in a young lawyer's career, and that's called sponsorship. That is, getting that young lawyer the opportunity to have what I had, which is to go to court, to be first chair, to be the lead with a client, to eventually take over that client. I mean this is not complicated. But it's very hard to do. I do think this firm has been better at that than most.

You know, compensation systems tend to make older lawyers want to keep the client close, origination credit and all of that. But my view of origination has always been that it should be shared with the people who are actually going to do the work. So that's a long way of saying, I think sponsorship, and my belief in sponsorship, probably played a role in what we talked about with Jessica and the Gaylord case. And I hope others. I very much believe in sponsorship. If you read the strategic study plan that we did here, that I was privileged to chair over the last couple of years, I hope that comes through loud and clear.

Caitlin McHugh

I know personally you've been an important sponsor for me and have given me opportunities to advance my career.

James M. Lyons

You earned those opportunities, you deserved those opportunities. Nobody gave you anything, least of all me.

Caitlin McHugh

Well, I still appreciate them. Switching gears a little bit, you've done significant work in higher education in a variety of ways. Can you speak to some of your work?

James M. Lyons

Yes. Probably my first experience with it in the State was when Governor Romer asked me to go on the Board of the University of Northern Colorado, which I did. He appointed me and several others to the Board in the mid-90s. And I became very interested in higher education, and particularly what it can offer by way of opportunities for people who have not had an opportunity for higher education, for whatever reason, financial, racial, ethnicity, family circumstances, whatever it might be.

UNC started out as Colorado Teachers College, and ultimately became a university. Its College of Education is still the backbone of UNC. But it was a fascinating experience to come to appreciate the various forces that higher education has to navigate: rising tuition costs; retention rates of students; retention and attraction of quality faculty; raising the money that's necessary to do all this with public institutions.

There has been a disgraceful decrease in the support that our public institutions of higher ed get from the General Assembly and from the state taxpayer. That has been, I think, a major problem here for which we're paying a huge cost in terms of the quality of our workforce and the quality of our society. I mean, an educated population is perhaps the greatest strength democracy has. So I served on that Board for four years and learned a great deal.

Late in the 90s, I was invited to join the Board of Regis University, which is a private Jesuit institution, which immediately made it close to my heart. I served on that Board for just about 20 years; I finished my 20th year last year. Regis has many of the same challenges that a public institution does, except it's private. And private institutions rely much more on contributions and grants to survive, as well as tuition. In neither case, public or private, does tuition come anywhere close to covering all the costs of the education. And that has to be made up if you're going to try to provide a quality higher education system to your community and society.

Caitlin McHugh

You also co-chaired the higher education strategic study?

James M. Lyons

Yes. Governor Ritter asked me and Dick Monfort, owner of the Rockies and board chair at UNC, if we would undertake what turned out to be a year-long study of the higher education system in the State. This was basically a strategic review which is mandated by the statute that creates the Colorado Commission on Higher Education. We formed various subcommittees to look at the major aspects of higher ed in the state: mission and governance; the transition from K-12 to higher ed; diversity; attraction and

availability to first-time students, particularly minorities and retention of minorities. We asked ourselves the question: “Would there be a better way to do this?”

As you know, we have a system of community colleges around the state. Then we have four state colleges or universities, like Mesa, Adams State, Fort Lewis and Western State. We also have the two major systems, the Colorado State University system and the University of Colorado system. We’ve also got Metropolitan State, then college now University, which is an open enrollment institution, which serves a very important and valuable function in this sort of mosaic.

But the interesting thing was, as we went around the state, and sort of sought input from educators, public, parents, whenever we asked sort of the basic questions: “So if you were starting from ground zero, you had a blank slate, and you had a population such as we had then, which was about four and a half million people. And you were going to design a higher education system that would work for that population, its demography, its geographic diversity, and the future, would it look anything like what we have now?” And nobody ever said it would. But what that told us was a reform of the system, overall, needed to be done incrementally and over a long, dedicated period of time. And we made a series of recommendations to begin that reform. These are in a published report, “Colorado Must Choose.”

I wish I could tell you that reform happened, but in my view, it has not. And I think there are a number of causes for that, principal among which is this misguided notion that public education is not a public good but a private one. In other words, if you use it, you should pay for it. And I shouldn’t have to pay for it through my taxes or anything else if I’m not using it. And I think that’s fundamentally wrong. I think that’s just as flawed as it can be.

Now, out of that experience, I got to be very good friends with a number of the people equally committed to a better system. People like Dick Monfort, like Ray Baker, former chair of the Colorado Commission on Higher Education (CCHE), like Rico Munn, who was then Executive Director of CCHE, and is currently the superintendent of Aurora Public Schools, God help him. And Theresa Pena, who served on the School Board in Denver, Don Elliman, now Chancellor at the Anschutz Medical Campus, and Greg Stevinson, a prominent business man and community leader in Jefferson County. These are remarkable people who have spent their time, many of them their careers, dedicated to not only providing quality education, but improving it as best we can. But, it still comes back to a matter of public support, in my view. And from the time I’ve lived in this state in the early 70s until now, I think that public support has just deteriorated and continues to do so. We are paying and will continue to pay a big price for this deterioration in strength of our society and democracy.

Caitlin McHugh

Rising cost is the major reason?

James M. Lyons

Well, it’s not just rising cost, Caitlin. There’s this whole argument that is college really worth it? Is it worth it for me, on behalf of my children, or my children on behalf of their own children, to spend \$50,000, \$60,000 or \$70,000 a year to get a college degree? Where does that take them? Well, in my mind, it takes them to what was the functional equivalent of a high school diploma when I got out of high school. And I think there’s a requirement, maybe not absolute, but there is certainly an incentive for graduate school of some kind or another. And does that mean you’re going to live a better life, you’re going to make more money? That’s the theory.

But that theory is very much being challenged now. You know, the notion that a college education, a bachelor's degree, let's say, or even an associate's degree from a community college, is a key to financial and social stability in your life is very much being challenged. There are lots of people I know and you do, too, who don't have a college education, who have done very well with their lives and for whom I have great respect. But college certainly is, in my view, worth the time, worth the effort, and worth the expense. Yes, it is too expensive and often out of reach for those who could use it most. But, we are right back to where we started this discussion. The public has to recognize that it is a better society, economically better if nothing else, if you support higher education with public funds.

But I realize not everyone can or should go to college. These individuals are vital to our society and economy, too. We need high quality technical programs, including apprenticeships and vocational training, to help them develop their skills and potential. It is simply in our vital interest and theirs. Google's IT Support Certificate program is a good example of that. In a six-month, on-line program, primarily non-college graduates are trained to qualify for IT support jobs with very attractive starting salaries in a variety of industries, like finance and energy.

Caitlin McHugh

In addition to these policy roles with universities, you've also represented the University of Colorado in litigation?

James M. Lyons

Well, you and I have, yes. And as you know, it's raised some very interesting questions; for example, that First Amendment question that arose representing the University of Colorado Colorado Springs, with regard to religious student groups and

to what extent can they be recognized and supported within both the state and federal constitutions? Indeed, these are the kind of challenges in addition to the overall systemic challenge that higher education institutions face today.

Caitlin McHugh

You have also been involved in legal education throughout your career. Could you speak a bit about that?

James M Lyons

Yes. Early on, John Moye asked me to become an adjunct professor at DU Law School and teach some classes. My first experience was teaching Sales, Article II of the Uniform Commercial Code. I remember one of my students was my cousin, Mike O'Donnell. I told him that we had anonymous grading but he damned well better get an A or our grandmother would hold me, not him, responsible. He did earn an A. Over the years, I taught other subjects at DU and guest lectured there and at CU as well.

One course I offered at DU was a bit out of the ordinary. This was a seminar offered to a limited number of law students and grad students at the Korbel School for International Studies. The class addressed post conflict resolution societies and constitutional frameworks such as the US Constitution and the European Declaration of Human Rights. We looked at Northern Ireland, of course, and a number of other situations, including South Africa, Sri Lanka, and other parts of post conflict eastern Europe.

The seminar was oversubscribed but a very enjoyable experience for me. It was particularly interesting to see the different perspectives and intellectual interaction between the law students and the grad students as they had much different approaches and outlooks.

I have also been involved with the Institute for the Advancement of the American Legal System (IAALS) at the University of Denver and served on the Advisory Board for years. IAALS was the brainchild of former Colorado Supreme Court Justice Becky Kourlis, John Moye, and DU Chancellor Dan Richie, along with Diane Wallach of the Gates Family Foundation.

IAALS sought on the basis on quantitative data to explore non-partisan reforms for access to justice and to improve the civil justice system. One project in particular focused on the time and cost of discovery which led to revisions of the federal rules to incorporate proportionality and procedures for electronic discovery. This was done in conjunction with the American College of Trial Lawyers where I am a Fellow and was state chapter chair at the time.

Among other projects, IAALS also undertook to study how law schools might better equip their graduates to be “practice ready.” As you might imagine, this was like pushing a boulder up a steep hill but was a very important effort nonetheless.

Caitlin McHugh

So, in the last several years, you’ve grown your practice to include more mediation and arbitration work. In addition to working with our firm, the American Arbitration Association, and the International Center for Dispute Resolution, you are also working with former Colorado Supreme Court Justice Kourlis and Stacy Kourlis Guillon doing dispute resolution with AEGIS ADR. What have you learned from your work as a mediator and arbitrator?

James M. Lyons

Well, I think I’ve learned a couple of things. There are some cases that should never have been brought in the first place. Many cases that are brought need a practical solution. In my career, I’ve represented largely businesses, whether as a plaintiff or as a defendant, and none of them wants to be in litigation. To them, it’s a diversion, it’s a distraction, and it’s expensive. They’re used to solving problems as they occur in the business. And the kind of problem that finds its way into a case of litigation is, for the most part, foreign to them and how they deal with things. So if you believe, as I do, that if there is a solution to a problem, you ought to try and find it, then mediation, and then if necessary arbitration, is a way to do that.

Arbitration is intended to be less costly, more efficient and take less time to generate a reasonable result. And I think by and large it does that. Mediation is designed to do essentially what we tried to do in Northern Ireland, which is, find common ground here that makes sense for both sides, representing nobody is going to get 100% of what they want. And if you look at access to our courts, to a large extent, it is due to the expense of litigation. I had a client once say – a well-heeled client – “Litigation is like polo. If you can’t afford the ponies, the jockeys, and all the expenses, you shouldn’t play.” That may be a bit of an extreme, but most people in the business community anyway want the problem solved. They want it solved as reasonably as it can be and as quickly as it can be. You know as well as I do that small businesses and individuals have very limited access to our justice system. And that’s the big challenge I think that our justice system faces going forward. How do we keep the courthouse doors open and available to everyone, especially those who need it most? And, arbitration and mediation aside, some cases just have to be tried. As the late Chief Judge Matsch often said, “Jury trials are the best alternative dispute resolution. There are rules, time limits and a decision by a disinterested third party.”

Caitlin McHugh

How has it impacted your perspective, sitting as the arbitrator, as the decision maker? How does that factor in your representation of clients?

James M. Lyons

Well, when you sit as an arbitrator, you sit as a judge, basically, either as a single arbitrator or as part of a panel. And I've done a fair amount of both. I see the wisdom of a panel in a complex case. I see the wisdom of a single arbitrator in certain types of cases as well. Whether it's by panel or single arbitrator, by and large, that's already been predetermined by the parties in the arbitration agreement or by an organization like the American Arbitration Association. And for me, it's interesting to sort of step into a different role, from being an advocate, a trial lawyer, to being a judge, where you are required to be patient, fair, but yet move the process to the right result that is reasonably good and hopefully efficient.

Caitlin McHugh

You're also still actively working as the Irish Consul. Can you explain that role?

James M. Lyons

Yes, I am the honorary Irish Consul here in Denver. I've had that position now for probably ten years or so. It means that I represent the Irish government here to the extent I'm asked to or is necessary. I am also available to Irish citizens in Colorado who need assistance if, for example, a passport is lost or stolen. Also, if an Irish citizen is arrested here, my job is to then make sure that they have adequate representation, and are being treated fairly by the American system.

I take part in, and support, Irish organizations, and not just around the St. Patrick's Day parade. You'd be surprised at the number of Irish organizations in the state, which has a strong and long Irish heritage. One of the projects we're working on now is a memorial at Leadville for the miners and their families who worked there in the late 19th century. We estimate that many hundreds of them are buried there, many in unmarked or poorly marked graves. Many of these men died as a result of industrial accidents in the mine, poor sanitation, terrible working conditions. And their wives and children suffered poor nutrition, inadequate housing and sanitation and preventable disease.

And there's a part of the cemetery in Leadville that's basically been in disrepair and is overgrown and derelict. And we have raised the money, with the help of some initial funding from the Irish government, to clean up that part of the cemetery, and build a memorial to the miners and their families who lived and died there. This memorial will be unique in the country.

But if you go around the graveyards of Colorado, particularly in the mountains, you'll see lots of Irish graves. These were the ones who worked in the mines. They brought with them their traditions, their music, their literature.

The Irish also served in some basic service functions in the 19th century and early 20th century, because they spoke English, often heavily accented, but English. This, by the way, was one of the sort of byproducts of the so-called British Penal Laws, which outlawed the Irish language in Ireland until the mid-18th century. That forced the Irish to learn English. By the way, it has been said that the British made the Irish learn English language but the Irish taught them how to use it. Irish literature proves that point.

So during the Great Immigration of Europeans to the United States in the mid

to late 19th century, the Irish came with an advantage. They spoke English. The Poles didn't, the Germans didn't, the Italians didn't, the Russians didn't. They all had to learn. So what did that mean? It meant the Irish were in positions where English was required to deal with the public regularly, like police and fire departments and the military. Ultimately, the Irish being the Irish, they found their way from their parishes into politics, and formed the great labor unions and from that the urban political machines, like Tammany Hall in New York and the so-called Daley machine in Chicago.

If you go to the Custer Battlefield on the Crow reservation in Montana and look at the names of the troopers who died there, two thirds of them are Irish because these were jobs no one else wanted and they spoke some English. And they could therefore function in those critical jobs, positions that society had to have. And still has. I mean, if you look at police and fire departments around the country, and law enforcement across the country, there's still an enormous Irish heritage there. And that's true here in Colorado.

Caitlin McHugh

The project in Leadville that you mentioned, is it open yet?

James M. Lyons

The design has been completed. Construction has been slowed, largely because of the pandemic and shortage of supplies. But we're expecting that this coming year, probably in the fall, is when we'll dedicate it.

Caitlin McHugh

You have always said that your wife, Marcia, has played a major role in your life and career. Can you elaborate a bit on that part of your life and career?

James M. Lyons

Well, as I did mention earlier, my wife Marcia and I are childhood sweethearts. We met each other when we were literally 16 going on 17, between our third and final year of high school. I don't know if it was love at first sight for her, but I think it was for me. We developed our relationship. It grew stronger through high school and our absence from each other in the college school year. When I graduated from college, we married as I mentioned before.

As I mentioned earlier, Marcia initially trained as an RN and then completed her BS, *cum laude*, at CU in 1975. Thereafter, she decided to be a stay-at-home mom until our youngest child, Katherine, started school. She then became a nurse coordinator for the Community Caring Project at the Kempe Center for the Prevention of Child Abuse. This first of its kind project offered support services to first-time mothers and was later adopted by the State of Colorado. It received national attention when Hillary Clinton as First Lady visited the project, thanks to Marcia.

Marcia then went back to graduate school for her MS in Counseling (again, *cum laude*) and completed the certification and internship for an LPC (licensed professional counselor). She then worked at Arapahoe House and later volunteered at Warren Village. Both of these organizations allowed her to work with her passion, struggling single mothers, many with small children. She is now retired but, as you can tell, I am enormously proud of her dedication and selfless career.

It is no exaggeration to say that I would not have had the life I have had or been able to do what I have done in my life, whatever that may be, without her. She is just that essential a part of me. The book I wrote about my experiences in Northern Ireland, "Peace Meets the Streets," I dedicated to her with the Latin phrase, "*sine qua nihil*",

which means “without whom nothing.” She has literally made my life possible, both personally and professionally. She essentially raised our three children, each of whom is a strong personality, now all in careers that serve the public and wonderful parents in their own right, largely thanks to her. She dotes on our seven grandchildren who light up our lives.

My son John works in K-12 education and reform, holds two masters degrees and is closing in on an education doctorate. My son Michael followed in his mother’s footsteps, also has an MS in Counseling, is an LPC, and works in the mental health field. And my daughter Katherine – a third generation graduate of DePaul Law school – is a family lawyer working with people in some of the darkest days of their lives. I am fiercely proud of each of them, their spouses and children.

Marcia is a rare woman of enormous grace and intellectual range, but with a gentle nature and deep internal strength. I have just been beyond fortunate, indeed blessed, to have spent my life with her.

Caitlin McHugh

While you don’t seem to have much of it, what do you do with your free time?



Marcia and Jim at home

James M Lyons

Well, Marcia and I have seven grandchildren, five boys and two girls. We cherish our time with them and don’t care about spoiling them as much as we can.

We both enjoy the outdoors, especially the house we have in La Paz, Mexico, a few steps from the beach. Marcia is a paddleboarder and we both love to walk and swim the long, uncrowded beach there.

I still like to ski but am not as good or as daring as I once was. I gave up my motorcycles a few years ago but did enjoy riding in the mountains, my marathon and running days are behind me, I am afraid, but I bike with my son John when I can. I swim and do some Pilates for other exercise.

We are both voracious readers with a wide range of interests. I am partial to history, politics and biographies but enjoy mysteries as well.

Caitlin McHugh

Do you still like to travel?

James M Lyons

Yes. One way or another, business or pleasure, I have been to all fifty states. Over the years, we have loved international travel from our first foray to Europe in 1971. By now, we have been to just about everywhere in the world we have wanted to see: Alaska, Hawaii, Mexico, Canada, Cuba, Australia and New Zealand, most of western Europe, and Slovenia and Poland in central and eastern Europe. We have enjoyed Greece, Turkey, India and South Africa, Zimbabwe and Botswana. And for our fiftieth anniversary, we did South America—

Peru, Machu Picchu, Buenos Aires, the Patagonia and southern Chile, ending in Santiago.

Many of these trips have been with Hal and Beverly Haddon, our dear friends and fellow adventurers. I know Marcia would love to go back to India and I would like to see Ephesus again and the Turkish coast and the Crusader ruins. Israel and Jordan are on our list, too.

Caitlin McHugh

You recently celebrated your 50th anniversary of practicing law at the same firm. As you celebrated this milestone, what were some of your reflections on the practice of law?

James M. Lyons

Well, I lament several things that have happened to the practice. I have always thought, as I may have mentioned earlier, that the practice of law is a secular priesthood. It doesn't require you to be of any particular faith, gender or ethnicity, to be part of this faith, if you will. But it does require you to have an unwavering belief and commitment to the rule of law.

And I see the rule of law under insidious, and in some cases direct attack. A graphic example of that would be what happened last January 6 at the US Capitol. By the way, my birthday is January 6. That was a direct attack that was seditious and an insurrection, plain and simple. Clearly, it was a crime. And not just for the participants, but equally for those who incited and encouraged the participants and then did nothing to stop them.

Less obvious but no less an attack on the rule of law are voting restrictions that are being put in place. Of course, they are unneeded because there is no election fraud and our elections are the most secure in the world. There were somewhere between 50 and 60 cases brought by the unsuccessful incumbent president or his minions to challenge the

results in 2020. In every single case, they were rejected. And that rejection was by judges who were elected, judges who were appointed, be they Democrat, be they Republican, be they male, be they female, be they state or federal. That to me is a reaffirmation of the rule of law and the independence of our judiciary.

But the rule of law is only as good as those who are willing to defend it. And I see it under serious attack. I see elements of our society using the law as both a sword and a shield. When it suits their purposes to use it as a sword, they will. When they use it to protect themselves and ignore the law, they do that, too. That's an enormous societal change. And our profession, among all the professions, has the paramount responsibility to address that.

I remember Shakespeare's phrase, "First thing we do, let's kill all the lawyers" which is said by the aptly-named Dick the Butcher in Shakespeare's Henry VI, Part 2. Where that comes from in context is a meeting of anarchists in a dank London pub determining how to overthrow what was then a regency, the then-temporary kingship in place in England. And these thugs realized that the first thing you do is get rid of lawyers. If you're going to create anarchy, that's what you do, because that's how you begin to destroy the rule of law.

And if you look around the world in places where the rule of law once existed, and now either doesn't or is under threat, that's exactly what's happened. Judges, lawyers, scholars, intellectuals, and people who believe in the rule of law are eliminated or under attack. And I lament, maybe despair, that if we don't act swiftly and directly, the democracy we know and enjoy will collapse. That's the dark side.

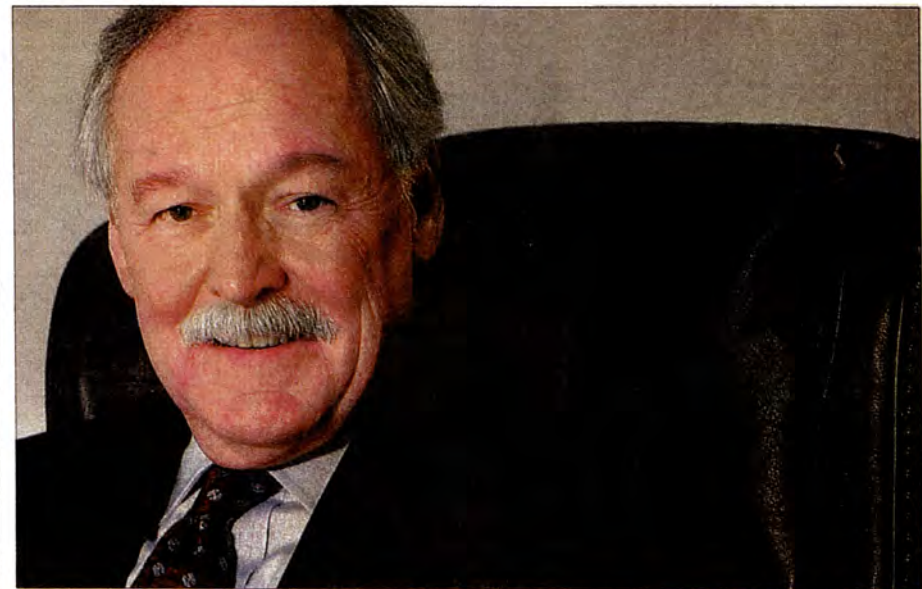
What's the bright side? There are a lot of strong, dedicated men and women who have been called to this profession. And as we talked about a little bit earlier, we have broadened the profession now to include people of diverse backgrounds and this has

BUSINESS

DENVERPOST.COM

WEDNESDAY, AUGUST 4, 2004

★★



Jerry Cleveland | The Denver Post

Jim Lyons of Rothgerber Johnson & Lyons has handled big Colorado cases involving Qwest, the University of Colorado and Steamboat ski area, and also helped President Clinton in negotiating a peace agreement in Northern Ireland.

A life of surprises

Denver attorney has learned never to take anything for granted

By Tom McGhee
Denver Post Staff Writer

In a more than 30-year legal career, Jim Lyons has raised the blood pressure of courtroom opponents, ruffled feathers at the negotiating table and roused the ire of at least one politician.

As a partner at Denver law firm Rothgerber Johnson & Lyons, he has handled some of the bigger business cases fought in Colorado.

Among his clients are Qwest's board of directors, including Denver financier Philip Anschutz, and Robert Schrier, who

has sued the dean of the University of Colorado Medical School and the university over his termination as chairman of the department of medicine.

Lyons, 57, has gained a reputation for tenacity and fierce advocacy, said Dan Hoffman of Denver law firm Hoffman Reilly Pozner & Williamson, who once lost a case to Lyons in the Colorado Supreme Court.

"He is tough-minded, tremendously focused. He can be ferocious," said Hoffman, who counts Lyons as a good friend.

Under former President Bill Clinton, Lyons participated in negotiations that

led to a historic peace agreement in Northern Ireland between Catholics and Protestants.

"We probably ruffled some feathers with the extremists on both sides, but the majority were grateful for the assistance we were able to provide," he recalled.

But his relationship with Clinton hasn't always played in his favor.

In 1999, Clinton nominated Lyons to serve as a federal appeals court judge. The nomination failed, blocked by U.S. Sen. Wayne Allard, R-Colo., who accused

> See LYONS on 3C



Lyons' Northern Ireland work garnered him this note: "To Jim — who keeps expanding my intellectual horizons and my emotional commitment to Ireland. Thanks, Bill Clinton."



Clinton also penned a note on this photo after he and Lyons met with Pope John Paul II: "To Jim — Boy, do we need his blessing!"

LYONS: Lawyer has enjoyed a life of surprises

< CONTINUED FROM 1C

Lyons of being a political operative.

Allard couldn't be reached for comment this week.

Lyons, whose father was a state judge in Illinois, said he was more disgusted than disappointed by the nomination's failure.

"When I was nominated, my father sent me his judicial robe. I still have it but don't ever expect to wear it," he said.

After years of immersion in the Byzantine layers of corporate law and several years treading the waters of international diplomacy, Lyons has grown accustomed to fighting battles on different fronts and living with "the sheer, cold fear of dropping a ball."

Ruddy, with a high forehead and a stiff brush of gray mustache, his appearance is button-down, corporate, a little guarded.

He is a fourth-generation Irish-American who has been married for 36 years and worked at the same law firm for almost as long. "I don't know if it says I am stable or risk-averse and dull," he said.

He credits his father, who as a lawyer in gritty Joliet, Ill., frequently represented workers injured on the job, with inspiring him to study law at DePaul University in Chicago.

After graduating, Lyons got a job in Denver with Rothgerber — then called Rothgerber Appel & Powers. He left Chicago with his wife, Marcia, thinking they would eventually return.

"We had both grown up in the Midwest and thought that a change of pace for a couple of years would be fine."

Instead they fell in love with Denver and raised three children here.

Among his recent business cases in Colorado are suits involving Steamboat ski area and Qwest Communications.

Recently, he was among a team of lawyers handling a shareholders' suit against the Qwest board and former executives at the company. The suit was settled after lawyers for shareholders found no evidence the board and officers had engaged in impropriety.

Lyons was lead counsel for a company called Triple Peaks, owned by Tim and Diane Mueller, which filed a breach of contract lawsuit against American Skiing Co. after American rejected Triple Peaks' bid for Steamboat ski area. American Skiing settled the case by agreeing to pay Triple Peaks \$6.5 million.

Although Lyons has carried a loaded briefcase into courtrooms hundreds of times, he never takes anything for granted.

"Witnesses will surprise you, judges will surprise you," Lyons said. "You have to be up for the game. The day you stop being nervous is the day you ought to quit."

Though he has won numerous cases, he said his greatest achievement was the work he did in Northern Ireland for the Clinton administration.

Lyons met Clinton while he was involved in an antitrust case that brought

him to Little Rock, Ark., where the future president was attorney general.

In 1993, Clinton asked him to participate in the American effort to end the violence between Catholics and Protestants in Northern Ireland.

Today, he expresses disappointment that the peace effort — despite some positive changes — hasn't been as fruitful as he had hoped.

Some key requirements of the agreement haven't been fully implemented. For instance, the Irish Republican Army has yet to surrender all its weapons.

And the British have suspended a regional assembly — Northern Ireland's equivalent of Parliament.

Once, Lyons said, an Irish journalist asked him what Americans brought to peace negotiations that couldn't have been gotten anywhere else.

"I said we brought impatience," he recalled.

That impatience for change is gone, he said, replaced by indifference on the part of the Bush administration.

As a trial lawyer, Lyons is aware that many consider his profession filled with opportunists quick to feast on the misery of others. But that's not his opinion.

"I am very proud of my profession," he said. "I haven't encountered these alleged ambulance chasers."

Staff writer Tom McGhee can be reached at 303-820-1671 or tomcghee@denverpost.com

strengthened it. And the profession now 50 years after I entered it, looks much more like the society it serves than it did when I walked in the profession as a young lawyer on September 28, 1971. And I'm proud of that and grateful for it.

But there's a long way still to go. I was talking to a managing partner of one of the AmLaw 100 not long ago, a wonderful woman, exceptional lawyer. And I asked her, "How many managing partners of the AmLaw 100 firms are female?" You know what the answer was? Seven out of 100—a number close to the eight women in my law school class of 100, fifty some years ago. We still have a long way yet to go.

I am not St. Paul by a long shot, but unlike him, my race has not yet quite run and I hope to still have some of the good fight in me. And if there is any legacy that we in my generation should leave behind, it is this: We have to rededicate ourselves to protect the rule

of law. We cannot sit on the sidelines and expect it will all be taken care of in due course or by itself. We have to be in the fight. And we have to make sure that this profession remains in the forefront of that and becomes as diverse as the population it seeks to represent.

Caitlin McHugh

As we conclude this interview, this discussion, are there any other parting thoughts you'd like to include?

James M. Lyons

I have had a golden career and lived a charmed life, more than I earned or deserved. Largely, this is the result of people around me who gave me opportunity, who were patient with me, who taught me and corrected me, who loved me. I can't imagine in any respect that it could have been a better professional or personal experience than it has been. I don't think there are many people on the face of the planet over recorded human history that get a chance to say that. And I try and reflect on that. Perhaps not as often as I know I should. But I do realize how blessed and fortunate I have been and how grateful I am.

Caitlin McHugh

I'm grateful for you spending the time to go through this. We've enjoyed it.

James M. Lyons

Well, I appreciate your time on this, as I told you. I also appreciate the editorial comments and constructive review of this transcript by our summer associate, Hannah Goldstein of DU Law School.