



THE
HUNTING
— of —
HILLARY

Adapted and updated from
*The Hunting of the President: The
Ten-Year Campaign to Destroy Bill and
Hillary Clinton*

With a new introduction

JOE CONASON & GENE LYONS



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About the Authors

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From 1992 to 2010, he wrote a popular political column for *The New York Observer*. He also served as the Manhattan weekly's executive editor from 1992 to 1997. He wrote weekly columns and a blog for Salon.com, the Internet magazine, from 1998 to 2010.

Conason was previously a national correspondent and columnist for *The Village Voice*, where he covered stories from City Hall and Capitol Hill to Tiananmen Square. While reporting for the *Voice* he won the New York Press Club's Byline Award for breaking news coverage. In 1985, his exposé of Ferdinand Marcos' hidden Manhattan real estate holdings caused an international sensation, leading to congressional hearings and the election that preceded the Philippine dictator's overthrow, which he reported from Manila.

He is the author of *Big Lies: The Right-Wing Propaganda Machine and How It Distorts the Truth* (St. Martin's Press, 2003), and (with co-author Gene Lyons) *The Hunting of the President: The Ten-Year Campaign to Destroy Bill Clinton* (St. Martin's Press, 2000). Both books

were *New York Times* bestsellers. He is currently working on a book about Bill Clinton's post-presidency for Simon & Schuster, slated for publication in 2016.

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GENE LYONS has written a column for the *Arkansas Times* since 1994. He previously spent five years as general editor at *Newsweek*, and was associate editor at *Texas Monthly* for a year. In 1980, he won the National Magazine Award for Public Service for the *Texas Monthly* article "Why Teachers Can't Teach." A prolific author, Lyons has written hundreds of articles, essays, and reviews for such magazines as *Harper's*, *The New York Times Magazine*, *The New York Review of Books*, *Entertainment Weekly*, *Washington Monthly*, *The Nation*, *Esquire*, *Slate*, and *Salon*.

Lyons graduated from Rutgers University in 1965, and earned a Ph.D. in English from the University of Virginia in 1969. He taught at the Universities of Massachusetts, Arkansas, and Texas before becoming a full-time writer in 1976. A native of New Jersey, Lyons has lived in Arkansas with his wife Diane since 1972. Their two adult sons live in the Little Rock area. The Lyons live on a cattle farm near Houston, Ark., with a half-dozen dogs, several cats, three horses, and a growing herd of Fleckvieh Simmental cows.

Books: *The Higher Illiteracy* (University of Arkansas, 1988), *Widow's Web* (Simon & Schuster, 1993), *Fools for Scandal* (Franklin Square, 1996) and, with Joe Conason, *The Hunting of the President: The Ten Year Campaign to Destroy Bill and Hillary Clinton* (St. Martin's, 2000). In 2004, Mozark Productions released a movie version of *The Hunting of the President*.

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Introduction

For Republicans, the strong likelihood that their presidential nominee will face a Democrat named Clinton is not a happy prospect—especially when that Democratic candidate could make history as America’s first female president. Which must be why they have been at work for many months already, seeking every possible means to denigrate, demean, and discredit Hillary Rodham Clinton.

It is important for voters, perhaps younger voters in particular, to understand that we have seen this movie before—too many times.

When journalists warn that Hillary Clinton is “polarizing,” a favorite media cliché, what they mean is that we can expect a steady, increasingly vituperative barrage of insults, gossip, and sensational headlines directed toward her, with or without substance. The Republican opposition research specialists are experimenting daily to discover which topics and themes resonate most powerfully against Clinton, one of the best-known and most durably popular political figures in the country.

But the partisan operatives, eager and unscrupulous as they are, know very well that Hillary Clinton too has seen all of this before. With the exception of her husband, there is no living public figure in this country who has survived such harsh scrutiny for so long.

She has endured far worse attacks than those she is likely to encounter in 2016. When Bill Clinton was still president, she became a primary target of independent counsel Kenneth Starr, his hard-shelled deputy prosecutors and scores of FBI agents, who spent five years and over \$50 million attempting to prove, among other things, that the then-First Lady had not testified with perfect accuracy about

a minor Arkansas real-estate transaction—a deal that had occurred years before her husband’s inauguration.

Having created the ballyhooed Whitewater “scandal,” most of the nation’s news organizations, including three or four television networks and the two most important daily newspapers, cheered Starr on, spending millions more in their own zeal to get Hillary. There was no accusation too obscure or dubious to make headlines, in publications that routinely anticipated her imminent criminal indictment. Editors of *The New York Times*, America’s newspaper of record, employed not one but two op-ed columnists, William Safire and Maureen Dowd, whose only seeming purpose in life was to bring her down. Safire warned repeatedly that she would go to prison, promising to “eat crow” if his direst predictions proved wrong. (While the old Nixon hand has since passed away, Dowd still pursues the same old obsession in the same space, as she devolves into self-parody.)

When she ran for the United States Senate in 2000, the ugliness only intensified, with Rupert Murdoch’s *New York Post* publishing false accusations of anti-Semitism against Hillary, articulated by a pair of Arkansas con artists and that ultimate hustler, Dick Morris. What Morris said had as little credibility as any of his statements—he had published a book only two years earlier, declaring that he would never forget Hillary’s kindness to his elderly Jewish parents, with no mention of any alleged anti-Semitic remarks by her. But as with any “Clinton scandal,” credibility and facts mattered little.

Eight years later, campaigning for the Democratic presidential nomination, Clinton waded through a barrage of biased, sexist media coverage that left even the most jaded political journalists shaking their heads. In the aftermath, Mark Halperin, the peripatetic *Time* magazine, ABC News and now Bloomberg News pundit—who has showed little sympathy toward her over the years—offered a confession on behalf of his profession. Admitting that the ordinary flaws in campaign coverage, “wild swings, accentuating the negative—are magnified 50 times when it comes to her,” Halperin said, “It’s not a level playing field.” *Washington Post* columnist Dana Milbank agreed that the political press “will savage her no matter what, pretty much. There’s no question they have their knives out for her.” Many have

drawn their knives again, as she attempts once more in 2016 to make presidential history.

The promotion of scandal narratives will remain a favored weapon. As Jeet Heer noted recently in *The New Republic*, the ghosts of old scandals, mostly imaginary and even paranoid, “are likely to re-emerge in the conservative and even mainstream press.”

Certainly there is little doubt that right-wing propaganda operations, from Fox to the SuperPACs, will aim to reinforce the old negative memes about Hillary’s candor. But so far, her angry critics on the right have been unable to revive the scandal stories that dogged the White House and dominated media coverage during her Bill Clinton’s presidency. Although critics often complain of “Clinton fatigue” and snark continuously about her “baggage,” rarely do they refer directly to the Nineties sensations that became famous as Whitewater, Travelgate, Filegate, and so on.

Her opponents don’t usually mention those moldy tales because despite tens of millions of taxpayer dollars spent by congressional committees and special prosecutors investigating them, they were all proved bogus. And despite constant projections that Hillary Clinton would be disgraced or even indicted in the Whitewater probe, she was ultimately cleared of every accusation—and the same was true of Travelgate and Filegate, whose media monikers indicate the level of premature excitement that those stories once encouraged.

Unable to refresh such material, Clinton’s determined antagonists have instead sought to capitalize on Benghazi, where Libyan terrorists killed four Americans, including U.S. Ambassador Chris Stevens. After numerous investigations, however—including an official probe that led to disciplinary action against several State Department officials and many changes in diplomatic security procedures—the notion that Clinton had personally done wrong, or misled investigators, proved baseless.

Yet the Republicans haven’t quite given up on Benghazi—even after the Republican-led House Permanent Select Committee on Intelligence definitively dismissed the charges against Clinton last year.

The recent furor over her State Department emails arose from efforts by Rep. Trey Gowdy (R-SC) to restore the Benghazi issue as

a political weapon. According to the evidence that has emerged so far, however, Clinton appears to have done nothing more egregious with her emails than her predecessors. Until the appointment of Secretary John Kerry to succeed Clinton, no Secretary of State had ever used a government email address exclusively. While she has turned over tens of thousands of emails to the State Department, former Secretary of State Colin Powell admits that he destroyed all the electronic records of his tenure.

Nevertheless, the double standard of the political media remains intact. Journalists and commentators who never noticed the Bush White House destruction of millions of government emails now bitterly protest Clinton's alleged electronic misdemeanors. The Republican National Committee—which helped Karl Rove conceal and destroy hundreds of thousands of emails while he served as George W. Bush's top political advisor—complains loudly about Clinton, “the Secretary of Secrecy.”

When Clinton's pursuers pause from talking about emails and Benghazi, they invariably turn to the Bill, Hillary and Chelsea Clinton Foundation, which has raised hundreds of millions of dollars to pursue health, environmental, educational, and civil society projects in America and around the world. A significant portion of that money was raised abroad from governments and other donors that have endorsed the foundation's work for very good reason. Supported by that funding, for instance, the foundation's crusade against HIV/AIDS, tuberculosis and malaria in poor countries has improved and even saved millions of lives.

Much like other charities, from Oxfam to the World Food Programme, the Clinton Foundation has received money from autocratic governments in the Middle East, including Saudi Arabia. A Saudi billionaire, not connected to the ruling family in Riyadh, donated millions to provide anti-retroviral drugs to AIDS-afflicted Ethiopians, and this too fed the “scandal” narrative. Yet it seems morally dubious to argue that the Clinton Foundation ought to have refused the Saudi funding, letting tens of thousands of women and children die miserably instead.

Still Hillary Clinton's opponents will sow suspicion of her family's charitable endeavors, using xenophobia and anti-Arab bigotry

to reinforce such fears. Scarcely a week after Clinton announced her candidacy, her adversaries on the right commenced a series of attacks on the foundation, with pre-release publicity for a tendentious book titled *Clinton Cash: The Untold Story of How and Why Foreign Governments and Businesses Helped Make Bill and Hillary Clinton Rich*.

Underwritten by a “dark money” trust created by the ultra-right Koch brothers and their network, this volume, published by Rupert Murdoch’s HarperCollins, purports to show nefarious connections between the Clintons, their foundation’s supporters, and Hillary Clinton’s tenure as Secretary of State. The flow of millions of dollars from the billionaire Clinton adversaries to researchers bent on ruining her with media attacks bears a striking resemblance to the infamous anti-Clinton conspiracy known as the Arkansas Project, financed between 1993 and 1997 by the late Pittsburgh magnate Richard Mellon Scaife.

Yet what startled some observers (although not anyone who followed Whitewater) was a deal hatched by author Peter Schweizer with the *New York Times* and *Washington Post* to share in his research before publication—affording mainstream legitimacy to a writer whose previous, highly inaccurate works have been debunked by the *Post*’s own “fact checker” columnist, among many others.

On April 23, the *Times* published a front-page story that insinuated but failed to prove a complicated quid pro quo between a major Clinton foundation donor and a decision by the Obama administration to permit a Russian firm to buy American uranium interests. But the story almost immediately began to fall apart, as news outlets picked apart its details to show that Hillary Clinton had nothing to do with the uranium decision, which had largely been controlled by other agencies of government. As *NBC News* conceded the next day—after promoting the *Clinton Cash* book and the *Times* story—“upon reflection, that *Times* article doesn’t hold up that well 24 hours after its publication.”

Should those charges utterly disintegrate, more are certain to follow from the same networks and financiers—which is why the story told in *The Hunting of Hillary* is salient in the current media and political atmosphere. Excerpted from *The Hunting of the President: The Ten Year-Campaign to Destroy Bill and Hillary Clinton*, this e-book offers

readers and voters a fresh opportunity to review the original effort to ruin the former First Lady. As the 2016 campaign unfolds, nobody should be too surprised to see and hear the same themes, tactics, and canards—perhaps even some of the very same accusations—bubble up into our septic political discourse once more.

We believe the story of the Nineties Clinton “scandals” remains relevant today because it documents the techniques and attitudes used to popularize false charges against Hillary Clinton two decades ago—and because the same methods continue to be employed by her partisan adversaries. The long, expensive, and ultimately fruitless investigations that proceeded under the rubric of Whitewater demonstrated how easily a tantalizing falsehood can gather strength and authority, without any substance whatsoever.

It is a lesson that the nation paid dearly to learn when Bill Clinton was president—and that we will only forget at even greater cost.

ONE

From Trivial Things, A National ‘Scandal’ Rises

Investigative reporter Jeff Gerth’s initial Whitewater story appeared on the front page of the *New York Times* on Sunday, March 8, 1992—two days before the “Super Tuesday” primaries in six southern states and just weeks before the crucial Democratic contests in New York and California. For Sheffield Nelson, the Arkansas Republican millionaire and longtime Clinton antagonist who had delivered the story to Gerth, its timing couldn’t have been better.

“What mighty contests,” wrote Alexander Pope, “rise from trivial things.” The Whitewater property was not vast: it spread across roughly 230 wooded acres, at the confluence of two of the best fishing streams in the Ozarks—Crooked Creek and the White River. The sums involved were also comparatively small. In buying the property back in 1978, Bill and Hillary Clinton and Jim and Susan McDougal altogether had put a bit more than \$200,000 in borrowed money at risk. Had the project succeeded as planned, each couple hoped to realize a profit of roughly \$45,000.

As it happened, the Clintons ended up losing a bit less than that, the McDougals somewhat more—although Jim McDougal’s habit of commingling funds among his many real estate entities would make a precise accounting impossible. Even the washboard gravel roads bulldozed and graded by the Whitewater Development Corporation remained unpaved 14 years after Bill Clinton was first elected governor.

Far from trivial, however, was the depth of McDougal’s resentment toward the Clintons.

In time, McDougal would portray his former partners as a coolly

cynical couple, “takers rather than givers . . . unwilling to jeopardize their political position for the sake of friends.” Hadn’t they turned their backs on him after the catastrophic events of the 1980s—when McDougal had ruined his marriage; suffered a stroke and succumbed to manic-depressive illness; lost a bank he had bought as well as his insolvent thrift, Madison Guaranty Savings and Loan; forfeited his overleveraged, ramshackle real estate empire; and finally found himself facing a four-count federal bank fraud indictment in 1990? Undoubtedly they had. But he had given them plenty of good reasons for shunning him, not the least of which was his inept and self-serving management of Whitewater itself.

McDougal’s colorful and increasingly erratic career—as old-time agrarian populist, campaign organizer, failed politician, college professor, real estate developer, banker, entrepreneur, promoter, salesman, savings and loan mogul, recovering alcoholic, mental patient, criminal defendant, raconteur, and sometime confidence man—had made him a familiar if rather untrustworthy figure to many Arkansas journalists. A largely self-educated country boy from Woodruff County, McDougal had grown up on the geological and historical boundary between the Arkansas cultures of hill country and Delta. He could recite Bible verses and quote lengthy passages from Shakespeare and James Madison from memory.

After a well-publicized trial, McDougal had been acquitted of the original fraud charges in Little Rock’s federal district court. At the time, he had blamed the bias of Bush administration Republican prosecutors for his plight, but few observers took that charge seriously. Reporters who covered the trial attributed the verdict to a poorly organized prosecution and the spellbinding effect of McDougal’s own testimony on the jury.

Sick, bankrupt, and living on Social Security disability payments in a borrowed mobile home on somebody else’s land near the little town of Arkadelphia, McDougal had then petitioned the governor’s office for a job. Wary Clinton aides made an inquiry to Arkansas securities commissioner Beverly Bassett Schaffer, a Clinton appointee who had quietly urged the FBI to investigate him in the first place. No way, Bassett Schaffer told them. In her view, McDougal was no innocent victim of the national savings and loan meltdown, but a

reckless and devious man who should not be trusted.

This rejection maddened the desperate McDougal. Oddly, however, it was a grudge against Clinton's Democratic rival Jim Guy Tucker, more than his brewing feud with Clinton, that first prompted McDougal to seek out Sheffield Nelson—the wealthy Republican businessman who had lost a bitter gubernatorial race against Clinton two years earlier. It was Nelson who eventually led McDougal to Gerth—who had used Nelson as a background source on earlier Arkansas stories.

Like Nelson, Tucker also had lost a bruising political race to Clinton. A handsome, Harvard-educated ex-Marine and former prosecutor, Tucker had given up a seat in Congress to challenge Clinton for the governorship in 1982. He had emerged from the Democratic primary a loser, deeply in debt, and feeling angry.

Nelson, Tucker, and Clinton had been mutually antagonistic for years, but McDougal had entered into separate business dealings with all three during the real estate boom of the late seventies and early eighties. Only Nelson had profited from his dealings with McDougal, and then only by threatening a lawsuit against Madison Guaranty Savings and Loan—which made it all the more strange that McDougal came to him seeking revenge against Tucker and Clinton.

Another irony was that Madison Guaranty's collapse had been triggered not by Whitewater but, according to bank examiners, by the failure of a major resort development on Campobello Island in New Brunswick, Canada. McDougal's chief investors in that doomed \$3.73 million enterprise happened to be Sheffield Nelson and Nelson's friend Jerry Jones, the oil-and-gas magnate and Dallas Cowboys owner. It had been the nostalgic McDougal's conceit that wealthy New England vacationers and retirees would be moved by memories of Franklin Delano Roosevelt's summer retreat (location of the 1960 film *Sunrise at Campobello*, starring Ralph Bellamy as FDR) to purchase lots on the cold, foggy island north of Maine.

Unlike Whitewater, which placed none of Madison Guaranty's assets at risk, Campobello Properties Ventures was mentioned repeatedly in Madison audits as a costly boondoggle. Eventually the U.S. Treasury Department, which inherited the property after

Madison went under, entered negotiations to sell it to the Canadian government for use as a national park. Nelson and Jones had invested a reported \$225,000 each to purchase a 12.5 percent share in the enterprise. In 1988, the Federal Home Loan Bank Board (FHLBB), then supervising Madison Guaranty's assets, had bought their share for \$725,000—a profit of \$275,000.

"I can't believe it. It's an extraordinary event. It smells," said William Seidman, who supervised the savings and loan bailout for the Bush administration, to the *Fort Worth Star-Telegram*. "It could be legit, but I doubt it."

Jim Guy Tucker's ties to McDougal were similarly extensive. At one time, the two men had shared ownership of a small bank in tiny Kingston, Arkansas. Although Tucker had grown wealthy investing in cable TV properties after his 1982 election defeat, his real estate dealings with McDougal had ended in mutual recrimination. Not long before McDougal's 1990 trial, Tucker learned that McDougal had collected loan payments from buyers on a parcel the two had subdivided, but had failed to pay off the bank debt. McDougal nevertheless sent worthless deeds to their customers, bearing Tucker's forged signature.

Tucker had had no choice but to make restitution. But when McDougal subsequently asked him to serve as a character witness, Tucker did have a choice and said no. Despite his acquittal, McDougal never forgave Tucker.

McDougal's ostensible purpose when he contacted Nelson in February 1992 was to find a Republican lawyer willing to sue Tucker. McDougal wanted Tucker to return \$59,000 worth of promissory notes which Tucker had, in fact, bought from him some years earlier, but which McDougal claimed he had stolen. After Tucker was elected lieutenant governor of Arkansas in 1990, putting him in line to succeed Bill Clinton, McDougal may have imagined that the politician would settle rather than risk bad publicity. In the end, no lawsuit was filed.

None of this complicated history was reflected in the *Times's* Whitewater reporting, which also omitted any mention of Nelson's role as its source. Exactly how Whitewater came to bear the

imprimatur of the newspaper of record always remained murky. Early on, Gerth said he had noticed a reference to the project in Clinton's state financial disclosure forms, and telephoned the only Arkansan he knew for an explanation. *Times* editors insisted that Nelson had supplied nothing more than McDougal's phone number.

Nelson, however, always proudly took full credit for putting the *Times* onto Whitewater. In his posthumously published memoir, *Arkansas Mischief*, McDougal confirmed that boast. "It was Nelson who passed the information on to Jeff Gerth," he wrote. "Nelson was gleeful. He wanted me to talk with Gerth, the *New York Times* reporter who had written a long investigative article about the Stephens' extensive connections in Arkansas a few years earlier."

On two previous occasions, Sheffield Nelson and Stephens, Inc., a Little Rock-based conglomerate with vast financial interests, had each used the *Times* as a weapon in their ongoing feud. Gerth's 1978 story about allegedly predatory natural gas pricing in Fort Smith was credited by Arkansas political observers with influencing enough votes to knock Witt and Jack Stephens's nephew out of a three-way Senate primary race. Several years later, Stephens, Inc., had retaliated by talking to *Times* reporter Wendell Rawls, Jr., who wrote a critical examination of Nelson's Arkla-Arkoma gas deal, which indirectly helped Clinton put an end to his political career.

After Nelson made the initial contact, McDougal recalled, Gerth drove down to his home town of Arkadelphia to visit him. McDougal plied the reporter with documents and canceled checks, allegedly showing that the Clintons had taken improper tax deductions and had failed to pay their fair share of Whitewater expenses. According to McDougal, he subsequently came up to Nelson's Little Rock office and gave him damaging information about Tucker. Nelson, he claimed, was delighted. Within weeks, Jeff Gerth was sharing piles of documents he believed might implicate Tucker with Little Rock journalists. The *Times*, he explained, was only interested in Bill Clinton.

Gerth's original article won praise from the *American Journalism Review* for containing "80 to 90 percent" of what the press ultimately learned about Whitewater. Even some Clinton loyalists acknowledged that the story examined legitimate issues concerning the

Clintons' finances and Hillary Clinton's law practice. Unfortunately, its mistakes began with the headline: "CLINTONS JOINED S & L OPERATOR IN AN OZARK REAL ESTATE VENTURE."

Actually, when the Whitewater partnership was formed in 1978, McDougal hadn't been involved in the banking or thrift businesses at all. He was a political science teacher at Ouachita Baptist University, who had done well investing in real estate. McDougal didn't acquire a controlling share in the small thrift institution he renamed Madison Guaranty until five years later—by which time the Whitewater project was virtually defunct.

Judging by subsequent stern editorials in the *New York Times*, the rest of the story could be summarized more or less as follows: When he was governor, Clinton and his wife entered into a sweetheart deal with a crooked financier at no risk to themselves. When their benefactor got into trouble, Clinton dumped the sitting Arkansas securities commissioner and appointed a political ally named Beverly Bassett Schaffer. He and Hillary then pressured Bassett Schaffer to grant special favors to Madison, until vigilant federal regulators cracked down and thwarted their scheme. When exposed by Gerth, Bassett Schaffer claimed a convenient memory loss, denying complicity in events she had supposedly forgotten.

"In interviews," Gerth had written, "Mrs. Schaffer . . . said she did not remember the Federal examination of Madison, but added that in her view, the findings were not 'definitive proof of insolvency'... 'I never gave anybody special treatment,' she said."

The problem, as Bassett Schaffer had pointed out in 20 pages of memoranda she had provided to Gerth via fax, was that this version of events was mostly false.

First, the Clintons and McDougals were jointly and severally responsible for the Whitewater loan. Moreover, federal regulators did not determine that Madison Guaranty was insolvent between 1984 and 1986, the years Gerth's story covered. The Federal Home Loan Bank Board had formally accepted Madison's debt-restructuring plan in a letter dated September 11, 1984—a full six months before Bassett Schaffer's appointment. Nor was her appointment connected to Madison's troubles. She had filled a vacancy created

when her Republican-appointed predecessor—who later described Gerth’s Whitewater story as “unmitigated horseshit”—resigned to enter private legal practice.

More important, Arkansas had no authority to close state-regulated S&Ls without the concurrence of the federal agencies that held the real power. “It may be important for you to know,” Bassett Schaffer had written to Gerth, “that state law grants the savings and loan supervisor no emergency acquisition authority similar to that of the FHLBB and FSLIC (the Federal Savings and Loan Insurance Corporation).”

Subsequent Senate hearings would establish that not one of the 746 institutions that failed during the S&L crisis of the ‘80s was shut down by state officials anywhere in the country. But Bassett Schaffer had been an active participant in a July 1986 decision to remove Jim and Susan McDougal from control of Madison Guaranty S&L, after auditors discovered his insider trading and other abuses.

She had also directed the *Times* reporter’s attention to her certified letter, dated December 10, 1987, all but begging federal regulators to shut down Madison and two much larger Arkansas S&Ls. She had gotten no answer until the feds finally closed Madison’s doors in February 1989, roughly a month after President George H.W. Bush’s inauguration. According to Walter Faulk, then director of supervision for the FHLBB in Dallas, “I never saw [Bassett Schaffer] take any action that was out of the ordinary.... To my knowledge, there is nothing that she or the governor of Arkansas did or could have done that would have delayed the action on this institution.”

When the *Times* story appeared, Bassett Schaffer briefly considered filing a libel suit. “I provided you with a detailed account in writing of the facts,” she wrote Gerth bitterly. “This information was ignored and, instead, you based your story on the word of a mentally ill man [McDougal] I have never met and documents which you admitted to me on the telephone on February 26, 1992, were incomplete.” He never wrote back to her.

“I subsequently had conversations with her in which I tried to explain the situation. I sought to come down and meet her,” Gerth said later. “I had hoped to explain what happened with the editing

of the first piece. She never would agree to see me.” Because his errors and inferences had appeared on the front page of the *New York Times*, they would be repeated as gospel by other reporters for years to come.

Jim McDougal was likewise stunned by Gerth’s initial foray into Whitewater. The *Times* article suggested that McDougal had criminally misused Madison deposits to subsidize the Ozark development. Having set out to hurt Tucker and Clinton, McDougal had inflicted the worst injuries on himself. Sam Heuer, the Little Rock attorney who had successfully defended McDougal during his 1990 bank fraud trial, issued a statement: “I am appalled and affronted by the allegations and reckless disregard of the facts by the *New York Times* and its reporter Jeff Gerth.”

The Clinton campaign dispatched attorney Jim Blair, an old friend of McDougal and the Clintons, to remind their former partner that further unguarded comments to reporters could have consequences more harmful to him than to anybody else. When an Associated Press reporter contacted McDougal a couple of days later, he sounded chastened. “I’ve never done anything illegal,” he said, “and as far as I know Bill Clinton has never done anything illegal or unethical.” He would later claim that Blair had threatened him with a lawsuit.

But McDougal’s retraction meant little. Weeks earlier, according to McDougal, Sheffield Nelson had secretly taped him making several rash allegations, and Nelson proceeded to copy and distribute the tape to every journalist who would listen. To Nelson, McDougal had asserted that the Clintons never lost money on Whitewater. “I could sink [that] quicker than they could lie about it if I could get in a position so I wouldn’t have my head beaten off,” McDougal had said.

Meanwhile, confronted by Clinton campaign aide and longtime Hillary friend Susan Thomases about the shortcomings in his work, Jeff Gerth was initially somewhat apologetic, she recalled. He had planned a more extensive, three-part series on the Clintons’ finances, she said Gerth had told her, only to have his piece chopped down to 1500 words by his editors. Thomases also remembered Gerth mentioning that his Washington bureau chief, a southerner named

Howell Raines, disliked Clinton and was largely responsible for the story's tone.

Later Gerth denied blaming Raines, although he said he “was upset” by the way his original *Whitewater* copy was edited and did request changes after the paper's first edition appeared (including the addition of a quote from Bassett Schaffer denying she had favored McDougal). There had been no plan for a “series,” he added, and he thought it was “highly unlikely” that the *Whitewater* story actually had been edited by Raines.

Campaigning in the New York Democratic presidential primary, former California governor Jerry Brown frequently denounced the “sleazy” appearance of Hillary Clinton's law practice. In response, the Clinton campaign commissioned an accounting of *Whitewater*, overseen by a Denver attorney and Clinton friend named James Lyons (no relation to the author). Hillary also asked Webster Hubbell and Vincent Foster, her two closest associates at the Rose Law Firm, to help explain her work for Madison. A more ill-starred pair of defenders could hardly be imagined, although she had no way of knowing that. In the process of gathering information, Foster obtained a computer printout from the Rose Law Firm of Hillary's Madison Guaranty billing records.

The Lyons report, released by the campaign in late March, concluded that the Clintons had lost about \$65,000 on the project. Due to insufficient information given them by McDougal, the Clintons had improperly deducted a handful of interest payments from their income taxes, amounting to a tax savings of less than \$2,000. Although the five-year limit on IRS action had long passed, the couple made a point of paying the back taxes. But at least for the time being, the Clinton campaign's swift response had put the *Whitewater* issue to rest. How much scandal could there be in a gravel-road real-estate development in which the Clintons had ultimately lost money?

One aspect of the story that would never receive much attention was Jim McDougal's psychiatric history. In his initial 1992 article, Jeff Gerth noted that McDougal suffered from manic-depressive disorder, but described him as “stable, careful and calm.” Aside from that reassuring reference, McDougal's affliction and its effect on his turbulent business and personal life were rarely mentioned.

McDougal's illness had much to do with his problems. Among the symptoms psychiatric manuals list for a manic episode are the following: "inflated self-esteem (grandiosity, which may be delusional)" and "excessive involvement in activities that have a high potential for painful consequences which is not recognized, e.g. buying sprees . . . foolish business investments." It's common for manic individuals to succumb to "grandiose delusions involving a special relationship to God, or some well-known figure from the political, religious or entertainment world."

McDougal's attorney had gone so far as to file, and later withdraw, an insanity plea during his 1990 bank fraud trial. Given his financial situation during the 1980s—his heavily mortgaged real estate investments, his ownership of a small, unprofitable bank and floundering S&L—and the fact that McDougal suffered from manic-depressive illness, serious trouble was inevitable.

TWO

Swindling (And Smearing) The Clintons

While Jeff Gerth's Sunday article may have left little impression on most *Times* readers, it was thrilling to L. Jean Lewis in Tulsa, Oklahoma. She was not, as it turned out, alone in her excitement.

Lewis was an investigator for the Resolution Trust Corporation (RTC), the temporary federal agency created during the Bush administration to bail out savings and loan depositors and liquidate the assets of institutions seized by the government. A 38 year-old former executive secretary in a failed Dallas thrift, Lewis was neither a lawyer nor a CPA. When she joined the RTC, she had no previous law enforcement experience. Having grown up in a military family in Texas, Lewis proudly identified herself as a conservative Republican. (In a contemporaneous letter to a friend, she described Bill Clinton as a "lying bastard.")

She worked out of the RTC's Tulsa office, until she was later transferred to Kansas City, and her job was mostly routine: to sift through the records of failed Arkansas thrifts for evidence of fishy transactions. Consulting closely with the FBI's Little Rock office, Lewis had compiled a prioritized list of Arkansas institutions to be looked into. At the top, as of December 1991, she had placed the two largest failed thrifts in the state, Saver's Savings and First Federal, both headquartered in Little Rock. Saver's had collapsed at a cost of \$650 million, First Federal at a cost of \$950 million—both amid strong FBI suspicions of criminal fraud. First Federal alone had squandered roughly 20 times the amount lost by Jim McDougal's Madison Guaranty, which stood, sensibly enough, near the bottom of Lewis's list.

All that changed, however, with the publication of Gerth's story three months later.

The following morning, on March 9, the RTC's Tulsa field office got two calls from senior RTC officials in Washington inquiring about the accuracy of Gerth's allegations. The acting head of investigations looked over the Madison Guaranty file and responded with a memo stating that "the Whitewater Development loan was not specifically classified by Federal Examiners, and . . . [the record] does not show any [bank] losses related to the Clintons or Whitewater development.... Bill and Hillary Clinton are not named in any of the documents contained in our criminal referral files." In fact, neither Whitewater nor the Clintons had ever borrowed from Madison Guaranty.

Nevertheless, Lewis and her supervisor, Richard Iorio, moved Madison Guaranty to the top of their investigative list. Lewis quickly headed to Little Rock to search out more documents stored in a downtown warehouse.

Did Hillary Rodham Clinton know about or suspect problems with Whitewater that she didn't want the press to discover? Certainly what she had learned when she took over the tangled affairs of the Whitewater Development Corporation in 1988—after McDougal had left the hospital and moved to California—had given cause for concern. Piecing together the company's jumbled records had been almost impossible, and many documents were missing. Property taxes, in some instances, hadn't been paid for years. The owner of a lot financed personally by Hillary had gone into bankruptcy. (She had never been notified, and McDougal had made no payments on the note.) The corporation's state franchise fees hadn't been paid for several years, a potential embarrassment had Bill Clinton's political rivals ever uncovered it.

Given the depressed real estate market during the mid-'80s, Whitewater probably would have lost money anyway. The site, though picturesque, had been badly chosen. The nearest towns with gas stations, grocery stores, a hospital, or a golf course were more than a 45-minute drive away over narrow, steep, curvy roads. And Marion County, where Whitewater was situated, is also dry—no alcoholic beverages.

Years later, when an objective accounting of the Whitewater project became available, it was clear that as its managing partner, McDougal turned a poor investment into something much worse. He had treated the Clintons' investment as if it belonged to him personally, abused their trust, sold the company's assets at a steep discount to the realtor who was supposed to be its agent, deceived his partners about its condition over a period of several years, and arguably committed several crimes in the process.

In 1985, without telling the Clintons, McDougal had liquidated Whitewater's real estate assets for pennies on the dollar. He sold all of Whitewater's remaining lots (24 of the original 44) to one Chris Wade, the realtor charged with marketing and selling the development. The asking price for 23 of those 24 lots, according to a "Whitewater Estates" inventory list dated November 1984, had been \$191,550.

In return for the land, however, Wade put down no cash. He agreed to assume \$35,000 of the \$96,000 still owed by the Clintons and McDougals on the original 1978 loan that had financed the project. (Wade was so slow to pay his share that the bank was still charging the Whitewater Development Company interest on the money until 1992.) As payment McDougal also accepted from Wade a 1979 Piper Seminole airplane, worth \$35,000, which he promptly pressed into service as Madison Guaranty's official corporate aircraft. Eventually he sold the airplane and kept the money himself.

Whitewater's real estate assets were gone, but the Clintons didn't know it. They wouldn't learn many of these details until years after the fact. Outwardly flush, in May 1985, Madison Guaranty put the Rose Law Firm on a \$2,000-a-month retainer, and McDougal hosted a political fund-raiser for the governor in the lobby of the thrift's newly refurbished downtown Little Rock headquarters.

It wasn't until Hillary took over the company's records that she and her accountants learned that the company had been all but formally defunct for over four years. Although more than \$134,000 had been deposited in the Whitewater account between 1984 and 1986 from other McDougal-owned companies, roughly the same amount had been paid out, much of it to individuals and companies having nothing to do with Whitewater.

In November 1986, McDougal had written the Clintons offering a deal. The letter arrived several months after the Rose Law Firm had dropped Madison Guaranty as a client, and regulators had forced his removal from the S&L. McDougal had also recently suffered a stroke, and he was hospitalized for manic-depressive illness.

To spare them any public embarrassment, he proposed that they simply hand over their share of Whitewater. In essence, he was offering to buy their share of the corporation for half the amount of the \$90,000 losses, which he planned to claim on his federal taxes. The problem was that the company still owed almost \$90,000 to Citizens Bank, which refused to release the Clintons from liability. In effect, they were being asked to give up their share of what they mistakenly believed was an asset in return for assuming a \$90,000 debt.

Not surprisingly, Hillary Clinton balked and demanded to see Whitewater's books, infuriating McDougal. In December 1986, he wrote to the Clintons again. Despite current cash-flow problems, he claimed, Citizens Bank had agreed to reduced payments, and the Clintons didn't owe him any money. But there was no such agreement with the bank. By 1988, after both McDougals had left Arkansas for California, Hillary was forced to take over the management of Whitewater—finding an empty shell, its assets stripped, its debts and taxes unpaid, its records disordered and incomplete.

The Madison ledgers Jean Lewis pulled from the dusty Little Rock warehouse were as chaotic as the Whitewater documents that Hillary had obtained four years earlier. Worst of all were the records of the checking accounts of McDougal's dozen real estate companies. What Lewis uncovered would have confirmed Hillary's worst fears.

Madison Guaranty had drifted into deep financial distress for the same basic reason that hundreds of other thrifts faltered during the 1980s. Forced by the Federal Reserve to pay ruinously high interest rates on deposits, their income was restricted by the long-term low-interest mortgages they held. Hemorrhaging money, they were encouraged by Congress and the Reagan administration to make up the difference by speculating in real estate. Those regulatory "reforms" had lured McDougal into the thrift business, but no sooner had he taken over Madison Guaranty than the same ruinously high

interest rates sent the real estate market into a tailspin.

Faced with cash-flow problems, Lewis found, McDougal had begun a frantic fiscal juggling act, commingling funds and moving money back and forth among the corporations and partnerships he controlled. The Clintons and Jim Guy Tucker were by no means the only business partners whose trust he had abused.

Following Gerth's lead, Lewis focused her attention on the last six months of 1985, when Beverly Bassett Schaffer had supposedly done favors for Madison Guaranty's owner. Finding evidence of McDougal's fiscal shenanigans everywhere she looked, Lewis leaped to a conclusion well beyond the *New York Times* reporter's imagining: Everyone in Arkansas who had ever done business with Madison Guaranty, including the Clintons, was part of a huge conspiracy, she seemed to surmise in her criminal referrals. Every transaction that appeared to benefit McDougal must also have benefited his partners, according to her theory.

By August 1992, the Little Rock FBI agents assigned to investigate financial crime were growing impatient with Lewis and the RTC. Her agency, having seized the records of bankrupt institutions across the country, controlled all the paperwork in thrift investigations. Without referrals from the RTC, law enforcement officials could not move forward on potential fraud cases. Lewis's months of work on Madison Guaranty struck the agents as a waste of time and money, and her motives seemed suspiciously political. On August 26, FBI special agent Steven Irons spoke with Lewis by phone. He took notes of the conversation.

According to his notes, Lewis informed Irons that she had been given a deadline of August 31 to file a referral on Madison Guaranty, and that there were "big names involved." Lewis claimed that she "gave up a job opportunity in D.C. just to do referral. She or it could alter history—very dramatic."

Irons would later testify he had no doubt that Lewis's motive was to disrupt the 1992 presidential election in favor of George H.W. Bush. Later that day, his Little Rock supervisor, Special Agent in Charge Don Pettus, sent a telex to FBI Headquarters in Washington, expressing his professional frustration. Pettus sought permission to

press ahead on the First Federal and Saver's Savings cases, without the RTC's help.

On August 31, Lewis delivered as promised. She filed a criminal referral with the FBI and the U.S. attorney in Little Rock, naming not only James and Susan McDougal as felony suspects, but also each and every contributor to the 1985 Clinton fund-raising event held at Madison Guaranty. As "possible witnesses" she listed both Bill and Hillary Clinton, Arkansas lieutenant governor Jim Guy Tucker, and retired U. S. Senator J. William Fulbright, another Arkansas Democrat who had invested with his former aide McDougal. She named none of the Republicans who had done business with McDougal or Madison.

Normally, criminal referrals from the RTC took months to be processed. But within days, Lewis started pestering FBI agent Irons and the U.S. Attorney's staff in Little Rock with demands for immediate action. After Irons stopped returning her calls, she left a taunting message with the office receptionist.

"Have I turned into a local pariah," Lewis demanded, "just because I wrote one referral with high profile names, or do you plan on calling me back before Christmas, Steven?????" (She specifically dictated the five question marks.) Irons returned her call only to tell her to back off.

Word of Lewis's efforts filtered back to the Clinton campaign sometime between mid-September and early October, when long-time aide Betsey Wright got a phone call from a supporter in California. On a recent business trip to Kansas City, the man said, he had attended a cocktail party where a female RTC staffer boasted that she had "just sent a criminal referral up to the prosecutor in Little Rock... which would implicate the Clintons." (Three months earlier, the RTC had closed its Tulsa office and transferred Jean Lewis to Kansas City.) And although Wright had no way of knowing it, there were signs around the same time that the White House, the Justice Department, and the Bush campaign were taking a direct interest in Lewis's machinations.

William Barr, then serving as Bush's attorney general, later testified that White House cabinet secretary Edith Holiday asked him about the Lewis referral during a flight on Air Force One on

September 17, 1992. At the time, Holiday was “chief liaison” between the White House and the 1992 Bush-Quayle campaign. Previously she had served as operations director of the 1988 Bush-Quayle campaign, and then as general counsel to the Treasury Department. That week, Barr asked his aides to contact the FBI, which informed them it had no record of such a case. He reported back to Holiday, who seemed surprised. Her demeanor made him wonder whether “she had better information” than he did, he recalled. (Under oath, Holiday later said she did not remember any conversations with Barr about Madison Guaranty and the Clintons.)

On September 18, Lewis turned up in Irons’s Little Rock office after a meeting he did not attend. The agent told her that due to its sensitivity, no action would be taken on her referral until after the November election. She warned him that RTC officials in Washington expected action. Much to Lewis’s eventual chagrin, Irons once again made contemporaneous notes of their conversation. At the same time, Lewis made repeated calls to career prosecutors on the staff of U.S. Attorney Charles Banks in Little Rock. They too questioned both her motives and her referral’s substance. Assistant U.S. Attorney Fletcher Jackson saw no point in pursuing McDougal again. “The prior acquittal,” he told Banks, “would be used against you to make this look like a vindictive prosecution.”

What Lewis described as illegal “check-kiting” at Madison, Jackson regarded as a slightly different kind of scam, though he didn’t quarrel with her terminology. Check-kiting usually involves writing bad checks among several banks to create illusory balances. Instead, McDougal was shifting money back and forth among several accounts within his own bank.

“From appearances,” he would later testify, “it’s just McDougal taking care of McDougal and McDougal’s corporations. What it appeared to be was that most of the manipulation Mr. McDougal was doing was to make the debt carry. In other words, he was doing all of these fraudulent transactions, in a sense, in order to make his interest payments and principal payments on debts that he had.” If McDougal’s actions were in fact crimes—and Jackson had his doubts—the Clintons and his other business partners appeared to be his victims, not his accomplices.

THREE

U.S. Attorney Blocks Partisan Political Probe

Around the end of September or the beginning of October, the Bush White House also displayed a discreet interest in the Madison matter. Sometime during that period, White House counsel C. Boyden Gray called Albert Casey, the chief executive of the RTC in Washington. Casey later testified that Gray asked him what he knew about an RTC matter involving the Clintons. He knew nothing, Casey said he replied, but he promised to look into it and call Gray back. Casey then called RTC vice president William Roelle, who confirmed the existence of Lewis's referral, and showed him a copy. Roelle later testified that he told Casey that he should not provide any information to the White House.

Before Casey could reach Boyden Gray, however, the White House counsel phoned him again. "Al, forget my request," Casey remembered Gray saying. "I don't want you to tell me a thing." Gray himself would later deny any memory of those conversations with Casey. Any such call, he said, would have come from the Bush campaign, not the White House. Campaign officials echoed Gray's denial, saying they had no idea that Madison was being investigated in 1992, and that the campaign had a strict rule that "nobody... was to talk to anybody in the government about Clinton." Only a "third-level, junior person" would have done something like that, they insisted.

Attorney General William Barr was considerably less cautious. After his conversation with Edith Holiday, Barr insisted that his aides check once again whether Madison was the subject of a Justice Department probe. When a second inquiry to the Executive Office of U.S. Attorneys brought confirmation of the RTC referral, Barr became angry because he felt that Chuck Banks had "deliberately

withheld information about the referral from me.”

On October 7, the Little Rock office of the FBI responded with a lengthy telex to its superiors in Washington, expressing extreme skepticism about the validity of Lewis’s referral. After summarizing Jim McDougal’s 1990 trial and shaky psychological state, it added that despite “the referral’s stated supposition that the activity was for the benefit of the McDougals, the further supposition that other people benefitted does not appear to be factually supported by the details that follow.

“It is the opinion of Little Rock FBI and the United States Attorney... that there is indeed insufficient evidence to suggest the Clintons had knowledge of the check-kiting activity conducted by McDougal... [who] was in charge of [Whitewater] records, just as he was with the records of other companies involved in the check-kiting, and does not suggest the Clintons had access to checking account statements that would have reflected the questionable transactions.... It was also the opinion of [Banks that] the alleged involvement of the Clintons in wrongdoing was implausible, and he was not inclined to authorize an investigation or render a positive prosecutive opinion.”

On October 8, 1992, Barr sent one of his assistants to a top-level meeting attended by Robert Mueller, then head of the Justice Department’s Criminal Division, FBI assistant director Larry Potts, and several senior FBI officials. At that point, the Madison Guaranty referral was definitely a matter of active interest at main Justice. The next day, FBI Headquarters sent a telex to its Little Rock field office, ordering agents there to review Jean Lewis’s criminal referral and report in writing by October 16—less than three weeks before the 1992 presidential election.

As far as Banks was concerned, that order sealed his decision. A native Arkansan, he had been a Republican congressional nominee in 1982 and had also served as general counsel of the state party. As such, he had once brought a lawsuit against Bill Clinton for what he considered the politically motivated firing of a Republican labor commissioner. Appointed by Ronald Reagan in 1988, Banks had been nominated to a federal judgeship in August 1992 by President Bush. His nomination was still pending in the U.S. Senate. If

anybody in Arkansas had a personal interest in seeing Bush reelected in 1992, it was Chuck Banks.

But Banks also had his limits. He would not be used politically. He had come to distrust Jean Lewis's motives, and believed that charging Jim McDougal again would be a cruel and unnecessary waste of his office's resources. Further, based on the documents Lewis had produced, he saw no persuasive evidence against the Clintons or Jim Guy Tucker. More than once, Banks discussed the case with Don Pettus, the special agent in charge of the FBI's Little Rock office, who shared his misgivings.

As the October 16 deadline approached, Banks decided to put his objections in writing. Dictating a letter to Pettus, he began by repeating all the reasons he had turned down the RTC's criminal referral in the first place. Then he staked out an uncompromising position: "I am now advised that you have been ordered to do an immediate review to determine if an investigation is warranted. As part of same, you are required to send a prospective proposal for such an investigation by Friday, October 16, 1992. Such an order does not apply to this office.

"However, I do believe it might be helpful to reiterate what I have told you previously. Neither I personally nor this office will participate in any phase of such an investigation . . . prior to November 3, 1992. You may communicate this orally to officials of the FBI or you should feel free to make this part of your report.

"While I do not intend to denigrate the work of RTC," Banks added, "I must opine that after such a lapse of time the insistence of urgency in this case appears to suggest an intentional or unintentional attempt to intervene into the political process of the upcoming presidential election. You and I know in investigations of this type, the first steps, such as issuance of grand jury subpoenas for records, will lead to media and public inquiries [about] matters that are subject to absolute privacy. Even media questions about such an investigation in today's modern political climate all too often publicly purport to 'legitimize what can't be proven.'

"For me personally to participate in an investigation that I know will or could easily lead to the above scenario . . . amounts to

prosecutorial misconduct and violates the most basic fundamental rule of Department of Justice policy. I cannot be a party to such actions.”

Banks closed by promising to direct “any press inquiry from any source whatsoever” to the Attorney General or the head of the RTC. Such a statement from Banks would, of course, have been devastating to the Bush campaign. Whoever won the November election, Chuck Banks’ government career was probably over.

The FBI’s Little Rock office dispatched its report to Washington on October 16 as ordered, stating that there was “absolutely no factual basis to suggest criminal activity on the part of any of the individuals listed as witnesses in the referral.” The telex went on to complain again about the RTC’s failure to provide criminal referrals on the two much larger thrifts, Savers’ Savings and First Federal Savings, whose combined losses of \$1.5 billion offered “much greater prosecutive potential” than Madison Guaranty.

Aside from the daunting complexities of Whitewater, Boyden Gray’s sudden loss of interest may have reflected worries that were closer to home for the Bush family. Certainly neither the White House nor the Bush campaign would have wanted to risk drawing attention to the business dealings of the president’s sons—in particular, Neil Bush’s role as director of a corrupt Colorado savings and loan whose bankruptcy cost taxpayers a billion dollars. That was a story several reporters were pursuing around the time of Gray’s phone calls to Albert Casey. It was more prudent to forget about alleged financial misdeeds and focus instead on Clinton’s draft evasion.

So there would be no “October surprise” in 1992 for Bill Clinton. Though not for want of trying, Jim McDougal and Sheffield Nelson’s effort to damage his presidential candidacy had failed. And Jean Lewis’s apparent attempt to use the criminal justice system to subvert the political process had also gotten nowhere.

For the time being, there would be no Whitewater scandal either. But as the Clintons soon learned, new allegations could be promoted as quickly as old charges were discredited. Their enemies were not really daunted by this defeat, and they would be bringing more tales of Arkansas criminality to the keen attention of the New York Times before too long.

FOUR

The Lonely Death Of Vince Foster

Sometime during the late afternoon of July 20, 1993—exactly six months after the first presidential inauguration of Bill Clinton—deputy White House counsel Vincent Foster left his office, drove across the Potomac River to Fort Marcy Park, sat down on a grassy hillside, put an old revolver in his mouth, and pulled the trigger.

At 5:45 p.m., U.S. Park Service Police officers discovered his body. They treated the incident from the very first as a routine investigation, made politically sensitive only later by the identity of the victim. Despite the incessant promotion ever since of strange theories about Foster's death—ranging from a soured affair with Hillary Clinton to a hit by an Israeli spy ring—that initial Park Service Police report was eventually substantiated by five separate federal investigations, two performed by independent counsels Robert Fiske and Kenneth Starr. All concurred in a finding of suicide caused by clinical depression.

Still, the notion persisted that Foster had died because he “knew too much,” as did speculation about the Little Rock lawyer's possible reasons for killing himself or being killed by someone else. Foster, a close confidant and former law partner of Hillary Clinton, had certainly endured a series of embarrassing events during the final few months of his life. A shredded note found in Foster's briefcase, apparently jotted down not long before his death, indicated how worried he felt about his role in the wholesale firing of the White House Travel Office staff two months earlier, and the criticism directed at him and the Clintons in the wake of that ugly incident, which eager journalists quickly dubbed “Travelgate.”

“I made mistakes from ignorance, inexperience and overwork,” he wrote in small, neat longhand on a yellow legal pad. “I did not knowingly violate any law or standard of conduct. No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. . . The FBI lied.... The press is covering up the illegal benefits they received from the travel [office] staff. The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation.... The public will never believe the innocence of the Clintons and their loyal staff. The [*Wall Street Journal*] editors lie without consequence. I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport.”

Foster’s terse, bitter note expressed the anguish of an administration embattled almost from the moment President Clinton took the oath of office. The Clinton White House had enjoyed no post-inaugural honeymoon. Clinton and his novice staff suffered one stumble after another, to the grim delight of a Washington press corps perpetually suspicious of newcomers. That the Clintons came from Arkansas, a small state remote from the nation’s centers of power and little known to most Washington journalists, did nothing to lighten the atmosphere.

Undoubtedly, the Washington press corps distorted the Travel Office story, and did so partly out of self-serving bias. They largely failed to report allegations of mismanagement and malfeasance by Travel Office director Billy Dale, who oversaw all accommodations and arrangements for White House reporters whenever they traveled with the president. His services ranged from providing favorite beverages to fixing customs problems, which endeared him and his staff to the White House press corps.

Dale’s attempt to plea-bargain the criminal charges also received little press coverage, and his subsequent trial was completely ignored until he was acquitted. The prosecution’s case against Dale, which offered evidence that over \$50,000 in Travel Office funds had been funneled to his personal bank account, went unreported. As Foster’s note suggested, many in the White House press corps had journalistic conflicts in covering the trial of a defendant from whom they had garnered past favors. A few, notably ABC News correspondent Sam

Donaldson, went so far as to volunteer their testimony as character witnesses at Dale's trial.

Yet the defensive tone of Foster's note suggests he may have realized that the Travel Office furor was not altogether unjustified. The office's seven career employees were dismissed with undue haste, unnecessary clumsiness, and an unbecoming disregard for their rights. And while the stated desire of low-level Clinton aides was to "reform" the Travel Office, that hardly concealed their own patently selfish motives. Moreover, White House lawyers and communications officials, led by presidential assistant George Stephanopoulos, had compounded the damage by publicly announcing the FBI investigation of the Travel Office in order to justify the firings.

As Washington scandals go, however, "Travelgate" was a minor affair, too minor to make Foster take his own life. Not all suicides have rational causes, particularly when the victim suffers from depression. Doubts were nevertheless aroused by the discovery of an odd coincidence: On the same day Vince Foster shot himself, the Little Rock office of the FBI obtained a search warrant for the premises of one David Hale, a local businessman and part-time municipal judge.

The Hale search warrant became an issue in the Foster investigation only long after the fact, because of sensational charges later leveled by Hale against Clinton, whom he accused of having "pressured" him into making an illicit \$300,000 loan to James and Susan McDougal in 1986. Those who drew a connection between Whitewater and Foster's death surmised that the deputy White House counsel, possessing intimate knowledge of the Clintons' tangled finances, feared whatever might be found in Hale's office. In sworn testimony before the Senate Whitewater committee, however, FBI officials testified that after investigating the matter, they "could find no reason to believe that there was information leaked with regard to the [Hale] search warrant." Nor did FBI agents ever find evidence to incriminate the Clintons in Hale's files. But that didn't mean there was no reason to worry about David Hale.

Far from the Washington Beltway, the Foster suicide also aroused the investigative and pecuniary instincts of professional Clinton antagonist Larry Nichols and his associate, Little Rock private detective

Larry Case. Unsurprisingly, they assumed the case was all about sex, specifically Foster's long-rumored love affair with Hillary Clinton.

This kind of sniping, as Webster Hubbell explained in his memoir *Friends in High Places*, came with the territory Hillary had staked out for herself in Arkansas. Because Hillary was the first female partner in the upper-crust Rose Law Firm, her close professional and personal relationships with Foster and Hubbell provoked resentment in the tightly knit community surrounding the Little Rock Country Club. The governor's wife was an inevitable focus of gossip, and everything she did provoked idle chatter. If Hubbell and Foster were sometimes said to be her lovers, at other moments her friendships with other professional women provoked speculation that Hillary was actually a lesbian.

Nobody who knew the painfully reserved Foster well ever gave any credence to his supposed liaison with Hillary. Certainly his widow, Lisa, didn't believe it. But the skeptics didn't include Case, a dubious figure in cowboy hat and gold chains, who saw an opportunity to get back into the lurid business of marketing Clinton sex scandals.

Now with their old quarry in the White House, Case and Nichols—a sometime radio jingle writer fired from a state agency when Clinton was governor—were still hoping to make their fortunes by ruining his reputation.

Nichols had a theory of his own about Foster's death. He told Case he had heard it from Michael Isikoff of the *Washington Post*, who called to ask him whether it was true that two White House officials were trying to muzzle Nichols about a tape recording he had made in 1990 of Rose Law Firm employees gossiping about Foster and Hillary. Even Nichols knew the tape was worthless.

"Whoever you talked to at the Rose Law Firm," Case asked, "did they name Vince Foster and Hillary?"

"Yeah, they did," Nichols said. "Named troopers that took them over there. But again, if [state trooper Larry] Patterson and those guys [in the Clintons' former security detail] don't talk, then it don't mean nothing...Isikoff, bless his heart, I was almost rude to him. I don't mean to be. But today, I just didn't need that shit. What Isikoff was telling me was that he knows for a fact from a senior White

House official that they're trying to cool me. Now who else are they calling and cooling off? And if so, why?"

A few days later, Nichols was feeling a bit more sanguine. He claimed to have pieced together the inside story from conversations with Isikoff and Jerry Seper, an investigative reporter for the right-wing *Washington Times*. According to Nichols, Foster had taken his life due to a mistaken belief that the *Washington Times* was about to publish a story about his alleged affair with Hillary Clinton. In truth, the Moonie newspaper had no such story in the works.

"I just feel bad for Vince," Nichols said. "That was a stupid thing to do when nothing was happening... Foster killed himself for nothing, and they went into all this damage control for a story that was never going to come."

FIVE

A Tainted Accuser – And His Far-Right Friends

When a squad of FBI agents burst into the offices of Capital Management Services in downtown Little Rock on July 21, 1993, and started carrying out boxes of files, their arrival ended several weeks of suspense for the company’s proprietor, David Hale. While sitting as a judge in the city’s municipal court, Hale had continued to operate several enterprises, the most lucrative being Capital Management, a private small business investment company (SBIC) that made loans backed by the U.S. Small Business Administration.

With SBA funding and a license obtained in 1979, Capital Management Services was originally chartered to lend to businesses owned by minorities and other “disadvantaged” entrepreneurs. Under the Reagan administration, however, those federal requirements had been loosened to the point where virtually anybody qualified for an SBA loan—a loophole Hale exploited to the fullest advantage.

Hale’s angle was a federally subsidized variation on the classic Mafia “bust-out” scheme. In collaboration with prominent political figures and others, he had loaned millions of federal dollars to more than a dozen dummy companies he secretly owned. Having no cash flow and no assets, his companies had then defaulted on the loans after Hale siphoned off all the money. The ultimate accounting would show that he had walked away with as much as \$3.4 million.

This kind of crude fraud could hardly continue undetected forever. (A rather obvious clue was that the dummy companies all listed the same address as Hale’s office.) By the end of 1992, Capital Management had drawn the scrutiny of SBA officials. Attempting to qualify for increased federal matching funds, Hale had confided

to an administrator at the agency's Washington headquarters that millions in noncash assets had been "donated" to the firm thanks to his political influence.

When the SBA proposed an audit, Hale attempted to withdraw his application, which aroused immediate suspicions. As soon as SBA investigators started poring over Hale's records, they found fraudulent entries everywhere they looked. Of 57 outstanding loans on Capital Management Services' books, thirteen had gone to dummy corporations controlled by Hale. Altogether, he'd advanced the phony companies about \$2.04 million.

Perhaps the most cynical aspect of Hale's scam was his exploitation of SBA matching funds. For every dollar of operating capital CMS came up with, the taxpayers kicked in three. Hale would finance a loan to one of his dummy companies, default on it, and then use the embezzled funds to generate more operating capital on a three-to-one basis. He repeated this pyramid scheme many times.

Hale also ran various real estate and insurance frauds to raise more operating capital. One of the SBA investigators later told Senate staffers that Hale's embezzlement scheme was the most brazen he'd encountered in his 25 years with the agency. The SBA's inspector general swiftly referred the case to the FBI. No later than May 1993, Hale knew that federal officials were taking a hard look at his operation.

The FBI's seizure of his records concluded a long and remarkable dual career for David Hale. Publicly, he was a pillar of the community; privately, he was an inveterate con artist. Though his record as a judge was undistinguished, Hale came from an old hill-country clan with a long history in state politics, and he had established himself in Little Rock at an early age.

Friendly and personable, a backslapper and glad-hander, he had pledged the right fraternity at the University of Arkansas; as a young businessman he had joined the Junior Chamber of Commerce, and he was elected national president of the Jaycees in 1974. Regardless of his family's strong Democratic background, Hale never allowed partisan loyalties to obstruct his personal interests. He carefully cultivated the powerful, Republicans and Democrats alike.

Hale was a longtime associate of Sheffield Nelson, the president's bitterest GOP rival. Many news reports would identify him as a Clinton appointee, but in fact Hale's judicial robes were bestowed upon him in 1981 by Governor Frank White, the Republican who had defeated Clinton's first bid for reelection the previous year. White signed a bill creating the judgeship for Hale, including an unusual provision that permitted him to run for election to the bench after his appointed term expired, a circumstance normally prohibited by the state constitution.

The entire scope of Hale's crimes, extending well beyond Capital Management, would not be revealed for years after the FBI raid. A few Arkansans had gotten a glimpse of Hale's true character prior to his well-publicized disgrace. Though he professed to be a devout and happily married Baptist, Hale had conducted a long-running illicit affair with his secretary. While romancing her, he managed to swindle her grandparents into signing over their family farm to him. They later sued the judge and won a \$486,000 judgment.

Years before Hale was caught, at least one business associate later accused of complicity in his crimes had made a trip to Washington at his own expense to warn SBA officials that Hale was corrupt. Unfortunately, those warnings were ignored. Also known as something of an eccentric, Hale was the only judge in Little Rock—his court handled misdemeanors and traffic cases—to have a bulletproof shield installed in front of the bench. Visitors were required to pass through not one but two metal detectors to enter his courtroom.

Hale would eventually proclaim on national television that he had once been a "close political friend" of Bill Clinton, at the same moment he accused the president of joining a felony conspiracy to defraud the United States government. Oddly, however, he had never donated significantly to any of Clinton's political campaigns. And the clearest indication of Hale's true loyalties was that in the raid's aftermath, he immediately turned for help to Clinton's most determined adversaries.

To "guide him through the jungle" of federal law enforcement, Hale hired defense attorney Randy Coleman, the partner of GOP gubernatorial candidate Sheffield Nelson's former campaign finance chairman. His new lawyer quickly ascertained from prosecutors that

Hale would soon face several felony counts for a multimillion-dollar fraud against the Small Business Administration. With a federal indictment only weeks away, Coleman placed a call to William Kennedy, an attorney in the White House counsel's office whom he had known in Little Rock.

During a brief conversation, Coleman outlined Hale's sudden legal difficulties and added that this "might pose some problems for our mutual clients." When Kennedy asked him to be more specific, Coleman mentioned that the Hale investigation was likely to include the president's Whitewater partners, James and Susan McDougal, who had received loans from Capital Management Services; also likely to be caught up in the case for the same reason was Arkansas governor Jim Guy Tucker. And because of the McDougal connection to Whitewater, Coleman hinted, the Clintons themselves might fall under suspicion.

When Kennedy asked what Coleman wanted him to do, the defense lawyer replied, "Well, I don't want you to do anything. I'm just trying to figure out where everybody is on this matter."

Two days later, Kennedy called back to learn more details. Coleman read off a list of certain Capital Management transactions that were under investigation, mentioning the \$300,000 loan to Susan McDougal. Would Hale allege any "face-to-face meetings"? Kennedy wanted to know. Taking this as a reference to Bill Clinton, Coleman said he would. Kennedy didn't press any further, and Coleman remarked that if Heidi Fleiss was the "madam to the stars," then David Hale was the "lender to the political elite in Arkansas." (There was some truth to this quip, except that Hale loaned much more to elite Republicans, including two former party chairmen, than to Democrats.) Thanking him for the "heads up," Kennedy said he might get back to Coleman, but never did.

As Coleman eventually admitted in Senate testimony, he hadn't phoned Bill Kennedy simply to chat about the Hale case. He had hoped to provoke the White House into a foolish overreaction, such as interfering with the investigation in an attempt to keep Hale quiet. "I thought if I just made a provocative phone call, who knows what might transpire? These folks over here'd shown a propensity to make an ill-advised phone call or two in times past in their travel

office situation, and I could just hope maybe it might happen again.”

No “ill-advised” action was taken by anyone in the White House, however, and Coleman entered into several weeks of fitful negotiations with the newly appointed U.S. Attorney in Little Rock. Paula Casey, an active Democrat and former law student of Bill Clinton’s, had just taken over the office from her Republican predecessor, Charles Banks. Coleman’s bargaining position never changed from their first meeting, and Casey found it unacceptable, not to mention audacious. In exchange for unspecified information about possible crimes by unnamed members of the “political elite of Arkansas,” Coleman said, his client should be allowed to plead guilty to a misdemeanor. That way he could retain his judicial position and law license, and stay out of jail, too.

Casey and her deputy, veteran federal prosecutor Fletcher Jackson, told Coleman that based on the evidence against Hale, they wouldn’t even consider a deal unless he agreed to plead guilty to a felony—and made a written “proffer,” in advance, of any incriminating information he possessed about others. The proffer would then be tested for its veracity before any deal was made. These conditions were simply standard law enforcement procedure in dealing with any criminal defendant, let alone a con man of Hale’s magnitude. As career Justice Department officials later testified, approving a lenient plea bargain without a proffer from Hale would have been the legal equivalent of “buying a pig in a poke.”

As Coleman’s jousting with Casey dragged on, the defense lawyer tried to create a written record that would support Hale’s demand for a special prosecutor. On September 15, he sent a blunt letter to Casey accusing her of withholding a plea agreement because of “the potential political sensitivity and fallout regarding the information which Mr. Hale could provide to the [U.S. Attorney’s] office.” He added vaguely that Hale’s information “would be of substantial assistance in investigating the banking and borrowing practices of... the elite political circles of the State of Arkansas, past and present.” He then asked Casey to step aside in favor of a special prosecutor.

Casey answered him by mail the following day. Hale’s veiled assertions posed no problem for her, she wrote, but his crimes were too serious to permit the free ride Coleman was demanding. Her

insistence that Hale plead guilty to at least one felony count had been repeatedly rejected by his lawyer. “Therefore, our plea negotiations are at an impasse,” she concluded.

In the absence of a reasonable plea bargain and a proffer of useful testimony, Casey and her associates moved forward. On September 23, the federal grand jury in Little Rock handed up a four-count felony indictment against Hale charging him with fraud against the U.S. government.

SIX

An Old Enemy From 'White Haven'

The friend whose counsel Hale relied upon most as he faced criminal indictment wasn't his attorney, but James "Justice Jim" Johnson—a diehard Arkansas segregationist, Ku Klux Klan-endorsed candidate for public office, and perennial Clinton nemesis. Although there was no indication that Hale shared Johnson's extreme political outlook, their relationship went back decades.

"I have known his family for three generations," Johnson once recalled. "His deceased brother John was one of my strongest supporters." They were so close, in fact, that during the tense summer of 1993, Hale went to live with the retired justice and his wife for a while at their farm, White Haven. From Johnson's point of view, "David was a young man who was in some trouble, and it was because of things that he did with Bill Clinton. We wanted to see to it that they were not able to cover that up." Telephone records show that during the months immediately following the FBI raid, Hale called Johnson's office more than 40 times.

It was under Johnson's tutelage that Hale finally made his "prefer" about Bill Clinton—not to the U.S. Attorney, but to a pair of Johnson political associates named Floyd Brown and David Bossie, from a Washington-based right-wing group called Citizens United, and then to the news media. "I told him that with the influence the Clinton Administration and their friends had in the Federal court system here in Arkansas, that the only chance he had to help himself and his country was to see that all the facts were made available to the major news outlets throughout the world. I helped him get that project in motion," Johnson boasted.

Later, Johnson tried to suggest that he hadn't contacted Hale until after he read about Hale's problems in the Arkansas newspapers, but in fact they had been in touch months earlier. He also spread misinformation about Hale's supposed relationship with Clinton.

"The Hale family," he told the ultraconservative *Washington Weekly*, "was a meaningful part of the Clinton Administration when [Clinton] was Governor of Arkansas. Clinton appointed David to a municipal judgeship." Both assertions were false. In fact, as a close observer of state politics and a Republican himself, Johnson surely knew that Hale was no friend of the Clintons. Not only were most of Hale's business associates prominent Republicans, but he had helped manage the campaign of Clinton's opponent, Jim Guy Tucker, in the bitter 1982 Democratic gubernatorial primary. Hard feelings persisted on both sides following that contest, to the point that Clinton and Tucker could scarcely speak of each other without snarling.

Sometime in August, Johnson called Bossie, his associate from the 1992 presidential campaign, at the Washington office of Citizens United—an ambitious far-right organization run by Bossie and Republican activist Floyd Brown—saying he had "a friend who was in trouble." He assured Bossie that Hale could implicate Clinton in his own financial misdeeds. Bossie promised Johnson he would call Hale, but he didn't have to. At Johnson's urging, Hale called Bossie instead within minutes.

For two hours, Bossie listened with mounting excitement as Hale recounted his tale of woe. He was being set up as "the fall guy" by the Clinton-appointed federal prosecutor, Paula Casey, because she didn't want to act on his accusations against the McDougals, Tucker, and Clinton. As governor, Hale claimed, Clinton had "pressured" him in early 1986 to make an illicit \$300,000 loan from Capital Management to a firm controlled by the McDougals called Master Marketing. The purpose of that loan, said Hale, was to "clean up" the Democratic "political family" in Little Rock, a reference to Clinton, the McDougals, and Tucker.

On the deal's other end, he continued, there was an inflated \$825,000 Madison Guaranty real estate loan provided by McDougal, which allowed Hale to pocket hundreds of thousands of dollars.

Later, Hale would embroider his story to include various colorful details of his alleged meetings with Clinton, including one on the steps of the Arkansas capitol and another in a trailer where McDougal kept an office, when they discussed the loan. He never would offer any specific dates, and the files seized from his office provided no support for his charges against Clinton.

Lack of documentation, however, didn't prevent Hale from telling people that such damning evidence had once existed. In several interviews given during the fall of 1993, the former judge claimed that he had formerly possessed documentary evidence proving Bill Clinton's participation in the bogus Master Marketing loan, but that federal investigators had stolen it.

"The file on the \$300,000 loan was three to four inches thick when the FBI took it," Hale eventually told an Associated Press reporter. "But when my attorney and I asked to see it a month or so later, the U.S. Attorney's office gave us maybe an inch of stuff." One of the supposedly purloined documents was a handwritten letter from Jim McDougal to Hale, promising that Bill Clinton would make good on the Master Marketing loan. Not that a letter from McDougal to Hale—both of whom would later be proven to have forged and altered scores of documents for their own benefit—would have established the truth of Hale's accusations. Interestingly, however, almost none of the reporters or political operatives to whom Hale told this improbable tale chose to share it with the public.

When Assistant U.S. Attorney Fletcher Jackson was deposed on the subject of Hale's purloined papers, he categorically denied ever seeing what he mocked as "the smoking gun letter," and expressed doubt that it ever existed. Hale had dispatched his attorney to Little Rock FBI headquarters to fetch a copy of the letter from the file in September 1993.

Asked if the lawyer had said why he wanted it, Jackson responded sardonically: "No, but hell, we both knew why he wanted the letter.... It was something that might support the position that [Hale] had been taking. 'The devil made me do all this. I was a victim of all these high-powered political types who forced me to give away all of the money, which left S.B.A. and me holding the bag.' "

Hale's account was further undermined by at least one more stark contradiction. Back in November 1989, FBI agents investigating the failure of Madison Guaranty had questioned Hale about his dealings with Jim and Susan McDougal, including the \$300,000 loan. According to the agents' official memorandum of that interview, Hale described in some detail his dealings with Jim Guy Tucker (then an attorney in private practice), both McDougals, and several others—but never mentioned Governor Bill Clinton. Nor did Clinton's name come up when Hale testified at McDougal's 1990 trial, which ended in an acquittal. Such exculpatory facts were routinely omitted from the news accounts of Hale's sensational allegations against the president.

Randy Coleman's defense strategy was to launch his client's story into print and onto the airwaves, even as he stubbornly rejected any compromise with Paula Casey. It appeared to many as if Coleman and his client—with the help of Brown, Bossie, and Johnson—wanted to create a public uproar concerning Whitewater, so they might bludgeon Casey into reconsidering a lenient plea bargain or force her off the case entirely.

Drawing national attention to Hale was difficult at first. When his indictment was announced, he dramatically related his story about Clinton and the McDougals to the *Arkansas Democrat-Gazette*, but the report that appeared in the Little Rock daily wasn't sufficiently pointed in its accusations to be picked up by any larger media outlets. At Sheffield Nelson's urging, however, Coleman already had taken his client to the most influential newspaper in the country, hoping that the *New York Times* would welcome a fresh angle on the Whitewater story it had broken the year before.

SEVEN

A ‘Totally Inappropriate’ Call To The FBI

About two weeks before Hale’s indictment was handed down, Coleman had contacted Jeff Gerth, the *Times* investigative reporter whose front-page article on Whitewater had caused a brief stir in March 1992. The lawyer had invited Gerth down to Little Rock to hear Hale’s account in person at his law office. Gerth accepted, and over the course of two days questioning Hale, became sufficiently convinced to ask him to go on the record. After hesitating for a few days, Hale agreed.

Yet when Gerth found and interviewed his old source Jim McDougal, the ailing recluse said he had no memory of talking about the \$300,000 loan with Hale and Clinton. Gerth got nothing useful from Casey or the Clinton White House, either. Stymied for the moment, he remained in touch regularly with Hale and Coleman, whose telephone records show almost two dozen calls to the *Times* reporter between September 19 and December 10. (Those records, of course, do not show the calls placed by Gerth to Hale and Coleman.)

During roughly that same period, from September 27 to December 21, Hale also made at least 28 calls to Jim Johnson. The *Times*’s national editors at first declined to publish unverified charges against the president by a man under indictment for embezzling federal money.

But in a display of solidarity with his new source, Gerth took some unusual steps to assist Hale and Coleman. He contacted an agent at the FBI’s office in Little Rock to report Hale’s story concerning Clinton and the \$300,000 loan. He also informed the FBI agent about the impasse that Coleman and Casey had reached

during their plea bargaining. In that conversation, it would appear that Gerth suggested to the FBI that Casey was unwilling to take testimony from Hale that might implicate Tucker and Clinton. The *Times* reporter later said, “I don’t remember speaking to the FBI guy, but maybe I did.”

After hanging up with Gerth, the FBI agent immediately posted a teletype from Little Rock to the FBI director’s office in Washington, which said in part: “Gerth alluded that this was why the United States Attorney Casey would not deal with Coleman when he was attempting to work out a suitable deal for his client.”

Later that day, Gerth also called Irv Nathan, associate deputy attorney general, at the Justice Department’s Washington headquarters. He told Nathan about Hale and Casey, prompting the Justice official to inform his superiors about Gerth’s tip. According to the reporter, who considered Nathan a friend, “I told him what Hale was alleging and asked what he knew, what his reaction was.” Nathan’s concern quickly led to a meeting of top Justice officials to consider whether Casey should recuse herself from the Hale case because of her relationships with Clinton, Tucker, and other Arkansas Democrats.

Among those participating in the Justice Department deliberations over Casey’s potential conflicts were John Keeney, the second-ranking official in the Criminal Division, and Gerald McDowell, the chief of the Frauds Section. Casey and her staff took the position that absent strong and persuasive evidence from Hale, she should not recuse, lest every white-collar criminal in Arkansas force special consideration by claiming that Bill Clinton had made them commit a felony.

Under the circumstances, however, Justice Department officials decided that Paula Casey should step aside, as she soon agreed to do. But they also resented what they viewed as underhanded methods used by Hale’s lawyer in attempting to coerce a favorable plea bargain. To McDowell, “it looked like Coleman was using Gerth to send messages to the FBI and the Department of Justice in Washington and telling them, giving them, in effect, proffers, but not in any useable form.” Both he and Keeney regarded this maneuver as “totally inappropriate.”

Even after Hale's indictment, Coleman continued to insist that his client wouldn't plead to a single felony count. He remained steadfast after Casey recused herself in early November and was replaced by Donald McKay, a career Washington prosecutor in the Frauds Section. Clearly, Coleman was no longer interested in dealing with the Justice Department, if he ever had been.

Hale's advisers were openly pushing for an independent counsel, and the surest way to achieve that was through the media, not the Justice Department or the courts. During the fall of 1993, Hale's telephone records show that in addition to his contacts with the *New York Times*, he called reporters at the *Washington Post*, *Time*, and *Newsweek*, as well as conservative publications such as the *Washington Times*, owned by Unification Church leader Sun Myung Moon, and rightwing media magnate Rupert Murdoch's new magazine, the *Weekly Standard*.

Although Gerth had a head start, the *Washington Post's* Michael Isikoff began chasing down Hale's allegations not long afterward. Someone aware of Isikoff's interest in Clinton and Whitewater had faxed the *Democrat-Gazette's* September 24 story about Hale's charges to him. Like Gerth, Isikoff interviewed Hale himself. Then he and his colleague Howard Schneider, assisted by Susan Schmidt, a reporter on the savings and loan beat, spent weeks trying to confirm Clinton's role in the \$300,000 loan. But all they got was a firm denial from Jim McDougal, which for the moment meant no story.

What broke through the earlier editorial misgivings about Hale was a fresh rivulet of leaks from the Resolution Trust Corporation. A new set of criminal referrals regarding Madison had arrived in Washington from L. Jean Lewis, the investigator whose work on the same case in 1992 had been regarded by the FBI and the U.S. attorney as politically motivated and shoddy. Word of the referrals reached Gerth, Isikoff, and other reporters in early October, and they worked to confirm them over the following weeks.

Ignoring the FBI's repeated attempts to persuade the RTC to investigate Arkansas thrift collapses ten and 20 times larger, Lewis and her boss, Richard Iorio, had worked on almost nothing but Madison Guaranty during the first year of the Clinton presidency. RTC time sheets showed that the Kansas City office devoted 2,608

hours to Madison in 1993; by contrast, it spent only 13 hours on the \$950 million First Federal Savings collapse. Lewis became particularly exercised after Paula Casey, citing analyses by Justice Department experts and former U.S. attorney Charles Banks, turned down her original 1992 referral for a second time.

On October 6, Lewis sent a peculiar e-mail message to Iorio. Completely unbidden, she wrote, *Washington Post* reporter Susan Schmidt had turned up on her doorstep. According to Lewis, she had heard Schmidt out, scolded her, and sent her away empty-handed.

Wrote Lewis, “My parting comment was ‘When you contacted me last Thursday I told you that I had no comment, and made every effort to be polite.... What you have done this evening is the most unprecedented breach of professional courtesy that I’ve ever witnessed, so I will say this one more time, and one more time only. Do not contact me again at my office, or my home. I have no comment on your investigation and will not answer any more of your comments. Do not waste any more of my time or yours.’”

Lewis added that the reporter had somehow gotten hold of her 1992 referral, and added a list of questions Schmidt had asked, including several about the late Vince Foster’s role in the Whitewater affair. Schmidt had asked if Lewis suspected a cover-up, and warned her that Jeff Gerth was back on the story. “I thanked her for the heads up,” Lewis concluded.

EIGHT

Another Watergate? Media Dreams And Frenzies

Susan Schmidt's article revealing the existence of the RTC criminal referral, involving the president and First Lady appeared on page A1 of the *Washington Post* on October 31. A similar story by Gerth followed in the *Times* a few days later. Within a week, RTC officials removed Lewis from the Madison probe and gave her another assignment. At most law enforcement agencies, passing out confidential financial documents to reporters would have constituted a firing offense, and could warrant criminal sanctions. Intense bureaucratic warfare over the leaks and related issues broke out inside the Kansas City office, a struggle that would eventually be resolved at the highest possible levels.

Among other things, Lewis' referrals charged that Madison Guaranty deposits had been illegally diverted to a Clinton campaign fund in 1986. The result was that reporters linked Hale's allegations to the RTC leaks, producing stories in both the *Post* and the *Times*. Schmidt's page A1 scoop resulted in her immediate transfer from the humdrum savings and loan beat to the paper's national staff, and then to a Whitewater "special project" team.

The *Times* and *Post* articles set off a competitive fray not only between the two major newspapers—reviving the old rivalry of the Watergate era—but at other papers and in the electronic media as well. Almost instantaneously, Hale was transformed from a recalcitrant embezzler into a credible source. Both newspapers downplayed his crimes, and their imitators did likewise. Gerth, having interceded with the Justice Department on Hale's behalf, now described him as "recently indicted on charges of misleading the Government about the condition of his lending company," an offense that sounded

technical and almost innocuous. What Hale stood accused of misleading the government about, of course, was his conversion of more than \$2 million in federal funds to his own uses.

The *Times* buried Gerth's first Hale story on an inside page, but Floyd Brown and David Bossie of Citizens United were still sufficiently encouraged to amplify Hale's voice wherever possible. The indicted judge appeared on a radio broadcast hosted by Brown for an "exclusive news-making interview" to air his accusations against the president. He told the same story in the November 1993 issue of Citizens United's *Clintonwatch* newsletter, in an article headlined "Clinton Fingered in Loan Coverup." Then Brown made certain that the newsletter showed up on the assignment desk of every news bureau in Washington.

Controlling access to Hale, plus additional materials provided by Sheffield Nelson and documents retrieved by Bossie, Citizens United suddenly became a central resource for every reporter assigned to Whitewater. In rapid succession, their version of the story was picked up by all of the nation's major media. Shepherding Hale through this sudden journalistic maelstrom was Bossie, who supervised his interviews and appearances.

On November 4, for example, Bossie arranged an on-camera session with Hale for NBC producer Ira Silverman at Coleman's office. According to Mike Narisi, the independent Little Rock cameraman hired to shoot the interview for Silverman, "Bossie greeted employees of the office by their first names and appeared to be well acquainted with Hale and Coleman before the taping of the interview began, was present throughout the interview, and prompted Hale during the videotaping."

The carefully coached Hale told NBC that federal prosecutors had brushed off his accusations against Clinton. "We want you to come over here and plead guilty and shut up," he claimed they had told him. That was a wholly false summary of the plea negotiations, but one that well suited the new objective of Hale and his allies: to promote the appointment of a Whitewater special prosecutor to investigate Bill and Hillary Clinton.

That same NBC interview, as Floyd Brown boasted later,

demonstrated Citizens United's influence in an even more dramatic fashion. Broadcast on November 11, 1993, it tied Whitewater to Vince Foster's suicide for the first time in the national media.

"Before his death in July," said anchor Tom Brokaw, "former White House lawyer Vince Foster also got involved [with] helping the Clintons sell their share of the [Whitewater] land company... Now questions are being raised about the growing Arkansas investigation and Foster's death.... That same day in Little Rock, a judge signed a search warrant for the FBI to raid David Hale's offices. White House officials insist that Foster could not have been tipped off about the impending raid."

Hale's appearance on a network broadcast, with its linkage of Whitewater and the Foster suicide, sent a collective frisson through the Washington press corps. A few weeks later, the *Washington Times* reported that White House counsel Bernard Nussbaum had moved the Clintons' personal legal files from Foster's office to their private living quarters a few days after his death, initiating a full-tilt media frenzy.

The transfer of the papers was of little significance. At the time of Foster's death, there was no Whitewater scandal. Nor had any investigative agency requested to see the files in connection with the probe into his suicide. Protected by lawyer-client privilege, they belonged to the Clintons. Although there had been some differences between Nussbaum and the Justice Department over the exact procedures for searching Foster's office on July 22, investigators were looking for a suicide note, not Whitewater tax returns. Had there been any reason to do so, examining the files would have required a subpoena from a federal judge. But none of the investigators, subsequent testimony showed, ever sought one.

In a December 26 editorial, the *New York Times* depicted the Clintons' possession of their own private papers, "presumptuously spirited from the office of the deputy White House counsel Vincent Foster, following Mr. Foster's suicide," as cause for profound suspicion. Much later, the *Post's* Michael Isikoff recalled the mood among the press corps during the period in an interview with PBS host Charlie Rose.

“Whitewater started to take off as an issue in December 1993,” he explained, “[with the news] that Whitewater documents were spirited out of Foster’s office in the hours after his death by White House aides.... No single allegation seemed more troubling than to somehow link Foster’s death to Whitewater. You know, is there any possibility that he was so worried about Whitewater that he killed himself because he was fearful about some damaging disclosure? Or is it even worse than that? Some people believe that Foster was murdered, even though there’s really no evidence for that.”

As they orchestrated Hale’s media offensive and played up the bogus connection to Foster’s suicide, Citizens United, Brown, and Bossie remained hidden in virtually every news account—often behind the phrase “independent sources.” After a thorough review of the 1993 Whitewater scandal explosion, the *Columbia Journalism Review* later concluded that the national media had regurgitated Citizens United’s “highly partisan” tips and interpretations “without identifying the group as the source of their information.” Not until months later was the role of Brown and Bossie revealed—and even then nobody noticed their Clinton-hating mentor, the old-time Arkansas segregationist leader Jim Johnson.

For his part, Johnson had no desire for his activities to become public. A shrewd political operative, he understood that given his past leadership of the White Citizens Council and political dalliances with the Klan, discretion served him better than notoriety. He continued to make discreet contacts for his friend Hale in the world of Washington conservatism—contacts with power and money who would prove very useful to Hale, and who would in turn find him very useful for their own purposes.

NINE

The Strange Secrets of Richard Mellon Scaife

On November 12, 1993, according to secret expense ledgers from the right-wing *American Spectator* magazine, an attorney named Stephen S. Boynton took a taxi from his home in Vienna, Virginia, to Washington National Airport and flew from there to Pittsburgh. Ten days earlier, David Hale's accusations about President Clinton's role in an illegal loan scheme had broken in the *Washington Post* and the *New York Times*. Only the previous evening, NBC Nightly News had explicitly linked Hale's allegations to the Vince Foster suicide, setting off a cascade of speculation in Washington newsrooms.

Traveling on confidential *Spectator* business, Boynton's destination was the Mellon Bank building downtown, and specifically the 39th floor offices of the Sarah Scaife and Carthage Foundations. That was where Richard Larry oversaw the charitable and educational interests of Richard Mellon Scaife, heir to the Mellon banking, oil, and steel fortune. Boynton knew Dick Larry well as a friend and fellow sportsman. ("We've fished together many times," Boynton would explain much later, without apparent irony.) That same evening, Boynton flew home to Virginia.

A few days later, Boynton took another flight, this time to Little Rock. In Arkansas, he had dinner with Parker Dozhier, owner of a fishing resort and bait shop on the shore of Lake Catherine, near Hot Springs, and a longtime acquaintance of David Hale. The disgraced judge had once rented an apartment in a downtown Little Rock apartment building that Dozhier managed.

On November 22, according to telephone records, Boynton received a call in Virginia from David Hale himself. That was the

first of a flurry of calls from Hale to the offices and homes of both Boynton and David W. Henderson, vice president and director of the *American Spectator* Educational Foundation. Simultaneously, Hale remained in almost daily telephone contact with Justice Jim Johnson.

With the support of Johnson and his associate Floyd Brown of Citizens United, an ambitious far-right organization, Hale had parlayed a multi-count indictment for fraud and embezzlement into national celebrity; a *New York Times* reporter had lobbied the Justice Department on his behalf; journalists representing the *Washington Post*, the *Wall Street Journal*, the *Washington Times*, and *NBC News* were hanging on his every word. Now, with Steve Boynton's help, Hale was about to find an even more powerful patron.

Boynton's trip to Pittsburgh paid off quickly. During the first week of December, the *American Spectator* Educational Foundation received a check from the Sarah Scaife Foundation for \$60,000. The letter accompanying the check, signed by Richard M. Scaife and dated December 2, 1993, said it represented the first payment toward a grant of \$120,000 approved by the foundation's trustees in response to an earlier request "and after various conversations with us."

Within days a second check arrived with a similar letter signed by Scaife—this time on the letterhead of the Carthage Foundation, another tax-exempt charitable entity controlled by the Pittsburgh billionaire and his aide Richard Larry. The check from Carthage was made out for \$200,000.

Richard Mellon Scaife had been among the first big donors to the *American Spectator* in 1971, and his foundations had consistently supported the magazine, granting millions more in the years since then. A somewhat reclusive man in his sixties, Scaife had made a rare public appearance at the 25th anniversary bash for the *Spectator* in 1992. Wherever he did show up, he was hard to miss—a tall, bulky man with white-blond hair and striking, bright-blue eyes. He liked *Spectator* editor-in-chief R. Emmett "Bob" Tyrrell's sassy attitude toward American liberalism, which Scaife had despised all his life.

By then the Mellon heir had been one of the most influential figures in American public life for almost 30 years, though he was little known beyond the elite his money had fostered. Unlike some

wealthy conservatives, notably the Coors beer dynasty, Scaife was more interested in influence than notoriety. Entire books had been published about the rise of the New Right with barely any mention of Scaife and his foundations, although since the early 1960s, when he gained control of much of his family's huge fortune, they had spent as much as \$300 million to steer the country toward his brand of hardcore conservatism.

Of all the foundations whose well-coordinated patronage built the infrastructure of the modern American right—with its myriad think tanks, academic institutes, media centers, legal advocacy organizations, training programs, fellowships, and endowments—none has been as generous for as long as those run by Scaife and his chief associate, Richard Larry.

Yet outside his hometown of Pittsburgh—where he was always newsworthy because of his estimated billion-dollar fortune, his Mellon heritage, and his ownership of the *Tribune-Review*, a local daily newspaper—Scaife rarely attracted press coverage until the Nineties. The secretaries who answered his office phone at the Mellon Bank building were always instructed to tell the few reporters who called that “Mr. Scaife doesn't give interviews.”

Aside from his philanthropies, most of Scaife's personal energy and money were devoted to newspapering, a passion he had acquired as a child. In 1969, he spent \$5 million to buy the *Tribune-Review*, a small daily serving suburban and rural areas south of Pittsburgh on which he spent many millions more to challenge the dominance of the mainstream *Pittsburgh Post-Gazette*. He quickly earned a reputation for using the paper to advance both his personal causes and his conservative ideology. His newspaper and his foundations both became instruments of the mission he adopted in 1993, which was to discredit and if possible destroy Bill Clinton.

Observing the 1992 campaign, Scaife developed an intense, almost obsessive enmity for Clinton. “He disliked Clinton's liberal politics and Clinton's cleverness at cloaking them in moderate and conservative-sounding policies,” said one longtime friend. “To him, Clinton was the embodiment of the Sixties antiwar leftist movement that is amoral through and through. He suspects Clinton was a serious drug abuser; thinks he's still a huge womanizer. He bought all

the stories, including the tabloid stories about Clinton having illegitimate children.” And like his old allies at the CIA, Scaife had the means to propagate them.

On December 2—the same day that Scaife sent the *Spectator* that \$60,000 check—Steve Boynton and Dave Henderson flew down to Little Rock to meet with David Hale. Twelve days later, the two men flew from Washington to Pittsburgh, and on the same day took a second flight from Pittsburgh to Little Rock, where they spent two nights and met with Hale again. In the meantime, they had paid Parker Dozhier a consulting fee of \$1,000—covered, along with all the costs of Boynton and Henderson’s travels to Pittsburgh and Little Rock, by the *American Spectator*.

Sometime during that same period, Boynton and Henderson attended a meeting at the downtown Washington law offices of Gibson, Dunn & Crutcher. Their host was Theodore B. Olson, senior partner at the prestigious law firm, a figure of considerable renown in conservative legal and political circles, and a close friend of *Spectator* editor Tyrrell. (Henderson later described Olson to Parker Dozhier as “an 800-pound gorilla.”)

Also present at the meeting, in addition to Boynton, Henderson, and Olson, were Olson’s law partner John A. Mintz, *American Spectator* publisher Ronald Burr, and Michael Horowitz, then a fellow at the Manhattan Institute, a conservative think tank also funded with Scaife largesse. According to one participant, the agenda focused on how the *Spectator*, using Scaife’s money, could best mount a series of probes into the Clintons and their alleged crimes in Arkansas. That day, Ted Olson agreed to join David Hale’s defense team.

The money flowing from Scaife, the meeting at Olson’s office, the recruitment of Dozhier, and the contacts with Hale represented the genesis of a covert operation that soon was known inside the *American Spectator* as “the Arkansas Project.” It would become a four-year, \$2.4 million attempt to gather intelligence leading to the political ruin of the president of the United States.

For Scaife, the Arkansas Project was but one of several ongoing anti-Clinton efforts that he subsidized. Although the gentlemanly billionaire lived in a sphere of ease and privilege that Jim Johnson

and Parker Dozhier could only imagine, he vehemently seconded their visceral fury toward Bill Clinton. More than once in the months to come, Scaife would tell friends and employees of his determination to “get that goddamn guy out of the White House.”

Apparently it never occurred to this odd assortment of political adventurers that a confidence man like Hale, already under indictment for embezzling more than \$2 million in taxpayer funds, might prove less than reliable. Nor did they seem fazed by the legal and ethical questions that might arise in using funds from nonprofit, tax-exempt entities to pursue partisan political goals. After all, the Arkansas Project wasn’t supposed to become public knowledge.

Praising Robert Fiske – Only To Bury Him

The national media debut of David Hale prompted a growing chorus of Clinton adversaries to demand the appointment of a special prosecutor to investigate Whitewater. The first was Senator Lauch Faircloth, a very conservative North Carolina Republican and member of the Senate Banking Committee, who wrote to Attorney General Janet Reno in November 1993 urging her to act immediately to remove David Hale from the clutches of Paula Casey, the U.S. attorney in Little Rock. Similar messages and press releases issued in rapid succession from other Republicans on Capitol Hill until, two days after New Year's 1994, Senate Republican leader Bob Dole publicly accused Reno of an unseemly delay.

“There are dozens of questions that need to be answered,” Dole said about Whitewater and Foster during a Sunday talk show appearance. “And I think it’s in the president’s interest,” he added, to support an independent investigation. As for Reno, Dole insisted she should move quickly, “for the sake of the integrity of the Attorney General’s office. She’s wasted a lot of time dragging her feet, and it’s time she moved and appointed an independent counsel.”

That same weekend, Clinton’s mother, Virginia Kelley, died after a long illness. The president was outraged that Dole, who was already mulling whether to challenge Clinton in 1996, would assault him at a moment of such profound grief. Rebuked publicly by Vice President Al Gore for his insensitivity, Dole nevertheless continued the attack for several days, not pausing even for the Kelley funeral in Little Rock. Although Clinton later accepted Dole’s private apology, resentment lingered.

Still, there were some in the White House who agreed with Dole's "advice," even if they doubted his motives and manners. The president's lawyers, however, were not among them: White House counsel Bernard Nussbaum, for one, vehemently opposed the naming of a special counsel, or independent counsel, to use the precise legal term. In fact, Nussbaum opposed independent counsels in general, partly because he felt that once appointed, they followed an inevitable institutional mandate to indict someone. Other close advisers and many Democrats on Capitol Hill felt just as strongly that pressure for an investigation would not abate—would in fact hinder any other business—until Reno did name a special prosecutor.

That pressure was rising not only among Congressional Republicans but at major media outlets, in particular the editorial pages of the *New York Times* and the *Washington Post*. It was another signal that both papers had invested their own prestige in the Whitewater probe. During November and December 1993, one accusatory article had followed another to the front pages of the nation's two most important newspapers, followed by indignant editorials bristling with rhetorical questions. Did Arkansas regulators scheme to keep Madison Guaranty S&L open? Did Whitewater losses cause the institution's failure? Did the Clintons corruptly benefit?

There was little or no evidence that any of these things had happened. Nevertheless, David Hale's accusations, combined with L. Jean Lewis's leaked second set of criminal referrals, contributed to an air of excited speculation. That the *Times* and *Post*'s Whitewater coverage coincided with the "Troopergate" story only served to heighten the sense that the press had the administration on the run.

The editorials in both papers took on a peremptory tone. Even the Clintons' possession of their own legal files following Vince Foster's suicide was portrayed as suspect. "It may be that there is nothing damaging or even embarrassing" in the Clintons' legal files, conceded the *New York Times* on December 23, 1993. "The White House's ongoing evasions over the past two years have left the impression that there's something untoward in those files. There is only one way to tell: Hand them over."

In early January 1994, the White House arranged to have the Clintons' Whitewater records subpoenaed by the Justice Department

in a manner calculated to make them available to investigators, but shield them from the press. The *Washington Post* reacted indignantly. “Someone said the other day that Washington may now have reached the state-of-the-art point of having a cover-up without a crime,” the paper’s editorial page mocked. The effect of the White House’s action was “to make it appear as if the Clintons have something to hide. White House cuteness is damaging the President and elevating interest in the Clintons’ Arkansas affairs far more than the ‘runaway prosecutor’ they are said to fear.”

Time magazine may have summed up the Washington press’s attitude best in a column by Michael Kramer, who wrote that since the president’s presumptive wrongdoing happened long ago in Arkansas, “even if the worst were proved—and no one yet knows what that is—the offense might not warrant impeachment.” Yet he wondered how it could be “that two respected lawyers like Bill and Hillary Clinton didn’t possess a paper trail capable of proving their innocence.”

Janet Reno, however, wanted no part of appointing an independent counsel, because to do so would eventually place her in an untenable position that could only harm her reputation. She explained why in a reply to Senator Faircloth on January 11, almost three months after he had first written to her. It would be pointless for the attorney general to name a special prosecutor to investigate the president. “Any such counsel appointed by me,” she wrote, “would not be regarded as truly independent.” And whoever was dissatisfied or dismayed by the prosecutor’s performance, including the president, would blame her. Reno’s observations were prescient, but by then the Republicans had no choice except a counsel appointed by her or no independent investigation at all.

The Republicans in Congress had brought this paradoxical situation upon themselves. Reacting angrily to the seven-year Iran-contra probe of the Reagan and Bush administrations by independent counsel Lawrence Walsh, as well as a host of lesser independent counsel probes, the Republican leadership in both houses had resisted reauthorization of the Independent Counsel Act, which had expired in 1992.

Many Republicans and some eminent legal scholars regarded

the statute not as a post-Watergate reform but as an unconstitutional monstrosity, cleverly designed by partisan Democrats to harass Republican administrations. In the 1988 case *Morrison v. Olson* (whose losing plaintiff was Theodore Olson), the Supreme Court had upheld the law—but not without a sharp rebuke from Antonin Scalia, the Court’s most respected conservative. Scalia blasted his colleagues for exposing the presidency to destruction by an unaccountable prosecutor. “The context of this statute,” Scalia had written, “is acrid with the smell of threatened impeachment.”

In what would become a classic dissenting opinion, he noted that “in the ten years since the institution of the independent counsel was established by law, there have been nine highly publicized investigations, a source of constant political damage to two administrations.” Senator Dole, who had been a virulent critic of both Walsh and the law that empowered the independent counsel, agreed. When that law expired, Dole had decided he didn’t want any more “political” indictments of public servants like his friend Caspar Weinberger, the former secretary of defense indicted by Walsh and then pardoned by President Bush.

Yet now, two years after they had shut down the mechanism for naming an independent counsel, the Republicans suddenly wanted one to investigate a Democratic president. Under the Independent Counsel Act, all appointments had been made by a Washington-based panel of three federal appellate judges: the Division to Appoint Independent Counsels, better known as the “Special Division.”

The Special Division’s purpose was to ensure that every prosecutor named would be seen as completely free of outside influence. After all, the aim of the independent counsel law was to create the perception as well as the reality of independence and integrity whenever high officials were suspected of criminality. But with the act no longer in force, the Special Division had gone dormant; the panel of three judges, left only with the power to supervise investigations already under way, no longer possessed the legal authority to name a new independent counsel. The Republicans had left no legal method for the appointment of a special prosecutor except action by the attorney general. This was the same situation that had obtained during Watergate, before the Independent Counsel Act was first signed into

law in 1978 by President Carter.

The president resolved the dispute within the White House on January 12—the day after Reno’s negative answer to Senator Faircloth. For all his skills, Clinton’s greatest political vulnerability arguably lay in his eagerness to compromise with his enemies. Evidently confident that an objective Whitewater probe would put the issue to rest, and sure of his ability to finesse tomorrow’s crisis as adroitly as today’s, Bill Clinton made the worst blunder of his presidency. While traveling in Eastern Europe, he asked the attorney general to name a Whitewater special counsel.

Despite her earlier resistance, Reno had thought such a request from Clinton might be coming, and had instructed her assistants to prepare a list of prospective appointees. Selecting Robert B. Fiske of New York from a roster that included some of the country’s most distinguished attorneys, she quickly reached agreement with Fiske on the investigation’s scope and his prerogatives, and announced his appointment on January 20.

Unpretentious and taciturn, the 63 year-old Fiske possessed every credential to make him an ideal choice to probe and, if necessary, prosecute a Democratic president and his associates. Though by then ensconced in a top Manhattan law firm, Davis, Polk & Wardwell, he had previously served as the United States attorney for the Southern District of New York, one of the most demanding posts in the Justice Department (and, years earlier, as an assistant prosecutor in the same office).

The consensus of Bob Fiske’s peers, including many of his opponents in court, was that he had done a very difficult job exceedingly well. Appointed US. attorney by President Ford and kept in office by President Carter, he had successfully prosecuted several highly sensitive white-collar and organized-crime cases—indicting an important Democratic labor leader and a top drug informant—without a whisper of partisanship or misconduct. During his tenure, the office had won convictions in almost every case prosecuted.

Politically Fiske was a moderate, Manhattan-style Republican; professionally he was a respected leader of the American Bar Association, the sort of civic-minded attorney regularly appointed to

commissions and committees by politicians of both parties. For a time, he had chaired the ABA's prestigious committee on nominees to the federal bench.

So when Reno named Fiske to investigate Whitewater, the junior Republican senator from his own state, Alfonse D'Amato, praised him as "uniquely qualified for this position . . . a man of uncompromising integrity... one of the most honorable and most skilled lawyers anywhere." Bob Dole, echoing his friend D'Amato, cautiously welcomed the selection of Fiske, noting that "people who know him think he is extremely well qualified [and he] is independent." Few objections were heard from any quarter.

At a press conference with Reno, Fiske vowed to resolve questions about Whitewater "as quickly as I can, consistent with doing the job right." In response to a reporter's question, he added, "I would certainly expect, before this investigation is over, [that] I would question both the president and the first lady, and it would be under oath." Fiske took an immediate leave of absence from Davis, Polk to begin staffing his new office.

By the end of June, only five months after his appointment as Whitewater independent counsel by the attorney general, Robert Fiske had thoroughly infuriated his fellow Republicans. Their disenchantment with him had started to grow as early as March, when he told Congressional leaders that any hearings on Whitewater ought to be postponed until he completed his investigation. He had issued subpoenas to presidential advisers George Stephanopoulos and Harold Ickes and Assistant Treasury Secretary Roger Altman, seeking to question them about their conduct concerning the Resolution Trust Corporation's investigation of Whitewater.

Among the matters Fiske intended to explore was whether Stephanopoulos had tried to reverse the appointment of Republican attorney Jay Stephens and his law firm, Pillsbury, Madison & Sutro, to prepare a report for the RTC about Madison Guaranty Savings and Loan, the Clintons, and other aspects of the alleged scandal.

Although Senate Republicans were eager to hold hearings about allegations that the White House had interfered with the probe or received an illicit warning about it, Fiske didn't want any of the

Clinton officials scheduled to appear before his grand jury to testify on Capitol Hill. If they obtained grants of congressional immunity, any chance to prosecute them later might be lost. Similar conflicts had virtually crippled the Iran-contra investigation run by Fiske's longtime friend and mentor Lawrence Walsh. Congressional immunity bestowed on Iran-contra witnesses had led to several criminal convictions, most notably Lt. Colonel Oliver North's, being overturned on appeal.

Led by Senator D'Amato, the ranking Republican on the Senate Banking Committee, the Senate minority pushed ahead anyway, intimidating enough Democrats into voting for hearings in mid-March. The resolution did promise that the Senate "would not interfere" with Fiske, adding specifically that no witnesses would be granted immunity. The House Banking Committee planned to hold its own limited inquiry in late July.

But this compromise didn't placate Fiske's increasingly irritable critics in the press, notable the *Wall Street Journal* editorial writers and *New York Times* op-ed columnist William Safire, both of whom had accused Fiske of complicity in a White House "cover-up." Possibly mindful of Fiske's moderate reputation, the *Wall Street Journal* editorial page—an entirely distinct operation from the paper's news pages in those days—had raised the specter of conflicts of interest between Fiske's law practice and his prosecutorial role.

"Mr. Fiske has taken a full leave of absence, which means something other than resignation," huffed a February editorial. "Davis Polk is a sprawling firm with sprawling clients.... Seems to us there's a potential for conflict of interest with practically the whole world.... When the special counsel gets around to learning something about Whitewater, he will discover its largest single transaction was a land deal with International Paper Co.," a Davis, Polk client. Even Fiske's successful negotiation of a plea agreement with David Hale around the same time won him no friends in the anti-Clinton camp, perhaps because he required Hale to accept not one but two felony counts.

Hysteria over the circumstances of Vince Foster's death was being fanned daily on talk radio that spring, the most notorious example being Rush Limbaugh's repetition of a rumor that "Vince Foster was murdered in an apartment owned by Hillary Clinton." Citing an

obscure investment newsletter as his source, Limbaugh contended that a fake crime scene had been fabricated at Fort Marcy Park.

A hitherto little-known reporter named Christopher Ruddy began an extended series of articles that was ultimately published in the Scaife-owned *Tribune-Review*, attempting to cast doubt on the findings of suicide. Encouraging the wild speculation about Foster, Senator Dole referred to his death as an “alleged suicide,” while Newt Gingrich also rejected the findings of the FBI and the Park Police, remarking ominously: “There’s a lot there that is weird.” The ranking Republican on the House Banking Committee, Representative Jim Leach of Iowa, whose staff had been consulting regularly with Floyd Brown and David Bossie, insisted that Foster’s death was somehow linked to Whitewater.

The cool, professional Fiske ignored his critics, proceeding expeditiously with investigations of both the Foster case and the RTC matter. On June 30, five months after his appointment, he released two reports. Regarding Foster, Fiske found that the late White House deputy counsel had “committed suicide by firing a bullet from a .38-caliber revolver into his mouth,” and that “there is no evidence to the contrary.” Furthermore, he “found no evidence that issues involving Whitewater” or the Clintons had led to Foster’s suicide. The true cause was Foster’s untreated clinical depression, which according to Fiske had been exacerbated by the harsh editorials about him in the *Wall Street Journal*.

As for whether White House aides had attempted to impede the RTC’s probe of Whitewater, Fiske concluded that “the evidence is insufficient to establish that anyone within the White House or the Department of the Treasury acted with the intent to corruptly influence an RTC investigation.” He would issue no indictments in either matter.

Appointing A Not-So-Independent Counsel

The special counsel's interim findings predictably outraged Clinton's critics, notably *Times* columnist William Safire, Floyd Brown, Republican leaders on Capitol Hill, and of course the *Journal's* editorial page editors. Not only was Robert Fiske coming to the wrong conclusions, he was moving much too fast.

By a curious coincidence, the president provided the means for retribution against Fiske on the same day that Fiske's reports were released, when he signed the newly reauthorized Independent Counsel Act that had been approved by the Senate and House several weeks earlier. With a Democrat in the White House, most Republicans had dropped their long-standing objections to the law.

And now Clinton heard no objection from Bernard Nussbaum, the White House counsel who had argued so strenuously in January against appointing a Whitewater special counsel, and denounced the institution of the independent counsel as biased and "evil." Nussbaum was gone, forced to resign months earlier over a spate of bad press resulting from his alleged interference with the investigation of Vince Foster's death. Clinton himself felt misgivings about the Independent Counsel Act, though he had long since committed to renewing it. As he put pen to paper in the Oval Office, he muttered, "I may be making a terrible mistake."

With his signature, the president returned the power to choose and supervise independent counsels to the Special Division, the panel of three federal appeals judges selected by William Rehnquist, the chief justice of the United States Supreme Court. Once appointed, an independent counsel ultimately answered to no one else,

regardless of his or her excesses—not even to the attorney general.

The final authority to apply disciplinary sanctions, including dismissal, rested with the Special Division. Judges served on the panel for two-year terms, after which they could be reappointed or replaced by the chief justice. In an era of scandal politics, few appointments were more critical than those of the judges who held the ultimate legal weapon of the independent counsel. It was a serious mistake indeed for any Democratic president to cede control over that lethal mechanism to Rehnquist, a committed Republican and conservative ideologue.

During his two decades on the high court, memories of the fierce battle over Rehnquist's original 1971 nomination to the Supreme Court had faded, although the chief justice hadn't changed much. He had come to Washington from a western extremist milieu, associated with Barry Goldwater and the John Birch Society, as had many of the lawyers in Nixon's White House and Justice Department, where Rehnquist had served as assistant attorney general. When he had clerked at the Supreme Court in the early Fifties, Rehnquist had composed a memorandum arguing for continued school segregation that later returned to haunt him. His spotty record at Justice, where he had approved covert army surveillance of antiwar protesters, became an issue in 1986, after President Reagan nominated him as chief justice. Reagan surely knew, as Nixon had, that Bill Rehnquist would faithfully reflect his own political disposition.

The chief justice fulfilled those expectations on many occasions, and he did so again when he kept the Special Division stacked with two Republican judges and one Democrat. Had he wanted to avoid the appearance of partisanship, the chief justice could have rotated the three positions so that no party had a majority of the three judges for more than two years at a time. But Rehnquist erred in the other direction, going so far as to appoint David Sentelle, a protégé of Senator Jesse Helms and former Republican Party chairman in North Carolina's Mecklenburg County, to preside over the Special Division in 1992, and then reappointing him to the same position again in 1994.

Few commentators seemed to notice at the time that Sentelle, who had risen so swiftly from a federal judgeship in 1985 to a seat

on the D.C. Circuit Court of Appeals only two years later, lacked the best credentials for such a sensitive political position. A loophole in the Independent Counsel Act permitted Rehnquist to appoint the relatively inexperienced and highly partisan Sentelle. The statute's pertinent clause clearly directed the chief justice, "in assigning judges or justices" to the Special Division, to give "priority" to "senior [i.e., semiretired] circuit judges and retired justices." But it didn't explicitly require him to appoint senior judges.

Sentelle's two colleagues on the panel fit that description: John Butzner, 76, a Lyndon Johnson appointee, and Joseph Sneed, 74, a Nixon appointee whose selection also presumably satisfied Rehnquist's implicit criteria. Like the chief justice himself, Sneed was a veteran of the Nixon Justice Department. A reliable conservative from Texas, Sneed had served as deputy attorney general, with broad responsibility for political and policy issues. Nixon trusted Sneed so much that early in the Watergate investigation—when then-Attorney General Richard Kleindienst recused himself from overseeing the probe—the president and his aides briefly considered asking Sneed, Kleindienst's deputy, to deal with the scandal. They discarded that idea because Sneed would have been seen as an obvious pawn of the White House. A few months later, in August 1973, Nixon named Sneed to the U.S. Court of Appeals' Ninth Circuit.

Neither Sneed, based in San Francisco, nor Butzner, whose chambers were in Richmond, Virginia, satisfied the law's sensible requirement that one of the three judges on the Special Division must come from the D.C. Circuit Court of Appeals, where the panel is headquartered. Sentelle's presence in the capital's federal courthouse was his sole visible qualification.

When Rehnquist first named Sentelle to head the Special Division in 1992, the North Carolina native was just 48 years old and had served only seven years on the bench. Widely regarded as one of the federal judiciary's most extreme conservatives, he was so enamored of the president who had first appointed him that he named one of his daughters Reagan. Though a competent attorney, he had earned his appointment after much political fundraising and campaigning for Reagan and Helms.

Even after his elevation to the U.S. appeals court, Sentelle

continued to write articles laced with strident partisanship, often couched in religious terms. In one 1991 article, Sentelle accused “leftist heretics” of scheming to turn the United States into “a collectivist, egalitarian, materialistic, race-conscious, hyper-secular, and socially permissive state.”

To choose such a figure to preside over the Special Division mocked the appearance of impartiality that the Independent Counsel Act was supposed to guarantee. Besides, there were at least a dozen judges in the D.C. circuit who were senior to Sentelle and thus better qualified to oversee the independent counsel. Some believed Rehnquist had selected him not because of any particular qualification, but to do exactly what would be expected of a conservative ideologue: that is, to engineer the appointment of reliable Republican lawyers to investigate Democratic officeholders.

First, however, Robert Fiske had to be removed.

From the moment that Fiske issued his findings about the Foster death and the RTC inquiries, Republican leaders and influential conservatives began maneuvering to eliminate him. William Safire, who had criticized Fiske early on for seeking to preserve his investigation from congressional interference, made a particularly blunt recommendation. Attacking Fiske’s interim report, Safire wrote that he “cheerfully sees no evil.... What’s with this non-independent counsel who helps Democrats avoid oversight? Find a way to get rid of him.”

The *Times* columnist was echoed by Floyd Brown and ten Republican members of Congress who wrote to the Special Division asking for Fiske to be replaced. On July 1, Attorney General Reno wrote to the panel with the opposite request, suggesting that the three judges officially name Fiske as independent counsel so that his probe could continue with their sanction. That same afternoon, however, Senator Faircloth gave a speech on the Senate floor, asking the Special Division to appoint “a new, truly independent counsel.”

The sequence of events that followed Faircloth’s speech left a permanent taint on the Whitewater investigation. In mid-July, he met with Judge Sentelle for a luncheon where they were joined by Sentelle’s political sponsor and Faircloth’s Senate colleague, Jesse Helms.

Both of the North Carolina senators would later insist that they had spoken of nothing related to Fiske or Whitewater, but had merely engaged in friendly chatter with Sentelle about old acquaintances, western-style clothing, and prostate problems. Eventually, however, Sentelle himself would admit in public testimony that the subject of a new independent counsel might have come up.

On August 5, the Special Division unanimously rejected Reno's request that Fiske be reappointed and instead chose Kenneth Starr to continue the Whitewater probe. Explaining its decision, the panel's order said that allowing Fiske to continue "would not be consistent with the purposes" of the Independent Counsel Act, "though this reflects no conclusion on the part of the Court that Fiske lacks either the actual independence or any other attribute necessary to the conclusion of the investigation.... It is not our intent to impugn the integrity of the Attorney General's appointee, but rather to reflect the intent of the Act that the [independent counsel] be protected against perceptions of conflict.... The Court therefore deems it in the best interest of the appearance of independence . . . that a person not affiliated with the incumbent administration be appointed."

It did not take long for the irony of these assertions to become obvious. Within two weeks, Sentelle's lunch with Helms and Faircloth was reported in the press, raising eyebrows even among observers who professed little sympathy for the White House (which prudently issued no statement on the matter).

In an editorial headlined "Mr. Starr's Duty to Resign," the *New York Times* recalled that in removing Fiske, the Special Division had cited "the need for the appearance, as well as the reality, of impartial justice." But, said the *Times*, "it is now clear that the chairman of that panel, Judge David Sentelle, violated the court's own standard for purity of appearances by meeting with a Senator eager to have the court dump Mr. Fiske as counsel," which the *Times* described as an example of "flamboyantly bad judgment."

Five former heads of the American Bar Association also publicly urged Starr to step aside. None of this appeared to faze Starr, who ignored the editorial's call for him to step down immediately, lest his sterling reputation be impaired. Nor did it trouble Sentelle, who knew he had nothing to fear from the *Times*'s advice to Rehnquist

that Sentelle ought to likewise stand aside or be replaced.

From the perspective of his fellow Republicans, Kenneth W. Starr must have seemed a nearly perfect choice as independent counsel. He was that rare combination of a deeply committed conservative and an esteemed stalwart of the bipartisan Washington establishment. As proclaimed years later by Sally Quinn of the *Washington Post*, that establishment's self-styled doyenne, Starr had long been included as a capital insider. The 48 year-old lawyer had started his career as a clerk for Warren Burger, then the chief justice of the United States; had gone on to work in the Reagan Justice Department; and had been named at a surprisingly early age to the U.S. Court of Appeals, without the slightest demurral from anyone. As President Bush's solicitor general he had managed to avoid arousing the ire of liberals and Democrats, to a point where some hardline conservatives regarded him as a bit "soft."

His reputation for reasonableness was matched by a mild, ingratiating manner that didn't quite conceal his intense ambition, but did set him apart from the cruder partisans on his end of the spectrum, who didn't get invited to Georgetown dinner parties. More importantly, Starr had earned the deference of the *Washington Post* when, as an appeals judge in 1987, he handed down a landmark First Amendment decision in a libel suit brought against the newspaper by a Mobil Oil executive. Among editors and executives at the *Post*, Bob Woodward was hardly alone in regarding that opinion as one of the most important moments in the paper's history, freeing it from inhibiting strictures on its tradition of aggressive investigative reporting, not to mention a multi-million-dollar jury verdict in favor of the plaintiff.

With his record of personal achievement and million-dollar salary, Starr had risen far from his rural Texas roots. His father had been a Church of Christ minister, renowned for severe interpretations of Scripture, and he had indoctrinated young Kenneth in Biblical inerrancy and the dangers of drinking, dancing, playing music, and other worldly distractions. (In those details, Starr's strict upbringing resembled the grimly devout youth of Paula Jones.) His religious background may help to account for Starr's almost mystical confidence in his own righteousness. "We really did feel like we were

special, like we were right and everybody else was wrong,” an old high school friend of Starr’s once explained to a reporter.

Politically, the Church of Christ elders gravitated toward the far right, particularly when Starr was growing up in the Fifties. After graduation he attended Harding College, a church-affiliated institution in Arkansas that barred black students and maintained ties to the John Birch Society. But after two years there, Starr grew restless and moved on to George Washington University, where he met his future wife, a Jewish woman from New York named Alice Mundell.

By the time of his appointment as independent counsel, Starr’s conservatism had taken on a more sophisticated, corporate tinge. His firm’s biggest clients were tobacco and auto companies seeking to minimize government regulation and avoid liability lawsuits, as well as the Republican National Committee and a host of wealthy right-wing foundations. Starr himself looked forward to a new Republican administration, as he told *Time* magazine, perhaps headed by his good friend from the Bush administration, former vice president Dan Quayle.

Relatively young and vigorous, Starr still hoped to serve on the U.S. Supreme Court someday. Living in suburban Virginia, he remained active in Republican politics, co-chairing the campaign of a GOP congressional candidate and quietly promoting himself as a potential nominee for the U.S. Senate in 1994.

He was, in short, a respectable figure, still known around Washington by the honorific “Judge Starr.” At the same time he was an ambitious partisan, whose powerful personal interest in bringing down the Clinton administration, preferably in time for the next election, was bolstered by an equally strong ideological hostility to Clinton’s policies. In his own brief public comment about his appointment, Starr expressed confidence in his own “complete fairness.” Then he announced that while serving as independent counsel, he intended to continue as a partner at Kirkland & Ellis, drawing a million-dollar salary from a firm involved in litigation against the federal government and as counsel to the president’s political adversaries.

The *New York Times* found Starr’s evident conflicts of interest objectionable, particularly his previous public advocacy on behalf

of Paula Jones, who was suing the president for sexual harassment. So did many Congressional Democrats, who bitterly protested the apparent influence peddling by Faircloth and Helms that had led to Starr's appointment. But as Justice Scalia's 1988 dissent had predicted, the independent counsel law left little recourse against such abuses. "An independent counsel is selected, and the scope of his or her authority prescribed, by a panel of judges. What if they are politically partisan, as judges have been known to be, and select a prosecutor antagonistic to the administration . . . ?" the conservative justice had asked prophetically. "There is no remedy for that, not even a political one."

TWELVE

Stirring Paranoia With False Prophets (And Real Profits)

As hard as he and his sponsors in the Arkansas Republican Party had worked to prevent it, the election of President William Jefferson Clinton turned out to be the best thing that ever happened to Larry Nichols. By then, his lawsuits against Clinton had been dismissed with prejudice by both state and federal courts. Peddling his tales of Clinton's lechery to the *Star* tabloid during the presidential primaries had netted Nichols a mere \$30,000. He and his fellow scandalmonger, Little Rock private eye Larry Case, had not only failed to realize their dreams of wealth and revenge during the 1992 general election campaign, but had ended up talking about changing sides and ratting out their Republican sponsors.

The Clinton presidency and its myriad controversies, however, provided Nichols with an opportunity far beyond any he had hitherto imagined. In early 1994, the former high school football star, rock musician, state bureaucrat, jingle writer, and small-time operator was poised to turn himself into a nationally known celebrity on the Clinton-hating talk radio circuit.

The immediate agencies of Nichols's good fortune were a California-based outfit called Citizens for Honest Government and the Reverend Jerry Falwell, the famous Baptist preacher and right-wing politico from Lynchburg, Virginia. Like many another organ of the political right—the *American Spectator* Educational Foundation, for example—the innocuous-sounding Citizens for Honest Government was registered with the IRS under Section 501 (c) (3) of the tax code as a nonprofit educational organization, theoretically nonpartisan, tax-exempt and free to solicit tax-deductible charitable contributions.

In practice, the new organization had two main purposes: to propagate the political and confessional nostrums of the extreme religious right, with which its founder and sole proprietor, Pat Matrisciana, was closely allied; and to promote and distribute videotapes produced by Jeremiah Films and Integrity Films, two for-profit corporate entities he owned.

As soldiers of fortune in that crusade, Pat Matrisciana and Larry Nichols were destined to do business. If Citizens for Honest Government was in the market for conspiracies involving Bill Clinton, Nichols had plenty to sell. They were introduced in late 1993 by a former *NBC News* cameraman named John Hillyer, who had been hired by Matrisciana to scout Arkansas for anti-Clinton material.

Nichols and Matrisciana's first joint venture was a thirty-minute video called *Circle of Power*. Distributed nationwide by Falwell's Liberty Alliance early in 1994, the video opens with Nichols sitting in a cozy parlor, wearing a red cardigan like Mister Rogers and earnestly telling of "countless people who mysteriously died" after running afoul of Clinton's political ambition. Few on the right had accepted independent counsel Robert Fiske's verdict that Vincent Foster had committed suicide for reasons that had nothing to do with his job at the White House.

"Fiske was appointed by Janet Reno at the suggestion of Bernard Nussbaum," Falwell told reporters, falsely. "It's like putting Hillary Clinton in there." Pat Robertson, Rush Limbaugh, and the editors of the *Wall Street Journal* had expressed similar doubts.

Taking Foster's death as a starting point, *Circle of Power* tied the president to a series of suicides, accidental deaths, and unsolved homicides. Few of these smears were original; most of the video's content was identical to a list appearing on an Internet Web site—"The Clinton Body Count: Coincidence or the Kiss of Death?"—run by an Indianapolis lawyer named Linda Thompson. Thompson had quit her one-year-old law practice in 1993 to run the American Justice Federation, a for-profit group that indulged in conspiracy theories and pro-gun agitprop through a shortwave radio program, a computer bulletin board, and sales of newsletters and videos.

Updated biweekly, by mid-1994 the list included thirty-four

names of Clinton-linked people the Web site said had died under suspicious circumstances, including four federal agents killed in the Branch Davidian shoot-out in Waco, Texas; four army crewmen who died in a helicopter crash in Germany; a Democratic campaign strategist who died of a heart attack; a friend of White House adviser Mack McLarty who perished in a ski accident; a seventy-two-year-old Little Rock lawyer who crashed a single-engine airplane on a foggy airstrip; and so forth.

Almost simultaneously with the release of the video—promoted on national TV as “Jerry Falwell Presents Bill Clinton’s *Circle of Power*”—former California Rep. William Dannemeyer sent an open letter to his former colleagues in the House of Representatives citing the list of mysterious deaths and demanding a congressional investigation.

But it was *The Clinton Chronicles*, Falwell and Matrisciana’s second, more ambitious production, that reached the widest audience after it was released that spring. Although Falwell denied subsidizing the scurrilous video, the financial records of Citizens for Honest Government proved that its production costs were underwritten by Falwell’s Liberty Alliance. Those same documents also showed that nearly every individual interviewed in what was ostensibly a work of documentary journalism was paid a substantial fee or royalty.

The Clinton Chronicles made Larry Nichols a star. Cinematically, the video resembled the anti-Communist films churned out at Arkansas’s Harding College during the Fifties and early Sixties, when the young Kenneth Starr matriculated there, with a pseudo-documentary format, a deep-voiced narrator warning of impending doom, and a musical score evocative of *Bride of Frankenstein*. As in those old movies about the totalitarian Communist conspiracy, the new video depicted the “Clinton machine” as achieving “absolute control” over the state of Arkansas and misusing that power for sinister purposes.

The video’s intellectual style would be familiar to any student of historian Richard Hofstadter’s classic essay, *The Paranoid Style in American Politics*. “The typical procedure of the higher paranoid scholarship is to start with . . . a careful accumulation of facts or at least of what appear to be facts and to marshal these facts toward an overwhelming proof of the particular conspiracy that is to be

established.”

Preceded by a notice that “all information in this video is documented and true,” the tape was narrated principally by Nichols and the ubiquitous Justice Jim Johnson. According to Johnson—a white-haired eminence identified only as a retired state supreme court judge—the evidence of Clinton’s crimes was “more credible than the evidence of 90 percent of the people who are confined on death row across America.”

The challenge facing Arkansas journalists was to find a single “true” or “documented” statement in *The Clinton Chronicles*. Veteran reporter Carrie Rengers drew the assignment of reviewing the Citizens for Honest Government opus for the resolutely Republican *Arkansas Democrat-Gazette*. (“Apparently,” she commented tartly, “honesty isn’t necessary in videos.”) She painstakingly debunked its most absurd assertions. Had Governor Clinton really failed to balance Arkansas’s state budget even once? In fact he had done so every year, because state law forbids deficit spending. Had he, as the video alleged, issued a full pardon to a political supporter named Dan Lasater who was convicted of giving cocaine to his acquaintances? Impossible, because Lasater pleaded guilty to a federal crime.

Had all the financial records of Clinton’s political campaigns mysteriously vanished? No, they were duly on file with the Pulaski County clerk and the Arkansas secretary of state. Had poultry mogul Don Tyson, of Tyson Foods, donated some \$700,000 to Clinton’s 1992 presidential campaign? Neither he nor his firm had donated a penny to the Democrat or his party in 1992. Had Tyson Foods received a low-interest \$10 million state loan which it failed to repay? Although a version of this fable also had appeared under Jeff Gerth’s byline on the front page of the *New York Times* (which ran a correction), the poultry giant had never borrowed a dime from the state of Arkansas. As far as Rengers could determine, the whole story was invented.

Unsurprisingly, the largest volume of fabrications in *The Clinton Chronicles* concerned the Arkansas Development Finance Authority (ADFA), the state agency from which Nichols had been fired in 1988. As presented by him, the ADFA’s purpose wasn’t to help Arkansas cities and businesses finance sewage projects, schools, and

industrial parks. Rather, it was designed to help Clinton's cronies loot the public treasury and launder billions in drug-smuggling profits—and to finance Clinton's out-of-state partying with loose women.

Again, every allegation that could be checked was phony. Contrary to Nichols, Hillary's former law partner Webb Hubbell had played no role in writing the ADFA's enabling legislation. His father-in-law's company P.O.M. (which manufactured parking meters, not hollow airplane nose cones for stashing cocaine) had once qualified for a \$2.8 million loan, but far from making no repayment, the firm had retired the debt on time.

The Clinton Chronicles asserted that the Rose Law Firm, where Hillary had been a partner, enjoyed a monopoly on ADFA businesses, and that the governor personally signed off on all ADFA loans. In reality, the *Democrat-Gazette* found, several Little Rock law firms competed vigorously for ADFA work; the governor's office played no active role in the agency's lending process. One of the video's silliest charges was that the ADFA had laundered \$100 million per month (or \$1.2 billion per year) in illicit cash. In the agency's nine-year existence, it had made loans totaling only \$1.7 billion.

These errors and falsehoods didn't discourage Falwell from promoting *The Clinton Chronicles* as if it were The Ten Commandments. For four successive weeks in May 1994, viewers of the Virginia evangelist's syndicated TV program, *The Old-Time Gospel Hour*, saw not sermons and spirituals but excerpts from *Circle of Power* and *The Clinton Chronicles*, along with a half-hour infomercial touting the videos for a donation of \$40 plus \$3 for shipping and handling.

A few of the more than two hundred TV stations that carried Falwell's program deemed the episodes political rather than religious, and refused to broadcast them without payment, but most showed them on schedule.

With President Clinton's popularity edging toward record lows during the spring and summer of 1994, *The Clinton Chronicles* became an underground sensation. Citizens for Honest Government would later claim sales of more than 150,000, with perhaps double that number of bootleg copies in circulation. The religious right's Council for National Policy bulk-ordered copies for all its members,

and Matrisciana sent tapes to all 435 members of Congress and to influential Washington journalists. Indiana congressman Dan Burton—a Foster conspiracy buff who achieved a degree of notoriety by conducting an amateur ballistics test in his backyard involving a .38 revolver and a watermelon—invited Larry Nichols to Washington and introduced him to like-minded House members. Evangelical churches, particularly across the South, showed the video during services. Conservative talk radio amplified its ominous message to an audience of millions.

Eventually, the president was forced to defend himself. He gave an interview to the *Minneapolis Star-Tribune* on April 8, 1994, complaining about the right-wing media. “There’s something that those of us who are Democrats have to contend with. The radical right have their own set of press organs. They make their own news and then try to force it into the mainstream media. We don’t have anything like that. We don’t have a *Washington Times*, or a Christian Broadcasting Network, or a Rush Limbaugh, any of that stuff.”

Interviewed in June on KMOX, a St. Louis radio station, Clinton complained again about the “constant, unremitting drumbeat of negativism.” A KMOX reporter asked Clinton if he was referring to the Reverend Jerry Falwell and *The Clinton Chronicles*. “Absolutely,” he said. “Look at who he’s talking to. I mean, does he make full disclosure to the American people of the backgrounds of the people that he has interviewed that have made these scurrilous and false charges against me? Of course not.”

Falwell responded by inviting the president to prove his innocence. He told the *New York Times* that Clinton should be angry not at him but at those who made the accusations. If Clinton were to “tape a personal and direct rebuttal” to the video indictment, the reverend promised to broadcast it unedited on The Old-Time Gospel Hour. Floyd Brown, author of *Slick Willie*, publisher of the *Clintonwatch* newsletter, and previous employer of the talents of Larry Nichols and Justice Jim Johnson, commented that the Clintons were very “thin-skinned.”

The president’s complaints caused a flurry of front-page stories in newspapers like the *New York Times* and the *Philadelphia Inquirer* that inevitably focused on the more sensational accusations, and

observed mildly that the videos offered no proof that Clinton was a drug-smuggling murderer. These articles provoked an oddly defensive editorial in the *Wall Street Journal* on July 20, 1994. While conceding that many of the accusations in *The Clinton Chronicles* made no sense, the *Journal* editors still insisted that “the Falwell tape and the controversy around it get at something important about the swirl of Arkansas rumors and the dilemma it presents a press that tries to be responsible. The ‘murder’ accusation, for example, is not made by Mr. Falwell or Mr. Nichols, but by Gary Parks, whose father was gunned down gangland style on a parkway near Little Rock last September.”

The elder Parks had run a private security firm that supplied guards outside Clinton’s Little Rock headquarters during the 1992 campaign. The anti-Clinton clique, including the *London Sunday Telegraph*’s Ambrose Evans-Pritchard, deduced that he had been killed because he knew too much about Clinton’s sex life. The *Journal* editorial acknowledged that there was no evidence, and speculated that “Jerry Parks had plenty of reason to have enemies, and his family may be overwrought.” That was how Little Rock police viewed the still unsolved crime. (Gary Parks eventually apologized for accusing Clinton in his father’s death and expressed regret about his involvement with the video.)

The *Journal* editors stipulated that they could not “for a minute imagine Bill Clinton knowingly involved, even tangentially, in plots of violence.” Yet even in criticizing Falwell, they published the names of several more putative Clinton “victims” previously listed in the British press. Then, chafing against the niggling constraints of responsible journalism, they went further.

Rumors about Clinton were “old news to any of the journalists covering Arkansas scandals, but few of us have shared any of this knowledge with readers. Finding no real evidence of a Clinton connection, and feeling that the President of the United States is entitled to a presumption of innocence, we decline, in the name of responsibility, to print what we’ve heard. And then it is left to less responsible sources to publish the first reports, and the disclosure of basic facts adds credibility to their sensational interpretation, especially among those losing trust in the mainstream press.”

The performance of the mainstream press did leave much to be desired as far as knowledgeable Arkansans were concerned. Highly influential articles about the president and his home state continued to appear in prominent publications with information that was scarcely more accurate, if less luridly presented, than *The Clinton Chronicles*. Taken together, they strengthened the Washington-press elite's impressions of Bill and Hillary Clinton's scandal-ridden past.

The *Journal* first betrayed its own impatience with journalistic restraint during a farcical episode that had occurred earlier in 1994. That incident, too, involved Larry Nichols, along with a writer named L. J. Davis. At issue was a cover story that ran in the April 4, 1994, issue of *The New Republic*. Headlined "The Name of Rose," it purported to be an expose of Arkansas's "colorful folkways" and corrupt political culture. With the venerable Washington magazine's imprimatur, Davis introduced the worldview of *The Clinton Chronicles* to an influential, sophisticated elite that would scoff at the Falwell videos.

His article, which had been rejected by Harper's magazine, sketched Arkansas state government as a "Third World" criminal conspiracy among Bill and Hillary Clinton, the Rose Law Firm, and Stephens, Inc. Assisted by "sinister Pakistanis" and "shadowy Indonesians," this cabal had looted the president's home state and now menaced the nation.

Considering that Larry Nichols and a Republican political consultant named Darrell Glascock were the writer's two primary sources, it was unsurprising that he erred so badly. (Some months after the Davis article appeared, Glascock copped a plea in a scam involving a fraudulent state purchase of 50,000 nonexistent U.S. flags, and gave testimony that sent his co-conspirator to jail for 17 years.)

Employing no fact checkers at the time, *The New Republic* was helpless against Nichols and Glascock's inventions. Two examples should suffice: "With the stroke of a pen and without visible second thought," Davis wrote, "then- Governor Clinton . . . gave life to two pieces of legislation inspired by his wife's boss [i.e., the Rose Law Firm]—revising the usury laws and permitting the formation of new bank holding companies." Supposedly by abolishing the constitutional 10 percent limit on interest rates, Clinton had enriched

Stephens, Inc., which owned Worthen Bank, then the state's largest. In return, Worthen had hired Hillary's law firm as its outside counsel, in exchange for which Clinton had made it "a major depository of the state's tax receipts." Next, Worthen had given the Clinton presidential campaign a \$3.5 million line of credit, and so on—much the same tale told in *The Clinton Chronicles*.

In reality, the usury law was changed not by Bill Clinton, but by a constitutional amendment enacted in the 1982 general election. It was placed on the ballot by the legislature, at the urging of Republican governor Frank White, a banker, and became law before Clinton became governor. Furthermore, Stephens, Inc., didn't own Worthen Bank either when the amendment was enacted or when Davis's article was written 12 years later. The Rose Law Firm had been Worthen's outside counsel for 50 years. And as Arkansas's largest bank, Worthen had been the major depository of state money since Bill Clinton was a little boy.

Davis's central premise was that Stephens, Inc., and the Stephens family had pocketed vast ill-gotten wealth through shady bond deals with the Clinton administration. As he put it, "The intimate connection between Rose, Stephens, Inc. and the Governor's office may help explain how the Stephens family made a huge amount of money when its most visible enterprises were doing no such thing."

Passing over the fact that the Stephens interests had bankrolled every GOP gubernatorial nominee (except the hated Sheffield Nelson) in recent Arkansas history, the notion that Clinton had made the family rich provoked helpless laughter in Little Rock. The value of Stephens, Inc., comprised just under seven percent of the Stephens family's \$1.7 billion net worth. Besides vast natural gas reserves in Arkansas and four western states, they owned huge soft coal reserves, banks, gas and electric utilities, newspapers, and scores of other concerns. During Clinton's tenure, Stephens, Inc.'s underwriting fees on Arkansas bonds came to less than 1 percent of the firm's total revenues.

But what really made L. J. Davis temporarily famous wasn't the *Wall Street Journal's* endorsement of his sinister view of Arkansas politics, but its account of an alleged act of violence against him. In covering Clinton, lamented *Journal* editors the week Davis's article

appeared, the “respectable press... has shown little or no appetite for publishing anything about sex or violence,” a taboo they would no longer observe.

On the evening of February 13, the same editorial recounted, Davis “was returning to his room in Little Rock’s Legacy Motel about 6:30 after an interview. . . . The last thing he remembers is putting his key in the door, and the next thing he remembers is waking up face down on the floor, with his arm twisted under his body and a big lump on his head above his left ear. The room door was shut and locked. Nothing was missing except four ‘significant’ pages of his notebook that included a list of his sources in Little Rock.... Mr. Davis says his doctor found his injury inconsistent with a fall, and that he’d been ‘struck a massive blow above the left ear with a blunt object.’”

The *Journal* concluded that Arkansas was “a congenitally violent place, full of colorful characters with stories to tell, axes to grind, and secrets of their own to protect.” In this climate, the editors concluded, “the respectable press is spending too much time adjudicating what the reader has a right to know, and too little time with the old spirit of ‘stop the presses.’”

The near-martyrdom of Davis fit perfectly with the Foster “murder” and *The Clinton Chronicles* death list. Rush Limbaugh and his imitators on right-wing talk radio professed shock and horror. Rumors spread among the Washington press corps that the phones in Little Rock’s Capital Hotel, owned by the Stephens interests, were bugged, and that Bill Clinton employed thugs and gumshoes to shadow reporters in Arkansas.

Oddly, L. J. Davis himself soon discovered that the crucial four pages weren’t missing from his notebook after all, merely torn and wrinkled. Still, the *Democrat-Gazette*, alarmed that a colleague had been assaulted in downtown Little Rock, sent reporters out looking for the perpetrator. They didn’t take long to find a suspect.

According to Legacy Hotel records, the assailant appeared to be a half-dozen straight gin martinis. During the same four hours that Davis reported having spent facedown on his hotel-room floor, he’d actually been seated upright on a barstool. Hotel officials showed a

copy of his bar tab to Little Rock police, and the bartender distinctly remembered refusing Davis a seventh drink.

The writer denied drinking more than his usual ration of martinis, although he didn't specify how many that was. "I might have been a little happy, but so what?" he told reporters. "I have never made any charge about that, and why am I going to call the cops if I don't know what happened?"

THIRTEEN

A \$100,000 Windfall – And A \$9 Million Myth

The Stephens interests were not the only important economic power in Arkansas to draw attention from the scandal-seeking national press. Among the state’s largest and most controversial enterprises was the poultry industry, dominated by Tyson Foods.

It was perhaps inevitable that Tyson became a hot topic when, in January 1994, editors of the *New York Times* convened an unusual meeting of the paper’s entire investigative staff to advance the Whitewater story. Like their counterparts at the *Washington Post*—indeed, like many national journalists—the *Times* editors thought they might be on to another Watergate, and they didn’t want to be beaten this time.

Among Jeff Gerth’s previously unexplored leads was an off-hand remark by Jim McDougal about profitable commodity futures trading by Hillary Clinton. Returning to Arkansas, he and his colleagues soon found Robert “Red” Bone, the trader who had handled Hillary’s account at the behest of a corporate attorney named James Blair. And Blair, whose wife, Diane, happened to be one of Hillary’s oldest personal friends, had later gone to work for Tyson.

The *Times* reporters uncovered considerable detail about Hillary’s trading, which had over time netted a profit of about \$100,000 on a marginal investment of \$1,000. But the initial article about her trading was played on the *New York Times* front page on March 18, 1994, partly due to an erroneous suspicion about Blair’s motives for helping Hillary. His client Tyson Foods, Gerth wrote, had benefited “from a variety of state actions, including \$9 million in government loans.”

In fact, those alleged loans were imaginary. Arkansas had no state loan program for Fortune 500 companies, and more than a month later the *Times* conceded in a published correction that there were no such loans to Tyson. Rather, it said, Tyson had enjoyed \$7 million in state income tax credits — investment incentives available to every corporation, as the correction failed to mention. By then, the fictitious \$9 million loan had been featured in scores of accusatory editorials and columns.

Handled judiciously, the cattle futures story need not have done the Clintons much harm. In essence, they had been done a favor by a shrewd friend who had little to gain apart from something he already had: the new governor's ear. Stung and defensive, however, Hillary Clinton instructed her White House spokesperson to claim that while Jim Blair had indeed given her tips, she had done most of the trading herself, based upon her study of the *Wall Street Journal*.

That claim, as reporters quickly determined, was not well supported by the evidence. Blair had done most of the successful trading. Mrs. Clinton had briefly managed a second commodities account on her own, but without much success. Had she not gotten uneasy and quit trading before the cattle futures market plummeted, she might have ended up along with Blair and several others in federal court, suing the broker who had failed to make timely margin calls until their losses had become ruinous. Still her explanation, which she withdrew weeks later, was at best a half-truth and at worst a falsehood. There was less to the commodities story than the sensational coverage implied, but the First Lady's foolish attempt to mislead permanently injured her credibility.

As governor, her husband's relationship with Tyson Foods was more troubled than chummy. In 1980 and 1982, the firm's CEO, Don Tyson, had supported Republican Frank White. The Clinton administration's ongoing conflict with the potent poultry lobby had been one of the two or three most persistent stories in Arkansas politics during his tenure. Few governors set out to alienate themselves permanently from their state's largest private employer and fastest-growing industry, but Clinton and the chicken growers had repeatedly found themselves at odds over such mundane but critical issues as highway truck weight limits, waste disposal, water quality

standards, sales taxes on animal feed, and corporate income taxes to support community colleges.

Some battles Clinton won, and sometimes the poultry lobby defeated him; most often they cobbled together legislative compromises. But when Michael Kelly came to Arkansas in 1994 to write a Clinton profile for the *New York Times Magazine*, all that complicated history yielded to the need for melodrama. Populist voters who thought they were choosing reform, he wrote, invariably ended up being defrauded by politicians who were wholly owned by a handful of cynical corporate tycoons. Clinton emerged in this account as the quintessential product of a corrupt system.

According to Kelly, Clinton's first major gift to the poultry giant was supposed to have been the increase in highway truck weight limits to eighty thousand pounds in 1983 (a full five years after Hillary Clinton's commodities trades). He mentioned that Clinton had linked the weight increase to a "tonmile" tax hike on eighteen-wheel truck trailers. But he didn't note that Arkansas was the last of the fifty states to accede to the eighty-thousand-pound standard, leaving its shippers at a disadvantage.

Pursuing the Tyson connection, Kelly also recounted a dispute over tainted groundwater in an Ozarks community. The state had reacted passively, he wrote, after "the sewage system in the town of Green Forest, which had been for years overloaded by Tyson-produced animal waste, dumped so much sewage into Dry Creek that a giant sinkhole formed," polluting local wells. (Kelly did not mention that the accident had taken place during Governor Frank White's tenure.)

Although Clinton declared a "disaster emergency" within months of assuming the governor's office again in 1983, Kelly noted, "the state failed to levy any fines against the company or to sue it for damages."

True, but woefully incomplete. Until Clinton pushed environmental legislation through a recalcitrant legislature in 1985, the Arkansas Department of Pollution Control and Ecology had no power to levy fines or file lawsuits. Passed in reaction to the Green Forest incident, the new law could not be made retroactive to 1983.

Town officials also bore considerable blame for failing to upgrade the town's sewage treatment facilities, as they had promised to do when Tyson Foods proposed to build a processing plant there. Any fair account of the subsequent lawsuit against Tyson Foods and the city of Green Forest, filed in federal court by a citizens group, also would have noted that Arkansas state officials testified on behalf of the plaintiffs.

Kelly's skewed account of the relationship between Clinton and Tyson was a perfect example of "naive cynicism," in which a reporter remains naively ignorant of basic information while cynically assuming the prevalence of corruption.

In a joint letter to the *New York Times* Magazine, both of Arkansas's senators made a similar point. Democrats Dale Bumpers and David Pryor, both former governors, explained that in a one-party state, the chief executive "must form a new coalition on each issue. The resulting bartering and negotiations may look slick to the unpracticed eye, but the novice should try it before judging... In his twelve years as Governor, the President alienated every large interest group in the state at one time or another: utilities, timber, building contractors, the Chamber of Commerce, the Arkansas Medical Society, the Education Association, the poultry industry, the Farm Bureau, the National Rifle Association," and so on.

But this complex reality wouldn't have supported Kelly's own darkly simplistic conclusions about Clinton's character, shared by many of his Washington colleagues, which in turn justified the gathering momentum of scandal coverage during that spring and summer. Tyson Foods and Stephens, Inc., were merely outsized props in a political morality play that was to have a long and profitable run in the national media.

FOURTEEN

Newt Gingrich's Contract – On The Clintons

The frenetic efforts of the Arkansas Project took on a greater political salience when the Republicans gained control of Congress in 1995. Newt Gingrich, the incoming Speaker of the House, had warned before the midterm election that he planned to use “subpoena power” to wage war against the White House. In a private speech to business lobbyists at the Capitol Hill Club, he envisioned as many as 20 congressional committees simultaneously investigating the Democratic administration, which he called “the enemy of normal Americans.” The new chairmen of the House and Senate Banking Committees both announced that they intended to resume investigating the Clintons under the rubric of Whitewater.

This power shift immediately enhanced the influence of Floyd Brown and David Bossie, the Citizens United duo who had served as the early impresarios of Whitewater. “People who answer our phone calls now have ‘Chairman’ before their names,” Brown bragged to *The Nation* magazine, which described him as “elated by the prospect of a swarm of subpoenas flying off Capitol Hill toward 1600 Pennsylvania Avenue.” Brown said he was urging the new congressional leadership to “reopen the probe into the death of White House counsel Vince Foster...”

Brown and Bossie had remained in close contact with Justice Jim Johnson and the Spectator’s team while cultivating members and staff on Capitol Hill who might make use of the Arkansas Project. The Senate Banking Committee, with jurisdiction over the revived Whitewater investigation, had several receptive members, including its new chairman, Alfonse D’Amato, and the implacable North Carolina conservative Lauch Faircloth (who hired Bossie as a full-time

committee aide in 1996).

Whitewater also topped the agenda of the House Banking Committee, taken over by ranking Republican James Leach of Iowa. Leach had a reputation for fairness and moderate, almost liberal, politics, making him an unlikely ally of Clinton's enemies. But the Iowan had been close to President Bush and strongly disliked the man who had displaced him; almost from the beginning, he had adopted Whitewater as a personal crusade. (His zeal may also have been encouraged by the growing power of the religious right in his home state's Republican Party. During the 1992 Iowa GOP caucuses, delegates loyal to the Christian Coalition had controlled forty-two of forty-six precincts.)

As early as March 1994, Leach had declared on the House floor that "Whitewater is about the arrogance of power," accusing Clinton of "Machiavellian machinations of a single party government" that had virtually caused the entire savings and loan crisis. He compared Bill Clinton's Arkansas to Huey Long's Louisiana. The basis for that and other Leach speeches had been furnished by Citizens United, with information tunneled from David Bossie to Leach's press secretary, Joe Pinder. And Pinder, worried that his respectable boss would be tainted by proximity to those disreputable right-wingers, took care to keep his relationship with Bossie a secret. They never left their full names in phone messages, and met to exchange information in restaurants far from the Capitol.

Unsurprisingly then, the press releases handed to reporters by Pinder were virtually indistinguishable from Citizens United materials. A "preliminary briefing" prepared by Pinder in August 1995 for the committee hearings starred L. Jean Lewis, the Resolution Trust Corporation investigator who would testify about "events that suggest an effort by RTC Washington and highly placed political appointees at the Department of Justice to suppress or at least control her criminal referrals" regarding Madison Guaranty.

Featured in villainous supporting roles were Hillary Clinton; Beverly Bassett Schaffer, the former Arkansas securities commissioner who allegedly helped Madison at Hillary's behest; and an RTC attorney named April Breslaw, who Lewis claimed had tried to kill the Madison probe in February 1994 (and whom Lewis had

“accidentally” taped during a meeting in her office).

Around the same time, Citizens United distributed a “Whitewater’s Most Wanted” poster with caricatures of Bassett Schaffer (over the phrase “AT LARGE” in red) and Breslaw (“RTC FLUNKY”). Over the protest of committee Democrats, Leach had decided to call none of these women to dispute Lewis’s accusations, nor any of the relevant officials from the Arkansas Securities Commission or the Federal Home Loan Bank Board whose testimony would contradict Lewis. Along with Bassett Schaffer and Breslaw, the First Lady would be tried publicly in absentia.

The most important media outlets in Washington continued to play up the burgeoning scandal. Led by the *New York Times*’s Jeff Gerth and the *Washington Post*’s Susan Schmidt, both recipients of the November 1993 leaks of L. Jean Lewis’s criminal referrals, the press overwhelmingly took the Citizens United line in previewing the upcoming House hearings. Doing so required some real creativity.

With the hearing scheduled to begin on Monday, August 8, GOP staffers made a preemptive leak late on the previous Friday afternoon. Anticipating that Democrats would attack Lewis’s motives, they released a number of documents damaging, if not downright devastating, to her credibility.

Among them were former U.S. Attorney Charles Banks’s letter refusing to pursue her allegations against the Clintons on the basis of weak evidence and political bias, and internal FBI cables and Justice Department appraisals that concluded: “No facts can be identified to support the designation of President Bill Clinton [or] Hillary Rodham Clinton . . . as material witnesses to the allegations made in the criminal referral.”

The Associated Press distributed a story quoting and summarizing those documents over the weekend. The *New York Times*, however, did not. No mention of their existence ever appeared in the newspaper of record. The broadcast media, including the major TV networks, as usual followed the Times. The *Washington Post* buried a brief version of the AP story on an inside page.

Burying exculpatory material about Whitewater was becoming routine. On June 26, *Wall Street Journal* reporter Ellen Joan Pollock

had published details of a preliminary report prepared for the RTC by the San Francisco law firm of Pillsbury, Madison & Sutro. So closely was the firm identified with its principal Washington partner, Jay Stephens, the former U.S. Attorney for the District of Columbia during the Reagan and Bush administrations, that White House aide George Stephanopoulos had bitterly protested its selection to probe the Clintons' Whitewater investment. But the Pillsbury Report's preliminary findings could hardly have been more favorable to the White House.

"A long-awaited report on the collapse of Madison Guaranty Savings & Loan," reported the *Journal*, "corroborates most of President and Mrs. Clinton's assertions about their Whitewater real estate investment." Specifically, Pollock wrote, the Pillsbury Report "shows that the Clintons were passive investors in Whitewater Development Corp. and weren't involved in its financial transactions until 1986 [when state and federal regulators removed Jim McDougal from control of the institution].... That is significant because of allegations that funds transferred from Madison to Whitewater before 1986 contributed to the thrift's collapse."

The Pillsbury report also verified the amount lost by the Clintons on their investment with McDougal—just over \$43,000. To any reporter who took the time to read it carefully, the report's 143-page history of the Whitewater Development Corporation (with 768 footnotes) completely refuted the conventional wisdom. Without the Clintons' knowledge, their deranged partner had looted their investment.

"More and more," the Pillsbury Report's narrative noted, "the McDougals lacked the money to pay their personal debts, so increasingly they transferred money between entities they owned or controlled to cover their obligations to third persons." One of those entities was Whitewater. But few reporters did read the report, and those who did managed to ignore McDougal's chicanery. By the time the *New York Times* got around to the report weeks later, reporters Jeff Gerth and Stephen Engelberg told readers that the Pillsbury Report's real significance was that the Clintons had failed to pay "their half of Whitewater's losses." That Jim McDougal had deceived his partners did not strike the *Times* as worth reporting.

The House hearings that began on August 8, 1995, hardly lived up to their advance billing. In his opening remarks, Leach portrayed Jean Lewis as the protagonist of “an uplifting and indeed heroic story of middle Americans, public servants in obscure government agencies who refused to be cowed by the power structure.” And as predicted on page A1 of that morning’s *New York Times* by Jeff Gerth, Lewis made sweeping charges of a conspiracy to “obstruct” her Madison probe at the highest levels of government. When asked by Democrats to identify any of these obstructive officials by name, however, she couldn’t. She also failed to provide any evidence that Whitewater had helped to sink the ailing thrift. The “obstructions” turned out to be two delays, of one and two weeks respectively, by RTC and Department of Justice lawyers examining her referrals.

When the tape of her recorded conversation with RTC lawyer April Breslaw was played aloud, it became obvious that Lewis had significantly misconstrued their conversation. During her prepared testimony, Lewis had stated boldly: “It is clear that Ms. Breslaw was there to deliver a message that, quote, The people at the top would like to be able to say Whitewater did not cause a loss to Madison, close quote. Of course, Whitewater did cause a financial loss to Madison, and Madison’s failure cost the American taxpayer millions of dollars.”

But Lewis, it turned out, did not accurately recount Breslaw’s words. First, the statement attributed to the RTC lawyer simply did not appear in her tape-recorded remarks. What she had in fact confided to Lewis was a bureaucratic truism: If they could do so honestly, the RTC’s top officials would be relieved to be left out of a high-stakes political probe. Even so, the tape also showed Breslaw pressing Lewis for definitive evidence that Whitewater had helped sink Madison Guaranty. Despite her categorical statements to that effect, Lewis provided none. Nor, it turned out, had she troubled herself to read the RTC’s own Pillsbury Report, dated four months earlier.

None of these weaknesses in her testimony appeared in the pages of the *Times* or the *Washington Post*—where Susan Schmidt reported that “Lewis gave a detailed description of how [her] investigation . . . was thwarted by [RTC] and Justice Department officials after

Bill Clinton was elected president.” Schmidt was the reporter whom Lewis claimed to have banished empty-handed from her doorstep in November 1993. Only the *Wall Street Journal* reported that FBI and Justice documents belied Lewis’s allegations and noted that Lewis “didn’t seem wholly credible... [and] struck many as ready to draw the most incriminating conclusions from ambiguous circumstances.”

Two days later, Leach reversed himself and allowed April Breslaw to testify. Expressing shock at her treatment by Lewis and Leach, the RTC attorney pointed out that she couldn’t have tried to quash the Whitewater probe, which by the time she and Lewis had spoken in February 1994 was already in the hands of independent counsel Robert Fiske. To his credit, the chairman apologized for tarring Breslaw without first listening to her side of the story. Leach wasn’t as kind to Beverly Bassett Schaffer, who was never permitted to testify in the House despite Democratic protests.

Alfonse D'Amato's Ethical Crusade

The burden of promoting the “Clinton scandals” on Capitol Hill eventually fell to the Senate Banking Committee, chaired by Alfonse D’Amato. The notion of the ethically tarnished junior senator from New York leading a clean-government crusade against the president struck many as an absurdity.

Al D’Amato had endured a lengthy and still-secret investigation by the Senate Ethics Committee in 1991 before escaping with a mere reprimand for allowing his lobbyist brother Armand to misuse his Senate office. (Armand had been indicted and convicted of fraud and conspiracy in a related matter involving a crooked defense contractor, only to have his conviction overturned on appeal.)

The ethics probe had covered many additional accusations against D’Amato, involving alleged misuse of his office and illicit fund-raising. Literally dozens of the senator’s friends and associates had cited the Fifth Amendment and refused to testify before the committee. After his reprimand, he had refused to unseal his executive-session testimony before the Ethics Committee, which couldn’t release it without his permission under Senate rules. Without the least embarrassment, D’Amato would demand “full disclosure” from the White House—while falsely claiming that his own Ethics testimony was “classified,” as he put it in his 1995 memoir, *Power, Pasta and Politics*.

After 15 years in office, the New York senator was best known for his many and varied ethical transgressions, which had won him the title “Senator Sleaze.” D’Amato had once appeared as a character witness for a Mafia-connected Long Island disco owner who raised

money for his first Senate campaign. He had twice approached Rudolph Giuliani, then the United States attorney for Manhattan, seeking leniency for Mafia gangsters then represented by Roy Cohn, the late and highly controversial Republican attorney who had been a close D'Amato friend. Many times he had sought campaign contributions from the businesses whose interests he assiduously served, prompting the *New Republic* to give him another nickname: "Senator Shakedown."

There was an old D'Amato scandal, from his first Senate campaign in 1980, that closely paralleled the Whitewater accusations about Clinton getting favors from Madison Guaranty. For years, as a town official on Long Island, D'Amato had placed public funds in interest-free accounts in a local bank (a practice investigated and harshly criticized by a Nassau County grand jury). When he ran for the Senate, D'Amato had turned to the same bank for loans that totaled more than a million dollars—and had gotten the money on very soft terms, at an interest rate below prime.

Episodes like that typified D'Amato's career. There were so many that few observers could recall them all in detail. The impression he had left was clear enough, however. Many New Yorkers found it hard not to laugh when D'Amato railed against the ethics of the Clintons, and many Republicans wished that some other senator could lead the Whitewater investigation. But Bill Clinton's luck held firm when Al D'Amato insisted on his prerogative to delve into Whitewater as the Banking Committee chairman.

The Senate Whitewater hearings opened with a flourish on July 18, 1995, with Alaska Republican Frank Murkowski upending Vince Foster's empty briefcase—duly sent over for use as a stage prop by the Office of Independent Counsel—to dramatize the senator's view that there had been something terribly suspicious about the belated discovery of the White House aide's torn suicide note several days after his death. Starr's own reinvestigation of his predecessor Robert Fiske's finding that Foster had killed himself due to clinical depression was then almost a year old, with no end in sight.

Despite that dramatic beginning, D'Amato's hearings soon settled into a predictable pattern: Amid the glare of TV lights and the clicking of camera shutters, one Republican senator or another would

level broad charges of corruption and cover-up against the Clintons and their allies, in Arkansas, the White House, or both. Reporters for the *New York Times*, the *Washington Post*, and their followers at the TV networks would gravely repeat each accusation, warning of shocking evidence to come. Subsequent testimony would either fail to support or actually disprove the damning charge. Accusers would then either harangue the witnesses for testifying falsely, or pretend that the point had been proved and move on.

Led by *Times* columnist William Safire, media commentary followed this same pattern with utter regularity. Safire notched numerous false predictions, most notably a January 1996 column declaring Hillary Clinton a “congenital liar” who would soon be indicted for perjury. Senator Christopher Dodd, the Connecticut Democrat, captured the mood of the hearings precisely. “If you get a witness who says, ‘Oh, I don’t recall,’” Dodd said, “the immediate accusation is ‘You’re being disingenuous.’ If you have witnesses with conflicting testimony, the allegation is ‘Someone’s lying.’ And if you have witnesses that have consistent statements, ‘It’s a conspiracy.’”

The committee Republicans devoted weeks to probing the Clintons’ allegedly incriminating possession of their own financial records. During the first months of the new administration, Vince Foster had done the job of putting the president and first lady’s assets into a blind trust. A few days after his suicide, their tax returns (including Whitewater records) were returned to the Clintons pending their selection of a private attorney. At Hillary’s instructions, her chief of staff, Maggie Williams, had stored the documents temporarily in a closet in the upstairs living quarters at the White House. Five days later, they were sent to Robert Barnett, a Washington attorney who represented the Clintons.

Even the fact that there simply was no Whitewater investigation on July 20, 1993, and hence no reason to hide the files, failed to deter suspicion.

Protected by lawyer-client privilege, the files in Foster’s office couldn’t have been examined without a subpoena from a federal judge who believed there was “probable cause” that evidence bearing directly upon his death would be found in them. No investigator who testified to the Senate had ever considered seeking such a

subpoena.

At the Senate hearings, Republicans accused a succession of White House aides of stripping Foster's office of incriminating Whitewater evidence and conspiring to lie about it under oath. The scheme was allegedly coordinated by Hillary Clinton via telephone from her mother's home in Little Rock, and carried out by Maggie Williams, Hillary's friend Susan Thomases, and White House counsel Bernard Nussbaum. A July 24 column by Safire alleged that a White House lawyer named Steve Neuwirth "told congressional investigators that Susan Thomases, Hillary's confidante, told Nussbaum that the Clintons wanted the search [of Foster's office] strictly limited."

Neuwirth opened his Senate testimony on August 3 with a prepared statement explaining that the information in Satire's column was categorically false. He read aloud questions and answers from his deposition, in which he had explicitly denied the premise of a question implying any knowledge of what Hillary Clinton or Susan Thomases wanted. He explained that every lawyer in the White House was concerned about how to balance the legitimate interests of law enforcement, lawyer-client privilege, and the institution of the presidency. In a time of tremendous grief and confusion, Hillary Clinton's views had never been consulted. Neither Safire nor Susan Schmidt, whose byline appeared on a similarly themed news article in the *Washington Post*, ever corrected themselves.

During his testimony on August 9, former White House counsel Bernard Nussbaum attacked the very premises of the Senate hearings. With no precedent to follow, Nussbaum had made himself responsible for sorting through the contents of Vince Foster's office in the presence of investigators from the Park Police and the Justice Department. In so doing, he had missed noticing the torn-up note in the bottom of Foster's briefcase, which bitterly expressed the dead man's lament that in Washington, "ruining people is considered a sport." Although none of the witnesses believed that he had done anything unethical, Justice Department officials had warned Nussbaum that suspicious minds could misconstrue his actions.

Nussbaum, however, insisted that "what prompted these hearings is something different. It is the unfair linking of two separate, disparate events. The first event involved the transfer, in July 1993,

of personal files—including a Whitewater file—to the Clintons’ personal attorneys following Vince’s death, a transfer which was totally proper and, indeed, known to Justice Department officials. The second separate, disparate event involves the emergence in the fall of 1993 of the Whitewater investigations and the resulting media frenzy. Linking these two events is illogical, unwarranted and unfair. They are totally unrelated.”

Senator Richard Shelby, an Alabama Republican, was not persuaded. He compared Nussbaum’s actions to “the fox guarding the henhouse.” Shelby scolded the former counsel: “You did it your way and the American people will never really know what was in there.... You didn’t want the people to know, including the Justice Department of the United States of America.”

Another southern politician who generated lots of accusatory sound bites during the Whitewater hearings was Lauch Faircloth. The North Carolina Republican lavished particular attention upon Maggie Williams, then Mrs. Clinton’s chief of staff. He found it incredible that Williams could have forgotten the details of a two-year-old phone conversation with the first lady, someone she spoke with several times each day. Faircloth scoffed at Williams’ tearful denials, buttressed by two lie detector tests—including one administered by the Office of Independent Counsel—that she had removed a stack of files from Vince Foster’s office during the hours immediately after his body was found in Fort Marcy Park. Her testimony was contradicted by a career Secret Service agent who swore that he had seen her take the files, although he could not be certain of the exact date. (Williams had admittedly transferred the files after investigators finished with Foster’s office.)

With David Bossie whispering frequently in his ear, Faircloth was equally scathing toward Susan Thomases, who had exchanged a number of phone calls with the first lady and Bernard Nussbaum on the morning after Foster died. He openly mocked her protestations that she and Hillary were sharing their grief, consoling each other, and discussing funeral arrangements. At one point, Faircloth read aloud from a media account quoting James Carville to the effect that “Susan Thomases has the juice,” meaning strong influence.

“And then we go back to the calls to Bernie Nussbaum,”

Faircloth drawled. “I mean call, call, call, call, call, call. And you were discussing the weather, his general feelings, politeness, niceness, and all of a sudden you spill the juice, according to you. You no longer had it. Is that right?”

Thomas tersely said that was correct. She hadn’t discussed the search of Foster’s office with the First Lady, and didn’t know what Hillary Clinton’s opinion was.

By the time the Senate Whitewater hearings went into summer recess, opinion surveys showed that whatever the level of suspicion among the Washington press corps, the public didn’t share it. A Louis Harris poll released on August 13 showed that only one in four adults who had followed the Congressional probes thought less of President and Mrs. Clinton as a result. Just eight percent of Democrats thought Whitewater a damaging issue, compared with 35 percent of Republicans. D’Amato’s investigation appeared to be getting nowhere, and very slowly.

Possibly it was frustration over his committee’s inability to deliver that caused D’Amato to throw in temporarily with the Vince Foster conspiracy theorists. The senator probably didn’t realize that he had stumbled into yet another Larry Nichols production.

By 1995, Nichols and his friends at Citizens for Honest Government were busily seeking another vehicle to follow upon the success of *The Clinton Chronicles* and its sequels. After Nichols signed a contract to pay Arkansas state troopers Larry Patterson and Roger Perry a flat \$1-per-video royalty for a new project tentatively titled Nichols vs. Clinton, the trio began searching their memories for important (and potentially marketable) revelations.

The first bombshell they came up with involved Vince Foster’s death, still quite a popular subject on the talk-radio and Clinton-conspiracy circuits. It debuted April 9, 1995, in the *London Sunday Telegraph* under the byline of Ambrose Evans-Pritchard. The White House, his startling article alleged, had falsified both the time and place of Foster’s demise. According to the troopers, a young woman named Helen Dickey had telephoned the governor’s mansion in Little Rock at 6:00 P.M. on July 20, 1993, to inform Governor Jim Guy Tucker of the terrible news. Roger Perry had been on duty in

the guard shack and had taken the call.

At the very least, Evans-Pritchard extrapolated, that meant somebody in the White House had known about Foster's death hours before the Park Police had relayed the bad news to the Secret Service at 8:20 P.M. (Little Rock is in the central time zone, one hour behind Washington.) Even more ominously, it appeared that Foster's body had been moved. Helen Dickey, recalled Perry, "was kind of hysterical, crying, real upset. She told me that 'Vince got off work, went to his car in the parking lot, and shot himself in the head.'"

Perry's account was confirmed by his friend and fellow trooper Larry Patterson, whom he had phoned at home immediately after taking Dickey's call. The chain of corroboration extended to Lynn Davis, whom Patterson said he had called the same evening. Davis was an attorney and former trooper who, along with Cliff Jackson, had negotiated payments from Chicago financier (and Gingrich cronny) Peter W. Smith at the time of the Troopergate episode.

Oddly, Davis, Patterson, and Perry all had neglected to mention Dickey's suspicious phone call to David Brock of the *American Spectator* or Bill Rempel of the *Los Angeles Times* back in the summer and fall of 1993, just after it allegedly happened. This discrepancy did not prevent the excited Evans-Pritchard from drawing dire conclusions. "Dickey, a former nanny to Chelsea Clinton," the Sunday Telegraph explained, "is a member of the tight-knit 'Arkansas Group.' She refused to answer queries about the alleged call to the Governor's Mansion.... If the White House received an early warning about Foster's death, why would it have been covered up? One explanation is that a tip-off would have provided a window of time for pre-emptive moves."

Already the Internet was abuzz with fanciful conspiracy scenarios. Letters and faxes began to pour into the offices of senators on the Whitewater committee. By August, columnist John Crudele of the *New York Post* took it upon himself to offer D'Amato some advice on how to revive the flagging Whitewater hearings by bringing the troopers to Washington: "Perry telling his story, followed by [Arkansas first lady] Betty Tucker confirming it, followed by Helen Dickey explaining the call, would make a great closing act to an otherwise tedious melodrama." Next the *Wall Street Journal* editorial

page, stung by the Fiske Report's endorsement of the lament in Foster's suicide note that "WSJ editors lie without consequence," seized upon the trooper tale.

In a September 13 interview with WCBS radio in New York City, D'Amato vowed to get to the bottom of the Foster case. His Whitewater committee, the chairman announced, planned to subpoena Helen Dickey. Echoing Newt Gingrich, D'Amato insinuated that Foster had been murdered. "It's impossible for that gun to be found in his hand after the discharge," the senator said. "It would have been kicked back and the gun would have jumped out. Yet here it is in his hand by his body. How do you explain that?"

The White House released a sworn affidavit from Helen Dickey to the effect that she had, indeed, phoned Little Rock and spoken briefly with trooper Perry on the night of Vince Foster's death—except that the call had been made after 10:00 P.M., three hours later than the troopers claimed. Nor had she mentioned anything about any White House parking lot.

Almost as if on cue, independent counsel Kenneth Starr sent FBI agents to search Fort Marcy Park with metal detectors for the third time. The OIC made sure that reporters and TV cameras went with them. The inability of investigators to locate the bullet that killed Foster was another "unanswered question" that much impressed conspiracy buffs, although little knowledge of the range and velocity of a .38 revolver was required to know that the chances of finding it had never been good. Starr was merely grandstanding.

Star Witness Faints At Hearing – And Nobody Notices

The second round of Senate Whitewater hearings, which began in November 1995, went very much like the first. Armed with detailed telephone records, the Republicans took another pass at Maggie Williams and Susan Thomases. According to a detailed chart dutifully printed by the *New York Times*, the two women, Hillary Clinton, and Bernard Nussbaum had exchanged some 43 phone calls between the discovery of Vince Foster's body and the searching of his office, although many were clearly taken by answering machines.

"It's difficult to believe," D'Amato said, "[that] all of these calls were the result of touching, feeling, holding." Senator Faircloth denounced Williams' and Thomases' testimony—both had professed inability to remember in detail many of the calls—as “an insult to this committee.” Suspicions, however, aren't evidence—and the hearings produced none of the latter.

By late November, the stage was set for the triumphal return to Washington of L. Jean Lewis. Given her incoherent performance several months earlier before Representative Jim Leach's House Whitewater committee—where her misquotation and mischaracterization of her own tape-recorded conversations with an RTC attorney named April Breslaw had been disclosed—the Republican senators were courting disaster by asking her back.

To anyone familiar with her previous testimony, Lewis's opening statement on November 29 was remarkable. Seemingly undaunted by her previous experience, she told almost precisely the same story in virtually the same words. Waving the flag of her military upbringing, she recounted how RTC lawyers had “obstructed” her

Whitewater investigation for seven long days. (One RTC attorney, Democrats later forced Lewis to admit, had delayed her probe by pointing out the futility of seeking an indictment against a Madison Guaranty official who had died some years earlier.) She complained that Clinton-appointed U.S. Attorney Paula Casey had stalled two entire weeks before rejecting her criminal referral naming the Clintons—as she put it, “in direct conflict with information I had received from the Justice Department in Washington.”

Once again Lewis charged that RTC attorney April Breslaw had visited her office “to deliver the message that ‘the people at the top would like to be able to say that Whitewater did not cause a loss to Madison’”—the same inaccurate quote that Lewis had unpersuasively relied upon during her House testimony. Once again, she stated bluntly that the Whitewater project had caused a loss to Madison and that the Clintons had earned illicit profits, statements for which she had provided no evidence, nor ever would.

“But if the committee wants to know what President Clinton and the First Lady knew about the corrupt activities resulting in losses to Madison,” she smirked, “why not invite the Clintons to testify as I am today and have in the past? Why not invite them directly?”

Perhaps unbeknownst to Jean Lewis, both Clintons had already answered detailed written interrogatories from RTC investigators, under oath. The White House had released those answers to the press back when the House and Senate hearings opened in August 1995. The Clintons had also testified under oath about Whitewater to the Office of Independent Counsel.

Subsequent testimony revealed that there were many things about the Whitewater investigation that L. Jean Lewis didn’t know. She didn’t know, Lewis swore, that Little Rock U.S. attorney Chuck Banks had rejected her 1992 referral. She didn’t know that the Justice Department and FBI had exchanged letters and telex reports debunking her evidence, and pointing out her ignorance of the law and her political motives. She didn’t know, although the details had been reported by the *Wall Street Journal* and the Associated Press months earlier.

Unfortunately for Lewis, Senate Democrats had a few nasty

tricks waiting for her. Her political bias and her high-handed treatment of her colleagues had not gone unnoticed in the RTC's Kansas City office. More than a year earlier, a two-week preliminary inquiry into Lewis's conduct had resulted in her being placed on administrative leave pending an investigation by the RTC inspector general.

Among the charges forwarded to Washington were improper handling and disclosure of confidential financial documents, secret tape-recording of her colleagues, and frequent use of her government office for personal gain. Her supervisor, Richard Iorio, was charged with failing to take action regarding her leaks, allowing her to take Madison Guaranty documents home and thus hide them from RTC lawyers, condoning her surreptitious recordings, and helping her defy orders to investigate larger thrift failures to keep working on Madison.

One of Kenneth Starr's little-noticed first acts as independent counsel had been to assume control of the RTC investigation of L. Jean Lewis and turn it against her supervisors. At the same time, Starr's law firm, Kirkland & Ellis, was negotiating a highly sensitive legal settlement with the very same RTC officials Starr proposed to investigate.

Ironically, the settlement had involved Kirkland & Ellis's long-time representation of a bankrupt thrift in Colorado. Considering that the three judges of the Special Division had removed Robert Fiske as independent counsel on the grounds that his law firm had represented a timber company that once sold a piece of land to Jim McDougal, Starr's behavior seemed almost reckless. Yet no one noticed his extraordinary conflict of interest until much later, an early sign that Starr would exercise with impunity great liberties as independent counsel.

The Senate Democrats, however, had done their homework with regard to L. Jean Lewis. Hardly had she finished her prepared remarks at the November 29 hearing when minority counsel Richard Ben-Veniste confronted her with Little Rock FBI agent Steven Irons' contemporaneous notes showing that—contrary to her sworn deposition—she had begun pushing him to act upon her 1992 referral only days after filing it. Lewis had also made what the agent called “very dramatic” statements about altering history. There had been

similar testimony from former U.S. Attorney Chuck Banks' staff. Altogether, the evidence showed Lewis had made a minimum of eight determined attempts to prod her ill-conceived referral along in the two months before the 1992 election. In her deposition, Lewis claimed she had made none.

Next, Ben-Veniste produced a personal letter retrieved from the hard drive of Lewis's computer. It mocked "the illustrious Gov. Bill Clinton" as a "lying bastard" who had put his mistress Gennifer Flowers on the state payroll. Senator Barbara Boxer questioned Lewis about a November 1993 letter in which she had proposed to market "Presidential BITCH" T-shirts and coffee mugs bearing Hillary Clinton's likeness. (She had listed her RTC office as her business phone.)

Lewis testified that to her, the word "bitch" signified no disrespect, and that she personally had no objection to being called a bitch. Ben-Veniste also questioned her closely about her tape-recording of April Breslaw. He asked if she hadn't, in fact, bought a brand-new tape recorder for the specific purpose of ambushing the RTC attorney.

Nothing, Lewis insisted, could be further from the truth. "I purchased that new recorder well after I had that conversation with Ms. Breslaw," she said. "As I have previously testified, the old one worked sometimes. It didn't sometimes. It was eight years old . . . I did not deliberately set out, which I believe is your inference, to tape Ms. Breslaw."

But the real drama took place after Democrats laid out documents casting doubts on Lewis's behavior. Maryland senator Paul Sarbanes read to Lewis from U.S. Attorney Banks' letter refusing to act on her 1992 referral, on the grounds that to do so would constitute "prosecutorial misconduct." Next, Sarbanes brought up a 1993 Justice Department appraisal pointing out Lewis' woefully inadequate understanding of federal banking law. It noted in acid terms that what she called Jim McDougal's "check-kiting"—shifting money back and forth among his own corporate accounts inside the same bank—simply wasn't a crime.

But Sarbanes had scarcely begun when a remarkable thing

happened. Lewis began to tremble visibly. Tears suddenly welled in her eyes, and she fainted dead away at the witness table. After being revived, she had to be assisted from the Senate chamber, hospitalized overnight, and treated for high blood pressure. L. Jean Lewis's career as Whitewater heroine had come to an abrupt and seemingly ignominious end. Her appearance before D'Amato's committee had been a complete disaster.

Yet while many thousands of citizens watched Lewis live on C-SPAN, neither of the newspapers that had received stacks of confidential RTC documents two years earlier reported her swoon. Both the *New York Times* and the *Washington Post* failed to mention her sudden collapse. Just as both newspapers had ignored U.S. Attorney Banks' letter and other documents casting doubt on Whitewater's factual and legal premises, so they elided the contradictions in Lewis's testimony. No "Presidential BITCH" coffee mugs—nothing. To the *Times's* Stephen Labaton, the most significant event of the day had been the mention of Gennifer Flowers.

"SENATE HEARING TOUCHES ON CLINTON'S INTEGRITY," read the *Times* headline, "A LINE OF INQUIRY BACKFIRES ON THE DEMOCRATS." Only a few days later, on December 6, a *Times* editorial stated without a particle of irony that "Jean Lewis, a star witness . . . and a government investigator into Madison's practices, repeated her charge that there had been a deliberate effort at both the Justice and Treasury departments to obstruct her inquiry. Ms. Lewis has said flatly that the Clintons knew about and improperly benefited from Madison's freewheeling practices... Why not come forward with the complete story?"

Later that same day, December 6, minority counsel Ben-Veniste read into the hearing record a few salient facts about Lewis's allegedly defective tape recorder. It turned out that receipts submitted to the committee to support her contention that she had bought a new recorder only after accidentally taping April Breslaw hadn't told the real story. Records subpoenaed by the committee from the Office Depot store showed that Lewis had in fact purchased an Olympus Pearlorder Model S-924 two weeks before her meeting with Breslaw.

It seemed that Lewis had deliberately misled the committee. Ben-Veniste announced that the tapes had been submitted to

independent counsel Kenneth Starr with a request that FBI experts determine whether the new recorder had made them. This challenge to Lewis' credibility was again ignored by both the *New York Times* and the *Washington Post*. Evidently, Starr felt free to ignore the Senate Democrats' request as well. Nothing was ever heard of the issue again.

With the congressional budget process at an impasse, and the Republican leadership vowing to shut down the federal government rather than compromise with a seemingly crippled president, the Senate Whitewater hearings droned on into December. Apart from reporters, the hearing room was almost devoid of spectators. The demand for transcripts was so small that the Federal News Service quit providing continuous overnight coverage.

Typical of the investigation's many blind alleys was a much-hyped legal confrontation between the White House and the Whitewater committee over a few pages of handwritten notes taken by Clinton aide William Kennedy on November 5, 1993. With the *Washington Post* and *New York Times* then featuring front-page stories about Whitewater and David Hale, the White House lawyers had met with the Clintons' private counsel to decide how to cope with the burgeoning scandal. White House attorney Kennedy, a former law partner of Hillary Clinton, had kept notes on that meeting.

Accompanied by heavy rhetoric about "cover-ups" and "smoking guns," D'Amato demanded to see Kennedy's notes. The White House agreed to surrender the notes, but only if the committee would stipulate that by so doing, the Clintons hadn't given up attorney-client privilege altogether.

The dispute remained unsettled for a couple of weeks, amid grave commentary about a "constitutional crisis." Finally, just before Christmas, the White House got its way on the privilege issue and turned over the Kennedy notes. They turned out to contain little of interest. A sheaf of clippings released along with the notes made it clear that the lawyers had mainly talked about how to respond to media accusations.

But in television interviews, Senator D'Amato charged that the phrase "Vacuum—Rose Law Firm files" was proof of a cover-up.

Kennedy said he had used “vacuum” to describe the paucity of available information. To conclude otherwise—that he had meant “vacuum” as a verb—it was necessary to assume that a half dozen top Washington lawyers (three from the White House, three from Williams & Connolly), meeting for the first time, had hatched a conspiracy to obstruct justice, taken notes on the conspiracy, and kept the notes in case any investigator might want them in the future.

A second entry that provoked speculation read “VF suicide—David Hale Investigation—same day.” Here at last was evidence that the White House had secretly worried about the alleged link between Foster and Whitewater. The actual meaning of that notation only emerged when William Kennedy testified a month later. Had the lawyers discussed the fact that Vince Foster killed himself on the very day the FBI raided David Hale’s Little Rock office? They hadn’t, because it wasn’t true.

The earlier press accounts were erroneous. Foster died on July 20, 1993; Hale’s office was not searched until July 21. What Kennedy had set down in his notes was the lawyers’ discussion of Whitewater coverage in the media—and how much of it was driven by a conspiracy theory based upon a simple factual error.

SEVENTEEN

As National Media Turn Away, A Moment Of Truth

A moment of truth intruded in the midst of D'Amato's hearings on December 13, 1995, with the release of the second volume of the Resolution Trust Corporation's \$3.6 million Pillsbury Report. The remainder of the study was to appear over the ensuing weeks. With the RTC due to go out of existence at the end of 1995, the San Francisco law firm of Pillsbury, Madison & Sutro was obligated to deliver its conclusions about the Clintons and Whitewater by December 31.

In an embarrassing incident that led to his appearance before the grand jury, White House aide George Stephanopoulos had vigorously protested to a Treasury Department aide about the RTC's decision to hire the San Francisco firm, because he feared the partisan bias of Pillsbury partner Jay Stephens, the former Reagan and Bush administration U.S. attorney for the District of Columbia, who had been fired by Clinton in 1993.

Stephanopoulos's much-publicized fears had proved baseless. The firm's findings could hardly have been more favorable to the White House. Based on the Clintons' sworn interrogatories, interviews with 45 other witnesses, and some 200,000 documents, the report concluded that the president and first lady had told the truth about their Whitewater investment: The Clintons were passive investors who were misled about the actual status of the project by Jim McDougal almost from the start. The report failed to challenge their account on a single substantive point. As Charles Banks had anticipated back in 1992 when he was the U.S. Attorney in Little Rock, every one of L. Jean Lewis's incriminating assumptions regarding the Clintons was shown to be wrong.

The Pillsbury Report found no evidence that Whitewater's losses had been subsidized by taxpayers in the savings and loan bailout. But even if they were, it concluded, the Clintons were not at fault: "There is no basis to assert that the Clintons knew anything of substance about the McDougals' advances to Whitewater, the source of the funds used to make those advances, or the sources of the funds used to make payments on the bank debt. There is no basis to charge the Clintons with any kind of primary liability for fraud or intentional misconduct. This investigation has revealed no evidence to support any such claims. Nor would the record support any secondary or derivative liability for the possible misdeeds of others.... There is evidence that the McDougals and others may have engaged in intentional misconduct. There are legal theories by which one can become liable for the conduct of others—e.g. conspiracy and aiding and abetting. On this evidentiary record, however, these theories have no application to the Clintons."

Over the ensuing weeks, the RTC released several more volumes of the report, plus appendices, clearing both the Rose Law Firm and Arkansas state regulatory officials of all accusations of wrongdoing. Far from coddling Jim McDougal, the report found, "if anything, Arkansas regulators took a more aggressive position toward Madison Guaranty than did the FHLBB [Federal Home Loan Bank Board]." It noted that in December 1987, Arkansas securities commissioner Beverly Bassett Schaffer "wrote a letter to Stewart Root, Director of the Federal Savings and Loan Insurance Corporation, stating that Madison Guaranty [and two other Arkansas thrifts] are 'unquestionably insolvent and have been for a long time . . . We must request that these associations be transferred immediately to the FSLIC.'" She wanted Madison shut down, which "did not happen for reasons that had nothing to do with [Bassett Schaffer]."

In its hundreds of minutely detailed pages, thousands of footnotes, and documentary exhibits, the Pillsbury Report demonstrated that the premises of the Whitewater "scandal" had no factual foundation. On December 18, the *Wall Street Journal* ran a straight, clear summary of its findings, written by Viveca Novak and Ellen Joan Pollock. But other newspapers with a substantial investment in Whitewater virtually buried news of the report.

The Washington Post stuck a brief mention of the report's existence into a story devoted to the battle over William Kennedy's notes. The *New York Times* waited until Christmas Eve, then hid Stephen Labaton's perfunctory summary on page A12. Judging by his article's dismissive tone, no reader could imagine that the Pillsbury Report answered every one of the accusatory rhetorical questions the *Times* had urged the president and First Lady to come clean about for years (most recently in a December 6 editorial). Labaton's story ignored the passages pointedly exonerating the Clintons, and focused upon the fact that the report's "authors had been unable to interview a number of important witnesses, some of whom have been cooperating with the independent counsel." Specifically, neither David Hale nor the McDougals had been interviewed by the Pillsbury lawyers.

The major television networks predictably followed the *Times* and the *Post*. For the great majority of the Washington press corps, and thus for their national audience, the Pillsbury Report and the facts and conclusions its authors had painstakingly assembled didn't exist.

Within the Office of Independent Counsel, meanwhile, a plan was taking shape to indict Hillary Rodham Clinton for perjury—or, at the very least, to persuade the press that such a headline-grabbing event was about to happen. Behind this effort was deputy independent counsel Hickman Ewing, Jr., the head of Kenneth Starr's Little Rock operation and a veteran federal prosecutor from Memphis.

Ewing enjoyed a well-earned reputation as a crusader against political corruption and something of a religious zealot. After being appointed U.S. attorney in 1981 by Ronald Reagan, he specialized in public integrity, gambling, and pornography prosecutions; many of his cases involved state, county, or federal officials—including two controversial attempts to win a conspiracy conviction against Harold Ford, a black Democratic congressman from Memphis who was ultimately acquitted.

Hick Ewing's combination of piety and pugnacity made the prosecutor widely popular in his home state, but he also acquired some powerful enemies. When George Bush entered the White House, Don Sundquist, Tennessee's most influential Republican member of Congress, asked the new president to seek Ewing's

resignation—possibly because he had targeted Sundquist’s former campaign manager and her husband on tax charges. Another Sundquist friend and Ewing target was Dana Kirk, the Memphis State University basketball coach, whom Ewing sent to prison in 1988 on charges of tax fraud and obstruction of justice in a wide-ranging sports-betting probe.

Whenever questions arose about his motives, the congressman blandly insisted that he had no personal quarrel with Ewing and merely believed it was time for a change in the U.S. attorney’s office. Sundquist eventually succeeded in removing Ewing, but not without an embarrassing struggle. A newspaper advertising campaign and petition drive to keep Ewing as U.S. attorney was led by his close friend Ed McAteer, a leading Memphis Republican and chairman of the Religious Roundtable, a national organization of Christian conservatives.

“I supported Ewing from the first day he went into office and I haven’t changed my position one iota,” vowed McAteer, a senior figure on the religious right who in the seventies pioneered the effort to mobilize evangelical Christians as a political force. After the campaign to save Ewing’s job failed, he was celebrated at a June 1991 luncheon tribute featuring speeches by the mayor and local religious right leaders.

In praise of the departing prosecutor, the Memphis Commercial Appeal quoted Mark Wardell, a representative of the Reverend Donald Wildmon’s American Family Association, which promotes “morality in media.” “He has made Memphis a place where pornographers didn’t feel comfortable doing business,” Wardell said. “What we have here is a man whose faith is not separate from his work. We appreciate that.” John Bramlett, a former pro football player turned evangelist, agreed. “I’m thankful today we had a man in office who obeyed God rather than obeyed man” (a peculiar description of a federal law enforcement official).

Ewing modestly insisted that he had been merely an instrument of God’s will. His future plans were uncertain. “I’m trusting the Lord for the next step.” But as he left government, he was said to be considering full-time church work with the Campus Crusade for Christ, or a “quasi-legal position” with a “pro-family organization

such as the Rutherford Institute.”

Instead, after a few years in solo law practice, Ewing got a call in late August 1994 from Kenneth Starr, who had just been appointed Whitewater independent counsel. They met at a McDonald’s restaurant in Brinkley, Arkansas, and Ewing quickly accepted the position as Starr’s senior deputy, even though it meant living in Little Rock during the week and commuting home to his family in suburban Memphis on weekends. He had the right attitude for the Office of Independent Counsel, guided always by his trained ability to sense guilt, as he told the *New Yorker*’s Jeffrey Toobin years later.

As early as the spring of 1995, Ewing later testified, he had drawn up a draft indictment against Hillary Rodham Clinton and circulated it to other lawyers in the OIC. He said the document was based upon a sworn statement she had given that April “about her representation of Madison Guaranty when she was at the Rose Law Firm: How the business came in, what work she performed, and how the retainer was returned.”

During his testimony at Susan McDougal’s contempt trial in 1999, Ewing also admitted that he had taken to making quasi-public pronouncements about the first lady’s guilt. He recalled, “We were eating dinner one night, and somebody said, ‘How do you grade them?’ I think the President was about a ‘C’ and Mrs. Clinton was about an ‘F.’”

On December 19, 1995, the morning after the *Wall Street Journal*’s comprehensive news summary of the Pillsbury Report’s findings absolving the Clintons, a front-page article appeared in the *New York Times* indicating that the first lady was in serious trouble. Written by Stephen Labaton, the story appears likely to have relied upon Ewing or other Starr deputies as sources. It confidently laid out a case for two possible felony courts against Hillary: perjury and obstruction of justice.

Labaton repeated Jim McDougal’s account of Bill Clinton jogging over to Madison Guaranty’s office in the summer of 1984 to solicit legal business for Hillary because the couple needed cash. But the real bombshell in the *Times* article was the supposed contradiction between Hillary’s account of how her law firm came to

represent Madison Guaranty and that of a former colleague named Rick Massey.

“Mrs. Clinton said in a sworn statement this year,” wrote Labaton, “that Mr. Massey, then a first year associate at the Rose firm, had been contacted by a friend at Madison, John Latham, with a request for legal help.... Mr. Massey, who is now a partner at the Rose firm, told Federal investigators he ‘does not know how or why Madison selected the Rose Law Firm,’ according to a summary of his October 1994 interview with the Federal Deposit Insurance Corporation.”

Even more damning was a Nightline report broadcast that same evening. The segment came very close to branding Hillary Clinton a perjurer. In his introduction, host Ted Koppel spoke pointedly about “the reluctance of the Clinton White House to be as forthcoming with documents as it promised to be.” He then turned to correspondent Jeff Greenfield, who posed a rhetorical question: “Hillary Clinton did some legal work for Madison Guaranty at the Rose Law Firm, at a time when her husband was governor of Arkansas. How much work? Not much at all, she has said.”

Up came a video clip from Hillary’s April 22, 1994, Whitewater press conference. “The young attorney, the young bank officer, did all the work,” she said. “It was not an area that I practiced in. It was not an area that I know anything, to speak of, about.” Next the screen filled with handwritten notes taken by White House aide Susan Thomases during the 1992 campaign. “She [Hillary] did all the billing,” the notes said. Greenfield quipped that it was no wonder “the White House was so worried about what was in Vince Foster’s office when he killed himself.”

What the audience didn’t know was that the ABC videotape had been edited so as to create an inaccurate impression. At that press conference, Mrs. Clinton had been asked not how much work she had done for Madison Guaranty, but how her signature came to be on a letter dealing with Madison Guaranty’s 1985 proposal to issue preferred stock. ABC News had seamlessly omitted 39 words from her actual answer, as well as the cut, by interposing a cutaway shot of reporters taking notes. The press conference transcript shows that she actually answered as follows: “The young attorney [and] the young bank officer did all the work and the letter was sent. But

because I was what we called the billing attorney—in other words, I had to send the bill to get the payment sent—my name was put on the bottom of the letter. [Emphasis added.] It was not an area that I practiced in. It was not an area that I know anything, to speak of, about.”

ABC News had taken a video clip out of context, and then accused the first lady of prevaricating about the very material it had removed. Within days, the doctored quotation popped up elsewhere. ABC used the identical clip on its evening news broadcast; so did CNN. The *New York Times* editorial page used it to scold Mrs. Clinton, as did columnist Maureen Dowd. Her colleague William Safire weighed in with an accusatory column of his own: “When you’re a lawyer who needs a cover story to conceal close connections to a crooked client,” he began, “you find some kid in your office willing to say he brought in the business and handled the client all by himself.” Safire predicted the first lady’s imminent indictment.

EIGHTEEN

Billing Records, Lost And Found – And Exculpatory

What really made the story take off, however, was White House aide Carolyn Huber's belated discovery of missing Rose Law Firm billing records that had been under subpoena by the OIG. The time sheets had been used by the 1992 Clinton campaign to respond to reporters' questions, and then disappeared. For weeks, Republicans on the Senate Whitewater committee had spoken darkly of obstruction of justice. On January 4, 1996, Huber found the missing documents in a box in her office at the Old Executive Office Building. She called the Clintons' lawyer, David Kendall, who immediately made copies and sent the originals to Kenneth Starr. Actually, the documents Huber found weren't themselves originals, but photocopies of computer printouts made in 1992.

Nobody who wanted to hide them could have any way of knowing how many additional copies might be floating around. Nor was Huber, an Arkansas loyalist who supervised the Clintons' personal correspondence, certain where she had found the documents, at least according to Kendall.

In her subsequent Senate testimony, however, the former office manager at the Rose Law Firm was unequivocal. Huber recalled coming upon the time sheets in August 1995 in the "book room" on the third floor of the White House, inside the Clintons' private quarters. Without looking to see what they were, she had stuck them in a box and taken them to her office for later filing. Then in January 1996, she had finally opened the box and gotten scared.

How she could be sure they were the same papers without having examined them in the first place was never clear. Putting the

1992 campaign records in order and storing them was one of Huber's secondary tasks at the White House. Kendall later testified that when Huber first contacted him, "She said a number of different things that were inconsistent. She was flustered. She was upset. Her hands were shaking. She said that she had brought the documents over from the residence at some earlier point. She said she thought it was maybe three months ago. A little while later in the conversation, she referred to bringing them over ten months ago. She was very confused about the timing. . . . She was unclear about where she had found them.... Her stories were extremely vague."

Kendall's co-counsel Jane Sherburne remembered the same thing. But the lawyers hadn't pressed Huber on the issue because they didn't want to be accused of trying to influence her testimony.

Here at last was a dramatic Whitewater event that even the dull-est voter could grasp. Kenneth Starr lost no time hauling the First Lady before a Washington grand jury in the most public manner possible, prompting press commentary about a "smoking gun." The irrepressible Safire predictably saw Nixonian skullduggery: "Can you imagine the sinking feeling in the 'Someone,' when he or she came back to the Book Room and found the records gone?" *Newsweek's* Michael Isikoff went further. "The printouts were covered with the late Vince Foster's handwriting," he wrote, continuing, "It is Foster's suicide that lends Whitewater its aura of menace."

Hillary Clinton emerged from Starr's grand jury to say that she had no idea where the billing records had come from, but was glad they had turned up—perhaps because they provided only exculpatory evidence. Along with Vince Foster's handwriting, FBI fingerprint analysts found his fingerprints, as well as those of the First Lady. Hers were found only on those pages dealing with issues discussed during the 1992 campaign—but not on topics of more recent interest, such as the ill-fated McDougal real estate development and shopping center known as "Castle Grande." All the forensic evidence suggested that the billing records had in fact been misplaced ever since the 1992 election.

The records' contents also supported Hillary's testimony and public statements in detail. In her sworn statements to RTC investigators, she had recalled only a single phone conversation with

Securities Commissioner Beverly Bassett Schaffer regarding the Madison Guaranty preferred stock issue. The records showed exactly one, on April 29, 1985.

Asked whether she had done any work on McDougal's "Castle Grande" development, she had replied no. Republicans charged that an unused 1985 real estate document she had prepared for Webb Hubbell's father-in-law contradicted her. But the billing records, like all internal Rose Law Firm documents, referred to that transaction not as Castle Grande but as "the IDC matter."

A small part of a large parcel of land Madison Guaranty bought from a company called the Industrial Development Corporation later became known as "Castle Grande"—but not the part described in the document Hillary Clinton had prepared. Her answer was accurate.

After studying the newly found billing records, the investigators at Pillsbury, Madison & Sutro came back with an even stronger conclusion that nobody at the Rose Law Firm had done anything unethical or illegal in their representation of McDougal's savings and loan. Regarding the unused real estate contract, the report stipulated that "while Mrs. Clinton drafted the May 1, 1986 option, nothing proves she did so knowing it to be wrong, the circumstances of the work point strongly toward innocent explanations, and the theories that tie this option to wrongdoing ... are strained at best."

Starr's investigators would spend years seeking evidence to the contrary, with no success.

In January 1996, however, such exculpatory facts received no attention in the press. To hype their excerpt from James B. Stewart's forthcoming Whitewater book *Blood Sport*, the editors of *Time* magazine ran a cover photo of the First Lady that looked like a post office "Wanted" poster. *Time* columnist Richard Stengel opined that "Hillary Rodham Clinton now faces a crisis that even the most artful public relations may not be able to fix." Stengel predicted that the stage was set for high drama at the Whitewater hearings. "Mrs. Clinton has stated that the lion's share of the work on Madison was done by a 'bright young associate' named Richard Massey. Mrs. Clinton also implied in a sworn statement to the RTC in May 1995 that

Massey brought Madison's business to the firm. Committee sources tell *Time* that Massey will testify this week that he did not bring Madison in as a client, and that he assumed Mrs. Clinton was involved."

And in the *New York Times*, William Safire advised the president that the time had come to hire himself a separate criminal defense lawyer, because his wife was going to jail.

All such expectations were dashed when the First Lady's soft-spoken, balding former partner Rick Massey appeared before the Senate committee on January 11. Not only did Massey fail to contradict Hillary's testimony; any tighter fit between their recollections would have been suspect. As a 26 year-old associate at the Rose Law Firm, Massey said, he had taught a night course in securities law at the University of Arkansas in Little Rock. Among those enrolled was a Madison Guaranty officer named John Latham, whom Massey had known in college. During the semester, Latham began staying after class to ask Massey's advice about raising new capital for the thrift.

"I should say for the record," Massey testified, "that I asked him to lunch one day and I pitched the business, asked for their work. They were a growing S&L. We liked working for companies like that, so I pitched the work.... I think the pitch was basically, 'Gee, you're asking me all these questions. Why don't you hire us and put us to work on these things?'"

The only problem had been Jim McDougal's tardiness in paying the bills for legal work that the Rose firm had done for him several years earlier. Certain partners objected to taking him on as a client again without a prepaid retainer. So the firm had sent Hillary Clinton to meet with McDougal on April 23, 1985, to see whether such an arrangement could be made. Madison Guaranty agreed to a \$2,000 per month advance against billings, and the work arrived on Rick Massey's desk the next day.

What Massey had been unable to remember, 11 years after the fact, was whether he had first approached Hillary about taking up the payment issue with McDougal, or whether she had approached him—a question of no consequence. Such was the pretext upon which deputy independent counsel Hickman Ewing, Jr., proposed to

indict the First Lady of the United States for perjury.

As to who had done all the work on the preferred stock matter, Massey was unequivocal. Based upon his review of the billing records, he told Senator Connie Mack of Florida that “these were primarily one-man jobs, and I did primarily all of the research, writing, drafting, and so forth. Mrs. Clinton had a role in these matters. I view it as a supervisory role. In terms of who was in the trenches and doing the work, Senator, it was me.”

Concerning the preferred stock deal itself, the allegedly illicit transaction the *New York Times* had placed at the center of the “scandal,” Massey’s explanation was simple. As Arkansas state officials had tried to show reporter Jeff Gerth four years earlier, the idea of selling stock in thrift institutions was first proposed by the Federal Home Loan Bank Board. “Sir, there is no better form of capital than cash,” said Massey, “and we were trying to raise cash for the institution.”

Not much of this was conveyed by the same journalists who had failed to notice L. Jean Lewis’s fainting spell. “AT WHITEWATER SESSION, A STRUGGLE TO RECALL,” read the headline in the *New York Times*. “In five hours of testimony before the Senate Whitewater committee,” wrote Stephen Labaton, “a lawyer for Hillary Rodham Clinton’s law firm said today that he could not remember events of 11 years ago clearly enough to support the First Lady’s account of how the firm came to represent a troubled Arkansas savings and loan association.” The *Times* account did mention Massey’s luncheon pitch to his college friend, but concluded by pointing the finger of suspicion back at an implicitly corrupt bargain between Jim McDougal and Bill Clinton to funnel cash into Hillary’s pocket.

A similar account appeared in the *Washington Post* under the byline of Susan Schmidt. Massey, she wrote, testified “that he does not believe that he was responsible for signing up Madison as a client, as [Mrs. Clinton] has asserted. . . . She has said Massey came to her with a proposal for a stock plan to help Madison raise capital after meeting with Madison president John Latham. She said he asked her to work as the firm’s billing partner and work with James B. McDougal, the S&L’s owner, to resolve a past billing dispute Rose had with him. ‘I don’t believe it happened that way,’ Massey said.”

When investigators for Pillsbury, Madison & Sutro issued their final report on February 25, they concluded that the minor discrepancies between the recollections of Rick Massey and Hillary Clinton weren't worth quibbling over. Moreover, "the purported recollections of Jim McDougal are inconsistent with those of the others and upon analysis make little sense." Contrary to McDougal's story, the retainer agreement didn't begin until work on the preferred stock issue started—almost a year after the purported "jogging" incident.

"Most significantly," the report concluded, "the alleged economic motivation makes no sense.... There is no evidence that the Clintons ever received anything like \$2000 a month from this engagement, and every reason to believe that they never received more than a trivial sum of money.... Even if all the retainer had been earned in fees, Mrs. Clinton's share would have been less than \$20 a month."

On the evening of Massey's testimony, Nightline aired key portions that made its real import clear. This time Ted Koppel made a point of emphasizing that few, if any, of Senator D'Amato's dire predictions had turned out to be accurate. On Saturday, January 13, the *New York Times* ran an "Editor's Note" stipulating that Stephen Labaton's story on Massey's appearance "should have included testimony that seemed to support" Hillary Clinton—a halting clarification, but a clarification all the same.

The manifest failure of the month-long assault on Hillary Clinton to yield evidence of wrongdoing was not ignored everywhere. *New York Times* columnist Anthony Lewis became the first important voice at his newspaper to break ranks. "Three years and innumerable investigations later," he wrote on January 15, "Mrs. Clinton has not been shown to have done anything wrong in Whitewater. One charge after another has evaporated."

Lewis compared D'Amato's performance to that of Senator Joseph R. McCarthy during the anti-Communist witch-hunts of the Fifties. But Lewis noted one major difference: "On Whitewater, the press too often seems an eager accomplice of the accusers.... Some of the coverage of Whitewater reads as if the reporters or editors were committed to finding something wrong—as if they had an investment in the story."

A Pulitzer Winner's Bloody Blunders

Still, other celebrated journalists continued to predict the First Lady's probable indictment as the election year began, most notably Pulitzer Prize-winning author James B. Stewart. Published by Simon & Schuster in early 1996 to the accompaniment of a multimedia publicity campaign, Stewart's book *Blood Sport* claimed to be the inside story of "the president and first lady as they really are." Set forth as a sweeping narrative, it includes dramatized scenes and imaginary dialogue purporting to represent the innermost thoughts of individuals whom the author had in some cases never met, much less interviewed.

"Scenes that Mr. Stewart could never have observed firsthand," complained *New York Times* reviewer Michiko Kakutani, "are recounted from an omniscient viewpoint. Mr. Stewart rarely identifies the sources for such scenes; nor does he take into account the subjectivity and often self-serving nature of memory. The reader never knows whether the quotes Mr. Stewart has put into the mouth of an individual... are from a first or secondhand source."

Kakutani also noticed that everybody who served as a source for Stewart got gentle treatment, while those who did not were treated harshly. (After considering Stewart's request, both Clintons decided not to cooperate.) Yet neither the *Times* reviewer nor the thousands of others who read *Blood Sport* had any way of protecting themselves against the author's chronic inaccuracy. The book was filled with telling errors from beginning to end. It opened with a dramatized scene purporting to render the First Lady's reaction to a phone call informing her of Vince Foster's death at "the Rodham home in Little Rock, where Hillary was visiting her mother and father, who was

ill.” In fact, Hugh Rodham had died three months earlier, in April 1993.

Another pivotal early scene has the young Bill Clinton traveling to the college town of Arkadelphia in 1975 to seek “kingmaker” Jim McDougal’s advice about running for David Pryor’s U.S. Senate seat. A gripping moment, except for the fact that Pryor was governor of Arkansas between 1975 and 1979. Stewart also seemed unaware that the “crusty country lawyer” and “Democrat-turned- Republican” Jim Johnson had hardly “veered steadily to the right,” but had won the endorsement of the Ku Klux Klan in 1966.

Other errors were more significant. Not only does *Blood Sport* describe the “devout Baptist” David Hale as having been appointed by Bill Clinton, rather than Republican governor Frank White, as history records, it also misreports what got Hale in trouble with the Justice Department. According to Stewart, Hale’s crime was that he “fraudulently misrepresented the kinds of loans he was making . . . to what Hale, quoting McDougal, described as his Democrat ‘political family.’” Hale in fact made more loans to Republicans than Democrats. His crime was embezzling over \$2 million.

Stewart’s worst blunders appear to stem from his decision to accept Jim McDougal’s word as truth and his disinclination to offend any important Washington reporter. Thus a Pulitzer Prize-winning financial journalist whose previous book had pilloried junk-bond savant Michael Milken somehow failed to see any problems in McDougal’s handling of Whitewater. He ignored the Pillsbury Report’s findings altogether, along with McDougal’s secretive sale of Whitewater’s assets for pennies on the dollar, his elaborate fiscal juggling act, his misleading assurances and deceptive letters to the Clintons. Stewart portrayed Hillary Clinton as the embittered McDougal saw her: a greedy, coldhearted shrew.

The book’s key scenes depict her coolly refusing to sign over the Clintons’ Whitewater stock to McDougal without also being released from the company’s debt. “While Hillary was technically correct about the mortgage,” wrote Stewart, “from McDougal’s point of view, he didn’t see that there was a problem.” But Stewart doesn’t mention that had she agreed to McDougal’s terms, the Clintons would still owe the bank roughly \$100,000, but no longer own

a share of the company. Not until two years later did her accountant inform Hillary that the Whitewater stock was worthless, another point that escaped Stewart.

Stewart began his whirlwind publicity tour telling interviewers that his book hadn't uncovered any actual crimes by the president and his wife, merely bad character and political opportunism. But surely, Ted Koppel pressed during Stewart's March 11, 1996, appearance on *Nightline*, there was some problem that "will still come back to haunt the Clintons." Stewart affirmed that there was indeed, though the charge wouldn't be murder, perjury, fraud, or obstruction of justice. What Stewart had discovered at the root of Whitewater was "the Clintons' refusal to abide by financial requirements in obtaining mortgage loans."

He told Koppel that in filling out a personal financial statement for a 1997 Whitewater loan, Hillary Rodham Clinton had "vastly inflated" the value of the property. "It is a crime," he added gravely, "to submit a false loan document." The first lady's guilt was "a question for a prosecutor and a jury to decide."

Again Stewart was badly mistaken. Down at the bottom of the allegedly felonious loan document, thoughtfully reproduced in *Blood Sport's* appendix, was the following warning, which Stewart apparently hadn't noticed: "(BOTH SIDES OF THIS DOCUMENT MUST BE COMPLETED.)" And on the document's reverse side, available from the First Lady's private attorney David Kendall, was all the information the author had accused Hillary of omitting, written in her own quite legible hand. Stewart had simply failed to notice that his set of papers was missing that second page.

Meanwhile, the Senate Whitewater hearings continued to grind on relentlessly toward Election Day 1996. Before Senator D'Amato and his Banking Committee colleagues finally quit, they held more than 70 days of hearings—far more than were necessary to investigate either Watergate or Iran-contra. Former Arkansas securities commissioner Beverly Bassett Schaffer finally got her chance to testify on January 25. Ever since she had agreed to speak with Jeff Gerth four years earlier, her life had been devastated.

"I provided you with a detailed account in writing of the facts,"

she had written the *Times* reporter bitterly after his first article portraying her as a corrupt hack appeared in March 1992. “This information was ignored and, instead, you based your story on the word of a mentally ill man I have never met [McDougal] and documents which you admitted to me on the telephone on February 26, 1992 were incomplete.”

In December 1993, Bassett Schaffer had found herself pursued through the streets of Fayetteville, Arkansas, by an *NBC News* crew guided by Citizens United’s David Bossie. Her name and caricature had appeared on “Wanted” posters circulated by his group. During the House Whitewater hearings in August 1995, she had been accused of suspicious behavior by witnesses she had never met. Despite Democratic protests, committee chairman Jim Leach had refused to let her testify in her own defense. But she had been called to Little Rock to testify before the Whitewater grand jury numerous times.

The endless media pressure and resulting emotional distress had forced Bassett Schaffer to abandon her law practice and deal with Whitewater fulltime. Her husband, Archie Schaffer, a public relations executive for Tyson Foods, had been indicted by independent counsel Donald Smaltz for the crime of writing a letter to Agriculture Secretary Mike Espy, inviting him to the annual meeting of the Arkansas Poultry Federation—which coincided with chicken mogul Don Tyson’s yearly birthday bash.

In the interim, Bassett Schaffer and her department had been vindicated. After multiple FBI and grand jury interviews, the Office of Independent Counsel had notified her that she was not a target of its investigation. The recently released Pillsbury Report had concluded that her department had acted more aggressively with regard to Madison Guaranty than had the federal thrift regulators. Only because Democrats insistently pressured Senator D’Amato was she called to testify at all. At the Washington hearings, Bassett Schaffer was amused to notice that David Bossie, then an aide to Senator Faircloth, carefully avoided her and her husband.

D’Amato’s chief counsel, Michael Chertoff, tried to make an issue of the fact that Bassett Schaffer had informed the governor’s office back in 1986 that state and federal regulators intended imminent

action against Jim McDougal. She replied that aside from her duty to warn Clinton of an impending action apt to bring both press inquiries and calls from anxious Madison Guaranty depositors, she had sought to ensure that McDougal couldn't involve Bill Clinton in his troubles.

And why would she think that might happen? inquired Chertoff. "Because of Mr. McDougal's history of bragging about his relationship with Bill Clinton," she answered. "Because of his having told people over the years that he was friends with Bill Clinton.... I believe that Jim McDougal abused his relationship with Bill Clinton, and might again."

"And he abused it in order to get influence?" Chertoff pressed. "Is that what you're saying?"

"Well, he didn't get any," she snapped. "But he certainly tried."

From the perspective of her friends and neighbors in Arkansas, Bassett Schaffer's best moment may have come when Senator Paul Simon, the professorial Illinois Democrat, asked why she found Whitewater so distressing. "It's personal," she told him. "I don't think it's been very fair to me—actually, to the whole state of Arkansas. It's really been very personal, very vicious. It's been an effort to vicariously destroy Bill Clinton piece by piece by ruining the people that he trusted, that worked for him—good people, who didn't do anything wrong. The job's been done very well. And a lot of people have been hurt unnecessarily for the purpose of winning an election. And I just think there's something wrong with that."

The Senate hearings, having opened with theatrical flair in August 1995, eventually faded out, having proved none of the Republicans' initial accusations. Despite all the insinuations about perjury and obstruction, not a single witness was ever charged with any offense. To the extent that the hearings had any real effect, it appeared to be the opposite of what the sponsors had intended. Senator D'Amato's habit of promising horrors and proving nothing, to paraphrase Anthony Lewis, caused him severe political damage among his own constituents.

But the real climax of the Senate Whitewater hearings may have come during the February 14, 1996, testimony of White House aide

Helen Dickey. Only 25 years old, she had practically grown up in the Arkansas governor's mansion, and had at one time been Chelsea Clinton's nanny. Her mother was Robyn Dickey, the former mansion administrator who moved on to oversee the White House Social Office.

It was Helen Dickey who, according to Arkansas state troopers Roger Perry and Larry Patterson, had allegedly phoned the governor's mansion hours before Vince Foster's death was announced, crying hysterically because the lawyer had killed himself in his car on a White House parking lot. Working with Larry Nichols, the troopers and their attorney Lynn Davis had filed sworn affidavits to that effect with the Senate committee. Trumpeted by British journalist Ambrose Evans-Pritchard in the *London Sunday Telegraph*, and then amplified by the American right-wing media, the troopers' story eventually persuaded Senator D'Amato himself to endorse its dubious premises.

All that came to an abrupt end during Helen Dickey's tearful appearance before the committee. She explained that a White House usher had told her of Foster's suicide shortly after she had watched President Clinton being interviewed on *Larry King Live* on the terrible night of July 20, 1993.

"Vince Foster was very close to our family," she explained. "[We] lived next door to them in Little Rock. It was a very personal thing to me. I immediately began to cry, and become hysterical." She phoned her mother, then her father with the news. Telephone records obtained by the Senate showed that those calls were made shortly after 10:00 p.m.—several hours later than the troopers' affidavits claimed.

She had then wandered around the White House living quarters in a daze until she encountered the president, who told her the exact circumstances in which his boyhood friend's body had been found. Only then did she think to call the Arkansas governor's mansion; she didn't want Foster's friends there to learn about his death on television. As for the troopers' testimony that Foster had shot himself in a White House parking lot, she swore, "That's absolutely not true . . . I never heard that. I never would have said that because that's not the facts as I knew them at the time. I'm absolutely certain of the timing of this."

To his credit, Senator D'Amato apologized to Helen Dickey. He explained that Senate offices had been deluged with letters and phone calls from citizens who had bought the conspiracy theories about Foster's death. "Senator Sarbanes," said D'Amato, "suggested that we attempt to deal with this in a public way. So I would think that what we've attempted to do is to bring some facts and less of this wild speculation—the kind of thing that, you know, fuels the fire."

After examining telephone records and hearing Helen Dickey's testimony, Republicans on the committee decided they didn't need to hear from the troopers. Within 24 hours, Larry Patterson was nevertheless narrating his version of the saga to a shocked Pat Robertson on his TV news program, *The 700 Club*. Because the conclusion of the Dickey episode went virtually unreported, hardly anybody in the national media confronted its implications about the Arkansas troopers' motives and credibility. (One who did was David Brock, who ultimately made a public apology to the president for all the trouble his Troopergate article had caused.)

In contrast, Kenneth Starr, in a footnote to his subsequent report endorsing Robert Fiske's conclusions about the Foster suicide, blandly suggested that Patterson and Perry were merely mistaken.

TWENTY

How Starr Fumbled – And Fled

The more sincerely the Clinton critics believed that the White House was covering up serious crimes, the more difficult it was for them to imagine how little evidence of those supposed offenses had been assembled, after more than two years of costly investigation by the Office of Independent Counsel. Despite a steady media drumbeat suggesting that Starr's probe had reached "a critical turning point" or "a crucial phase," the truth was that OIC prosecutors had already taken their strongest shot during the election year with very mixed results: convictions of the McDougals and Jim Guy Tucker on charges unrelated to Whitewater, and acquittals of Herb Branscum and Robert Hill.

Despite the illusion of a vast web of criminality, the independent counsel hadn't found much in the way of credible testimony or documentation. The June 1995 plea bargain of Assistant Attorney General Webster Hubbell had come as a result of offenses unrelated to Whitewater that implicated nobody but himself. As his former law partner, Hillary Clinton was actually a victim of Hubbell's overbilling and expense-account padding, not to mention of his inexplicable decision to accept a sensitive position in the Justice Department despite his crimes.

Lying to the president about his guilt for months after the scandal broke and allowing ill-advised White House officials like Erskine Bowles to solicit legal work for him were equally wrong. But little of it was anybody's fault but Hubbell's.

Concerning the Travel Office and FBI files fiasco—surrounding alleged misuse of the bureau's security files on Bush White House

employees—the OIC had found insufficient evidence to support indicting anybody on the Clinton White House staff, let alone Bill or Hillary Clinton. Although Starr steadfastly concealed his lack of progress until November 1998, no proof emerged that any felonious acts had occurred in either case. Starr’s investigators could find no evidence showing that anyone more senior than Craig Livingstone and Anthony Marceca, the two lower-level White House security officials responsible for issuing credentials and passes, had so much as glanced at the FBI files of former White House employees.

Starr also knew by January 1997 that he would sooner or later have to endorse the conclusions of his predecessor, Robert Fiske. Despite feverish speculation and elaborate conspiracy theories on the crackpot fringe, Fiske had swiftly completed grand jury probes of the Foster suicide, and of alleged obstruction of the Whitewater investigation by administration officials, without issuing a single indictment.

Then there was Whitewater, the progenitor of the independent counsel’s probe. Press speculation notwithstanding, anyone familiar with the several thick volumes of the RTC’s Pillsbury Report, not to mention the testimony and exhibits that emerged at the Tucker-McDougal trial, knew that Starr’s probe of the land deal had reached a dead end. The OIC could encourage as many stories about the imaginary “\$50,000 benefit” to the Clintons as the media were willing to publicize. That wouldn’t change the pile of documentary evidence contradicting them.

With Susan McDougal refusing to cooperate, Starr had two witnesses against the president: David Hale and Jim McDougal. Both had been convicted of multiple crimes involving fraud, deception, and forgery. Not only did both men have obvious reasons to lie, but jurors at the Tucker-McDougal trial had been unanimous in disbelieving their testimony. And there was the problem of Ray Jahn’s closing argument, specifically exonerating the president of Whitewater crimes.

These facts and judgments might be kept off television and out of the newspapers, but they would inexorably surface in an American judicial proceeding. Any legal action against the president premised on Whitewater would be far more dangerous to Kenneth

Starr than to Bill Clinton. His ideological zeal and personal ambition didn't blind the canny Starr to all that. Rather than disclose his dispiriting failure to all the politicians and pundits who were depending on him to ruin the Clintons, Starr quite naturally preferred to continue "investigating." He allowed his supporters and friends to believe that indictments and perhaps even impeachment were yet in the offing. Meanwhile, he considered how best to escape from what had become a frustrating and fruitless endeavor.

Evidently Starr's closest friends and allies didn't know how unproductive his probes of Whitewater, "Travelgate," and "Filegate" had been. On the political right and among the Washington press corps, hope still abounded that somehow the independent counsel would inflict a mortal wound on the president and vindicate the moral equivalence between Clinton and Nixon. That was plainly the theme of "RICO, Anyone?"—the title of Theodore Olson's latest screed in the January 1997 issue of the *American Spectator*, penned under the pseudonym of "our legal counsel," Solitary, Poor, Nasty, Brutish & Short. Olson's wheezing satire again catalogued felonies potentially chargeable to the Clintons and their supporters, now including alleged fund-raising offenses, to support his conclusion that "comparing Clinton to Nixon may underestimate the scope of the administration's problems . . . [when] the appropriate comparison for Bill Clinton may well turn out to be Don Corleone."

On January 20, Chief Justice Rehnquist administered the oath of office to the president, who then turned to the cameras and extended a classically Clintonian offer of reconciliation to his enemies. Noting that his inauguration coincided with the birthday of civil rights martyr Martin Luther King, Jr., the president said, "His quest is our quest, the ceaseless striving to live out our true creed.... To that effort I pledge all my strength and every power of my office. I ask the members of Congress here to join in that pledge. The American people returned to office a President of one party and a Congress of another. Surely, they did not do this to advance the politics of petty bickering and extreme partisanship they plainly deplore. No, they call on us instead to be repairers of the breach, and to move on with America's mission.... Let us remember the timeless wisdom of Cardinal Bernardin, when facing the end of his own life. He said: 'It is

wrong to waste the precious gift of time on acrimony and division.’”

While House Speaker Newt Gingrich and the other Republicans present at Clinton’s address dutifully applauded those fine sentiments, the president privately maintained few illusions about “repairing the breach” with his enemies. Since assuming office in January 1995, the Speaker had fulfilled his threat to mount an endless serial of investigations of the administration. Having been outmaneuvered and politically neutralized by Clinton ever since the government shutdown of 1995 had only deepened Gingrich’s enmity. Like many in the Washington press corps, the congressional Republicans saw the president as fundamentally illegitimate, an ideological changeling who had stolen their strongest issues—welfare reform, crime control, a balanced budget—and made them his own. Gingrich had already begun to make good on a promise to seize the new opportunities presented by the campaign-finance scandals.

Less than a month after the inaugural festivities, however, Clinton and his supporters rejoiced in an astonishing announcement from the OIC. On February 17, Starr said he had tendered his resignation as independent counsel, effective August 1. He had accepted an unusual dual appointment at Pepperdine University—a conservative institution closely affiliated with the Church of Christ, and beautifully situated on acres of Malibu oceanfront—as dean of both its law school and a new school of public policy.

This strange turn seemed even odder because, only a week earlier, the OIC had opened an aggressive new media campaign. First came an article in the *New Yorker* by James B. Stewart. Granted an audience with Jim McDougal, Stewart detailed the ailing rogue’s new story: Contrary to his previous testimony, Bill Clinton had, indeed, attended a meeting at Castle Grande where the \$300,000 Master Marketing loan to Susan was discussed. Like Hale, McDougal supplied no date, leaving the allegation impossible for Clinton to disprove. As told in Jim McDougal’s book, *Arkansas Mischief*, the story differed in several particulars from Hale’s rendition. Most significantly, McDougal said Clinton hadn’t worn jogging attire but a business suit. Moreover, Clinton’s solitary arrival in the dusk at a construction site outside Little Rock had come as a complete surprise to McDougal. To him it could mean just one thing: that Susan had asked Clinton

to intervene on her behalf with Hale because the two had resumed their love affair. Only Susan had known that Jim was meeting Hale to discuss the loan.

Stewart reported that McDougal claimed to have discovered Clinton's affair with his wife in 1982, when he phoned her from out of town and was accidentally patched into a conversation while the two whispered suggestively. Even Stewart acknowledged the improbability of that scenario, which local telephone company officials described as technologically impossible. Stewart also traveled to California, where Susan was retrieved from solitary confinement in the Los Angeles County jail to meet her unexpected visitor. Having been shipped there to face the long-postponed charges brought by Nancy Mehta, Susan was being kept in lockdown 23 hours a day, ostensibly for her own safety. She was also required to wear a red uniform—marking her as a child molester or an informant—for the same reason. The OIC insisted that it had no control over the conditions of her incarceration. However, Stewart wrote, “After I decided to seek an interview with her, the office of Kenneth Starr was instrumental in arranging my visit.”

Astonished that anybody would believe her desperate and mentally ill ex-husband's tales, she told Stewart that she had never been intimate with Bill Clinton, although Jim had wanted her to be. After their own sexual relationship ended in the early '80s due to Jim's ill health, she said, he had often urged her to seduce others; it was, she believed, a symptom of his illness.

Stewart also wrote that the OIC had told him about telephone records indicating that Susan had spoken with someone in the Arkansas governor's office in 1986 and 1987. (In *Blood Sport* he had reported Susan's efforts to persuade the Clintons to give up their Whitewater stock during that time.) The White House refused comment. Stewart made several TV appearances promoting his New Yorker article, bringing a touch of Jerry Springer to *Meet the Press*.

Two other important stories had appeared in the weeks before Starr's surprise resignation, both casting the OIC's probe in a more dubious light and neither receiving the publicity accorded to Stewart's. One was an account of a seven-hour interview with David Hale, conducted inside the Texarkana Federal Prison by Associated

Press reporter Pete Yost. As with Stewart, Yost couldn't have gotten the interview without Starr's permission. Like much of his testimony in the Tucker-McDougal trial, Hale's stories were cast in classic con-man terms. His accusations against others invariably depended upon unverifiable hearsay conversations to which only he was a party. He told Yost, for example, of a supposedly incriminating telephone chat between himself and Hillary Clinton on an unspecified date.

Hale took his fabulizing a step too far, though, when he told Yost a story that OIC prosecutors had previously worked carefully to conceal. "Hale says some of his own records on the \$300,000 loan that he says he was pressed to make by Clinton have disappeared—including a handwritten note by Jim McDougal suggesting that Clinton would help make good on the debt," Yost wrote.

"The file on the \$300,000 loan was three to four inches thick when the FBI took it, but when my attorney and I asked to see it a month or so later, the U.S. Attorney's office gave us maybe an inch of stuff," Hale says." Few in the national press seemed aware of this rather shocking assertion by the OIC's star witness. By carefully omitting this allegation from Hale's FBI 302s, as well as from the scripted testimony he read to the grand jury, Starr's prosecutors had avoided any cross-examination about it at the Tucker-McDougal trial. Were Hale to testify against either of the Clintons, however, this accusation was sure to be explored. A parade of FBI agents and federal prosecutors would step forward to deny it, including agents still working for Starr. The odds against persuading a rational jury to believe David Hale had just increased by an order of magnitude.

What was potentially the most damaging blow to the OIC came in an almost unnoticed article in the *Arkansas Democrat-Gazette* on February 13—four days before Starr resigned. Written by veteran reporter Rodney Bowers, the story said that four mock juries, convened by outside consultants hired by the OIC, had returned innocent verdicts against Bill and Hillary Clinton. Using actors to impersonate the witnesses, Bowers wrote, the closest Starr's prosecutors had come to a conviction in mock trials held both in Little Rock and Washington, D.C., was an 8-4 vote to acquit Hillary Clinton.

That Kenneth Starr had a political "tin ear" even his closest friends conceded. Tactics such as parading Susan McDougal in

chains before TV cameras had backfired badly. Yet Starr did seem keenly aware of the damage Whitewater had already done to his image as a fair and judicious man, particularly during the past year. He could scarcely give a speech without references to his own “civic virtue.”

Public criticism of Starr had grown almost continuously since March 1996, when *The Nation* magazine published an article by Joe Conason and Murray Waas revealing that Starr had investigated the same RTC officials who were negotiating the settlement of a million-dollar federal lawsuit against Kirkland & Ellis, his own law firm. Questions about Starr’s partisanship and conflicts of interest in representing tobacco companies, right-wing foundations, and other Clinton adversaries were raised in scores of publications.

On the very day that the Tucker-McDougal verdict was announced, Starr was in New Orleans, representing the Brown & Williamson tobacco company. Former Clinton campaign consultant James Carville’s scorched-earth media crusade against Starr was succeeding, largely due to the independent counsel’s own mistakes. To leave the OIC might mean preserving what remained of his good name.

The choking rage of conservatives at the news of Starr’s resignation was best expressed by William Safire. In a February 20 column headlined “The Big Flinch,” the *New York Times* columnist accused Starr, a man with “a warped view of duty,” of fearing partisan attacks by Carville and of shirking his responsibility “just before the moment of prosecutorial decision.” Heaping on the invective, Safire accused Starr of bringing “shame on the legal profession by walking out on his client—the people of the United States—leaving us alone at the courthouse door.”

Better that Starr should leave immediately, to be replaced by his chief deputy, Hickman Ewing, or even Robert Morgenthau, Manhattan’s Democratic district attorney (and a very close friend of Robert Fiske, whose removal Safire had urged and then cheered). Excitable and influential, the former Nixon speechwriter regularly filled his space on the *Times* op-ed page with ruminations about the Clintons’ “cover-ups,” “stonewalling,” “conspiracy,” and “obstruction of justice,” forever echoing the terrible phrases that drove his

old boss from the White House.

Now, even as he denounced the “craven counsel” Starr, Safire again predicted the imminence of “stunning indictments” of Clintonites and “a series of detailed reports of wrongdoing” by them. “We can hope that Starr, having looked history in the eye and flinched, will get out of town and let someone else finish the job he misled the nation he was prepared to do,” Safire concluded.

The *Times* editorial page was more forgiving than Safire if somewhat less consistent. Having strongly urged Starr to step down in an April 1996 lead Sunday editorial because of his conflicts of interest and appearance of partisan bias, the institutional voice of the *Times* now urged him to forsake Pepperdine and stay on to finish the job.

Safire’s fury was understandable. Only two months earlier, *Newsweek* had featured Starr on its cover, hyping a profile of “The Most Dangerous Man in Washington.” During an exclusive three-hour interview with Daniel Klaidman and Michael Isikoff, Starr had hinted at big things soon to come.

“We are very far along,” he had confided, leading Klaidman and Isikoff to suggest eagerly that “Starr... is promising to deliver.” In fact, they added, “*Newsweek* has learned that within the next three months, he plans to decide whether to bring indictments that could very possibly alter the course of Bill Clinton’s second term.” This revelation was accompanied by a list of potentially criminal acts attributed to Bill and Hillary Clinton and their aides.

The only thing nobody leaked to *Newsweek* was Starr’s plan to decamp for Malibu. Well before his interview with Isikoff and Klaidman, he had commenced discussions on that subject with David Davenport, the beachfront university’s president. But how was *Newsweek* to know, when even Starr’s best friends seemed unaware of his intentions?

Ted Olson and former U.S. attorney Joseph diGenova, the OIC’s most frequently quoted defenders, both professed total surprise. Olson, the author of those smirking, anonymous prophecies in the *Spectator*, sounded especially disheartened. Brushing off Starr’s insistence that his departure implied nothing about the Clinton investigation, Olson told reporters: “If he was about to embark on a

prosecution of historic proportions, then he wouldn't at the same time be planning on leaving."

The blast of anger at his resignation, from his own staff and deputies as well as from the likes of Safire, reportedly shocked Starr. He had assured Davenport there would be little fuss about the announcement. With both Safire and Carville mocking him as "a quitter," he began to realize that his reputation would be permanently stained by resigning. What came next only compounded Starr's predicament. Two days after he announced his resignation, the *Washington Post* reported that the single most generous donor to the Pepperdine School of Public Policy was the Sarah Scaife Foundation, which had given \$1.35 million to establish the new school thanks to lifetime Pepperdine regent Richard Mellon Scaife.

The revelation of Scaife's connection with Pepperdine, and by extension with the university's new Dean Starr, gave fresh currency to some old suspicions. By a curious coincidence, the White House press office had been forced to defend itself against charges of "paranoia" about the conservative philanthropist only five weeks earlier. This minor Beltway controversy had been ignited by the re-appearance in early January of a 332-page report on the anti-Clinton network of foundations and media outlets.

First distributed quietly in 1995 to major news organizations, the report had been prepared by junior aides at the White House and the Democratic National Committee, and rather infelicitously titled "Communication Stream of Conspiracy Commerce." It documented the circulation of conspiratorial rumors concerning the Vince Foster case and Whitewater from right-wing activists and writers in the United States to conservative tabloids in England and then back into the mainstream American media.

Organizations and media outlets associated with Scaife figured heavily in the report. It also featured a 70-page section subtitled "Richard Mellon Scaife: The Wizard of Oz Behind the Foster Conspiracy Industry," which consisted mostly of clippings about him, his various enterprises, and his connections with Newt Gingrich.

There was nothing new in any of this—except that the *Wall Street Journal* editorial page and the *Washington Times*, both excoriated

in the “Conspiracy Commerce” report, had learned of its existence from an inquiring freelance journalist. The two newspapers ran long, indignant articles and editorials about the document. Reporters then peppered presidential press secretary Mike McCurry with furious questions about the use of government funds to “target” Clinton critics. The contretemps put the White House on the defensive while renewing a sense of solidarity among mainstream reporters and their less reputable right-wing colleagues.

With Richard Mellon Scaife showing up as Starr’s benefactor, albeit indirectly, the White House looked less paranoid, and the questions about Starr’s partisanship became more salient. The same news organizations that had mocked the “Conspiracy Commerce” report in early January were consulting its section on Scaife by late February. Most accounts mentioned the same Scaife-funded groups that had promoted Foster murder theories: Accuracy in Media, the National Taxpayers Union, the Western Journalism Center, and Scaife’s newspaper, the *Pittsburgh Tribune-Review*. Some noted Scaife’s financial support of the *American Spectator*—but the Arkansas Project would remain secret for another year.

If Starr’s resignation had looked bad, the uproar over Scaife looked worse, despite swift denials by Scaife and Pepperdine that the philanthropist had influenced the university’s decision to hire Starr. Thus, four days after his initial announcement, the independent counsel hurriedly summoned reporters to his Washington office to hear him change his mind. “My commitment is to the American people and to the pursuit of the truth, and I will seek to fulfill that commitment to the best of my ability and for as long as it takes,” he told them. “I deeply regret any action on my part that may have called that commitment into question.” Pepperdine would have to wait. The investigation would continue, he vowed, “full speed ahead.”

During the spring of 1997, not long after Kenneth Starr renewed his commitment to the Office of Independent Counsel, the investigation of the president took yet another peculiar turn. On April 14, Starr appeared at the Little Rock federal courthouse for the sentencing of his latest key witness, Jim McDougal. Only a few days earlier, Hillary Rodham Clinton had made headlines on a call-in

radio program in Washington by dismissing Whitewater as “a never-ending fictional conspiracy that honest-to-goodness reminds me of some people’s obsession with UFOs.”

Starr told Judge George Howard that McDougal had “truthfully and substantially aided” his investigators by providing information “which could only be known to a few insiders.” While conceding that Hale’s and McDougal’s testimonies would be insufficient to bring charges against the president and First Lady, *New York Times* reporter Stephen Labaton wrote that “all outward signs indicate that the investigation has moved into a higher orbit.” A photograph of Starr arm in arm with a broadly grinning Jim McDougal dominated the *Times* front page the following day.

Starr’s deputies continued to pressure both Webster Hubbell and Susan McDougal for damaging testimony about the Clintons. After serving a year at the federal prison camp in Cumberland, Maryland, Hubbell had been released to a halfway house in August 1996, where he had remained until completion of his twenty-one month sentence in February 1997. Although Starr could never prove it, he suspected that friends of Clinton, including Vernon Jordan, had arranged hundreds of thousands of dollars in legal fees as “hush money” payments to Hubbell between the time he resigned from the Justice Department in March 1994 and his indictment the following December.

Subpoenas flew out to the White House and to all the individuals and firms that had hired Hubbell. His friends and members of his family were repeatedly interviewed by FBI agents, all in a vain effort to elicit the incriminating information Starr believed Hubbell had withheld during many interrogations by the OIC prosecutors. He continued to insist that he knew of no wrongdoing by Bill or Hillary Clinton.

Exactly what it was Hubbell was supposed to be hiding remained unclear. Despite an accusatory *New York Times* editorial complaining that Hubbell “never cooperated with the Whitewater investigation,” the fact was that he had answered questions posed by Starr’s investigators repeatedly over a period of more than two years. He had made several appearances before Whitewater grand juries in Little Rock and Washington, and testified at several congressional hearings.

Susan McDougal's ordeal was far worse. Despite being encouraged to cooperate with the OIC by Isikoff, who personally vouched for an old friend on Starr's staff, and by ABC producer Chris Vlasto, Susan remained defiant. She believed that the independent counsel had everything to do with her California prosecution, and with her being incarcerated with drug dealers and murderers as well. Starr's willingness to publicize Jim McDougal's latest addition to his repertoire of stories—namely that Susan had engaged in an adulterous affair with Clinton during the Whitewater era—was for her the final indignity.

With Jim McDougal cast as repentant informer, the Whitewater story line was becoming increasingly baroque and hard to credit. By April 29, one important Republican could no longer pretend to believe it. Senator Alfonse D'Amato, up for reelection in 1998 with his approval ratings among his New York constituents having sunk into the mid-twenties, told reporters that Starr's investigation had "dragged on too long. The American public has just grown sick and tired of it." Observing that Starr's flirtation with Pepperdine University had done tremendous harm to his credibility, "I don't have too much faith in the whole thing," D'Amato confessed. "People come up to me and say, 'Why are we still doing this?' It goes on and on and on . . . It's become very politicized. People don't have any great confidence in it."

Starr's response to his critics came in the form of an extraordinary profile in the June 1 edition of the *New York Times Magazine*. Depicting the independent counsel in familiar terms as a "deeply religious man . . . who reads the Bible every morning," author Jeffrey Rosen ran down an equally familiar laundry list of Whitewater allegations, including the mythical "\$50,000 benefit" to the Clintons' investment from the Master Marketing loan and suspicions that Hillary Clinton had hidden her billing records, plus the newer insinuation that Susan McDougal was covering for Bill Clinton. "I'm not sure she has publicly said he testified truthfully," said OIC spokesman John Bates.

Illustrated by a dramatic black-and-white photograph of Starr, Bates, Hickman Ewing, and Jackie Bennett scowling fiercely into the camera, Rosen's article outlined a series of Whitewater "victims,"

including the Clintons and “taxpayers, who have paid more than \$28 million to finance the investigation of a \$300,000 loan.” But Whitewater’s most “sympathetic person,” Rosen suggested, might be “Kenneth Starr himself, who, after setting up a professional team of prosecutors, tried to move on, only to find he could disentangle himself no more easily than his targets.”

In an angry letter he released to the press, Clinton lawyer David Kendall protested that “grand jury secrecy rules are aimed at preventing precisely this kind of leak-and-smear damage.... What conceivable right do representatives of the [OIC] have to speculate like this?”

After Five Years, Nothing 'Substantial And Credible'

If Scaife ever did learn the details of how his millions had been squandered by Richard Larry's friends at *The American Spectator*, he must have been truly appalled. Known for penny-pinching among his own employees, he could only have been outraged by the sums Henderson and Boynton were paying themselves, let alone the hefty checks they wrote Rex Armistead and others. According to the *Washington Post*, Scaife came very close to firing Larry over the Arkansas Project.

What had Scaife bought with all his money? For that matter, what had all of Clinton's foes accomplished after almost five years of partisan warfare? While they had failed to destroy his presidency, certainly they had succeeded in crippling his leadership. They had done so by staining him and his wife with a spatter of accusations that, if not provable, would nevertheless leave a permanent mark on their reputations. The lasting irony is that by the autumn of 1997, the Clintons were closer than they or their enemies knew to vindication, if not exoneration.

Although Kenneth Starr's prosecutors were in no rush to inform their friends in the Washington press corps, the independent counsel had for all practical purposes given up by then on charging Bill and Hillary Clinton with any wrongdoing involving the White House Travel Office, the FBI files fiasco, or, most importantly, Madison Guaranty Savings and Loan. The FBI files and Travel Office probes had been dormant for nearly a year, with no indictments filed and none contemplated.

The OIC had been more reluctant to give up on Whitewater.

Earlier in 1997, according to Michael Isikoff's 1999 book *Uncovering Clinton: A Reporter's Story*, a Starr assistant named Stephen Bates had drafted an impeachment report to Congress that accused the president of lying under oath during the Tucker-McDougal trial when he denied meeting David Hale at Castle Grande or receiving a loan from Madison Guaranty. The Bates draft would never reach Capitol Hill. Even the politically inept Starr was sufficiently astute to see that an impeachment referral relying upon the shaky testimony of David Hale and Jim McDougal would embarrass him more than it would endanger the president.

Asked to explain how the Whitewater investigation had ended up probing the president's sex life instead, the independent counsel told CNN host Larry King in a 1999 interview that his office had "drafted a report to Congress on Whitewater . . . in December of 1997. But it was my assessment and an assessment shared within my office that the information did not reach what the statute requires, 'substantial and credible.' . . . It's got to be weighty, and it's got to have some believability to it—information that an impeachable offense may have been committed. We didn't think that the evidence was there."

The Clintons, Their Enemies, And The American Public

Until the remarkable events of January 1998, none of the efforts to bring about the political destruction of Bill and Hillary Clinton appeared to have any chance of succeeding. His enemies' relentless intrusion into the president's intimate life, the continuing examinations of his family and political finances, and the ever-expanding investigations of his administration had failed to find sufficient credible evidence to prevent his election and then his reelection, to bring about his impeachment, or to sustain a civil lawsuit against him. Similarly, Hillary Clinton's oft-predicted indictment was by that time little more than a partisan daydream.

Despite several years of effort and many millions of dollars expended by teams of investigative reporters, two independent counsels, and multiple congressional inquests, in addition to the probes privately financed by Richard Mellon Scaife and other political adversaries, no prosecutable offense had been found. Although independent counsel Kenneth Starr was still keeping that secret to himself for the time being, the most heavily investigated couple in the United States had emerged unscathed. Nearly four years of costly litigation by the Paula Jones legal team had produced a weak case that would not withstand summary judgment.

Yet the hunting of the president had inflicted a severe trauma on him, his family, his friends, his administration, and more broadly on the political culture of American democracy. It had perverted the law and debased the media, and in the months to come it would cost the nation still more. Despite his reckless and foolhardy behavior, the looming threat of impeachment had not been created by Clinton alone—as his enemies, seeking to obscure their own complicity,

would stridently insist.

The separate strands of the rope with which those bitter foes had so long hoped to hang him—Paula Jones’s civil lawsuit and Kenneth Starr’s ever-expanding criminal prosecution—were each too weak to bear any such constitutional weight alone. But during the bleak early days of January those two threads had been cunningly twisted together to form a noose, which the president then pulled over his own head.

Most of the country’s citizens refused to join the lynch mob. To the astonishment of Clinton’s critics, public support for the endangered president actually grew in the weeks after the Lewinsky story was exposed. A poll commissioned by CNN and the *Wall Street Journal* in early February 1998 recorded an astonishing 79 percent of respondents favoring him. That level of support could not be sustained indefinitely, particularly not when Clinton was forced, after eight months of denials, to admit that he had been lying about his relationship with Monica Lewinsky. Yet even then his standing with the public still remained surprisingly high.

Lacking the legitimacy that would have been conferred by popular demand, the Republican right’s anti-Clinton crusade was a lost cause months before the Congress actually voted articles of impeachment against the president. As the national consensus emerged and held firm, disgruntled pundits suggested that the American people had been lulled into moral decadence by years of prosperity. Perhaps Clinton’s popularity would have plunged, too, had the stock market done the same. But clearly there were other significant cultural and political factors that served to protect him.

In 1992, when Gennifer Flowers got her first taste of national fame, more than two-thirds of the electorate had told pollsters that they didn’t believe the media ought to be exploring politicians’ sex lives. Six years later, despite their fresh disappointment in Clinton, there was never any indication that the voters had abandoned that preference for privacy.

Instead it appeared that the more they thought about it, the more the great majority of Americans resented not just Clinton’s misconduct, but everything about the Lewinsky affair: a young

woman betrayed by an older friend; a zealous, puritanical, and clearly partisan prosecutor using illegal tape recordings to snare the young woman; the OIC's attempt to bully her into betraying her lover by threatening her family and feeding smutty leaks to an insatiable news media; and the delight of so-called conservatives in stripping the last vestiges of dignity from the president of the United States.

Many found the very idea of a federal sex investigation abhorrent; they feared that anything that might be done to Bill Clinton and Monica Lewinsky could certainly be done to them.

Even as millions of television viewers became engrossed in the nightly soap opera that Clinton had made of his own life, most of them wisely assessed the complexity of his character and rejected the shrill calls for his resignation or removal. The people who had re-elected him continued to regard Bill Clinton as a flawed but highly capable and essentially decent man, with a bad weakness regarding women—a trait that hardly made him unique in the nation's capital or anywhere else.

Perhaps just as importantly, many Americans sensed the Lewinsky scandal's true origins even though very few knew anything specific about them. After nearly six years of confusing headlines and constantly shifting Whitewater accusations, they no longer took the scandal's premises very seriously. There had been far too many "critical phases" and false alarms in Starr's investigation. The legalistic maneuvering by which the independent counsel transformed his interminable probe of a twenty-year-old real estate deal into a sexual inquisition struck the majority as intrinsically suspect.

Hillary Clinton's televised remarks about a "vast right-wing conspiracy to undermine my husband" were initially mocked by pundits as a feeble defense of her husband's bad character. Yet subsequent revelations about the OIC's behavior lent weight to her accusation. Rather belatedly, through reporting by Jill Abramson and Don van Natta, Jr., of the *New York Times*, and later *Newsweek's* own Michael Isikoff, enough details emerged about the secretive machinations of Lucianne Goldberg, Linda Tripp, Richard Porter, George Conway, Ann Coulter, and Jerome Marcus to buttress the First Lady's allegations. By then there was little argument about the existence of a "conspiracy," and still less about whether the plotters were

“right-wing.” Only the “vastness” of their enterprise remained in question.

Forced to answer questions most Americans felt he should never have been asked, Bill Clinton had lied to protect himself, his marriage, his daughter, Monica Lewinsky, and his “political viability”—to choose the meanest way of putting it—from the consequences of his all-too-human frailty. But his shame posed little danger to the republic; his falsehoods and evasions were no threat to the Constitution. His behavior was shameful but hardly felonious, most of his fellow citizens believed, and certainly not in the category of impeachable offenses.

As always, Bill Clinton was also fortunate in his enemies. If Kenneth Starr’s legal judgment was imperfect—in the end, his office lost three out of four jury trials—his political instincts were yet worse, as were those of the independent counsel’s most fervent supporters. Morally certain that Clinton was on the verge of ruin, they hurt their own cause more with each clumsy attempt to strike the fatal blow.

Each successive decision was worse than the one that came before: the incessant leaks about the Tripp tapes and the Lewinsky grand jury; the obsessive prurience of the Starr Report; the insistence of congressional leaders on releasing the independent counsel’s complete investigative files; the decision to broadcast the president’s August 17, 1998, grand jury testimony; and finally the precipitous, party-line vote on articles of impeachment in the lame-duck House of Representatives. These tactics succeeded in damaging Clinton’s personal reputation. Politically, however, the public sympathy they provoked only made him steadily stronger.

As the ideological motivation of Clinton’s enemies became clearer, their isolation became inescapable. Americans of all persuasions were disturbed by Clinton’s behavior, but the most insistent voices calling for his removal—and most often speaking in southern accents ironically like his own—were heard from the precincts of the religious right.

Organizations such as Citizens for Honest Government, Citizens United, and the Council for National Policy received scant notice in the months leading up to the impeachment vote, while

characters like Justice Jim Johnson remained discreetly out of sight. But Richard Mellon Scaife and the Arkansas Project gained considerable notoriety, and figures such as the Reverend Jerry Falwell and Georgia representative Bob Barr appeared on television nearly every night.

Barr did not serve their cause well when he characterized the effort to remove the president as a “civil war,” nor when he lectured a distinguished black federal judge testifying before the House Judiciary Committee that “real Americans” favored impeachment.

Such incidents and personalities helped frame the impeachment debate in terms of earlier cultural and political clashes, ranging from the Scopes trial of the Twenties to the civil rights movement of the Sixties. Both the nature and the agenda of the forces aligned against Bill and Hillary Clinton made most Americans determined to deny them a victory. Having at last instigated the “culture war” for which they had long been yearning, the theological warriors of the religious right were chagrined to find themselves decisively outnumbered.

What ordinary citizens seemed to distrust most, however, as the Lewinsky affair unfolded, was the blatant collusion between the Office of Independent Counsel and prominent members of the Washington press corps. It was hard not to notice that the same reporters and news organizations that had been most critical of Clinton in the Jones and Whitewater cases also routinely scooped their rivals during the frenzied weeks that followed the revelations of January 21. Starr’s denials that he and his staff were illegally passing along grand jury evidence in order to put pressure on witnesses and gain political advantage were widely disbelieved. The likelihood that reporters, editors, television correspondents, and producers were repeatedly fabricating attributions like “sources in Starr’s office” and “Starr’s investigators” seemed vanishingly small.

“What makes the media’s performance a true scandal,” wrote media critic Steven Brill, “a true example of an institution being corrupted to its core, is that the competition for scoops so bewitched almost everyone that they let the man in power write the story—once Tripp and Goldberg put it together for him.”

Perhaps the most telling moment in that performance received

far less attention than it should have. During a legal battle with the president's lawyers over his office's alleged violations of the rule forbidding prosecutors from leaking confidential grand jury information, the Office of Independent Counsel invoked a doctrine of "informant's privilege" to shield its dealing with the press from judicial scrutiny. What Starr sought to hide wasn't merely information he had given to reporters; he rather sought to conceal information that reporters had given to him. The identities of his alleged journalistic accomplices were redacted from those portions of Starr's brief released to the public. Scarcely a word of demurral was heard in the press about journalists gathering information from sources or colleagues ostensibly for their own purposes, and then handing that evidence over to a prosecutor for very different uses. Not only did no reporters or news organizations step forward to explain themselves, but the topic went almost unmentioned.

Nevertheless, most Americans intuitively understood exactly what was happening. As the most powerful and largely unaccountable institution in American public life, the Washington press appeared to have joined forces with a partisan prosecutor to void the results of two presidential elections. This overreaching was more bitterly resented than many in the media realized. Whatever the American people thought and felt about Bill Clinton's private behavior, they refused to forfeit their constitutional right to choose their chief executive to what they regarded as a ratings-driven coup d'état.

When that democratic consensus was ratified, against all expectations, during the midterm elections of November 1998, American politics began a gradual withdrawal from the terrible scorched terrain of the previous decade. The old hatreds would linger but, as the desultory impeachment trial in the Senate made clear, their force was almost spent.

Within a few months, the entire episode took on the feeling of a fading nightmare. The media would move on to other wars and tragedies. The Independent Counsel Act would be left to expire by both parties, whose leaders sought to erase the embarrassments of recent years. The scandal culture, feeding on the sins and sorrows of public figures, would probably endure. But after ten years the Clinton scandals, at least, were over.

APPENDIX

Where Are They Now?

In 2010, **Kenneth Starr** was appointed chancellor of Baylor University, a Baptist institution in Waco, TX. In 2014, he helped negotiate a plea deal for registered sex offender Jeffrey Epstein, who had been accused of multiple cases of statutory rape.

Maureen Dowd still writes her Op-Ed column for *The New York Times* and continues to bark constantly about Hillary Clinton.

William Safire continued to write his Op-Ed column for the *Times* until 2005. President George W. Bush awarded him the Medal of Freedom in 2006. He died in 2009 of pancreatic cancer.

Richard Mellon Scaife developed a “counterintuitive friendship” with Bill Clinton and made substantial donations to the Clinton Foundation. His paper, the *Pittsburgh Tribune-Review*, endorsed Hillary Clinton in the 2008 Democratic primary. He died in 2014 at age 82.

Jeff Gerth co-authored *Her Way: The Hopes and Ambitions of Hillary Rodham Clinton*, which was published in June 2007. The following year, he left *The New York Times* to join the staff of the investigative reporting non-profit organization, ProPublica.

Sheffield Nelson is a partner at the Little Rock law firm Jack Nelson Jones, and remains a prominent figure on the Arkansas Republican political scene.

James McDougal died of cardiac arrest while incarcerated at Federal Medical Center in Fort Worth. He was 57.

After receiving a full presidential pardon from Bill Clinton in January 2001, **Susan McDougal** became an advocate for prison reform and is currently staff chaplain at University of Arkansas for

Medical Sciences.

Howell Raines served as executive editor of *The New York Times* from 2001 until 2003, when he stepped down in the wake of the Jayson Blair scandal. He published a 2006 memoir, *The One that Got Away*, and served as a contributing editor at Condé Nast *Portfolio* before the magazine folded in 2009.

William Barr is currently on the board of Time Warner and Dominion Resources, Inc. He previously served as counsel of Kirkland & Ellis LLP, executive vice president at Verizon, and executive vice president at GTE Corp.

Charles Banks currently heads the Banks Law Firm in Little Rock, which specializes in agricultural law and white-collar criminal defense.

C. Boyden Gray is the founding partner of the Boyden Gray & Associates law and consulting firm. Previously, he practiced law at Wilmer, Cutler & Pickering, served as a chairman of the American Bar Association, and on the boards of the Atlantic Council and the European Institute.

Edith Holiday is on the board of the Heinz Company, Hess Corporation, White Mountains Insurance Group, Canadian National Railway and RTI International Metals, as well as a trustee of Franklin Templeton Group of Funds.

Albert Casey died of a heart attack in July 2004, at the age of 84.

Robert Fiske is an attorney at the Davis Polk & Wardwell firm. He wrote *Prosecutor Defender Counselor: The Memoirs of Robert B. Fiske, Jr.*, published in 2014.

The journalist and novelist **L. J. Davis** was found dead in his Brooklyn apartment in April 2011. He was 70 years old.

Larry Nichols claimed on *The Pete Santilli Show* in 2013 that the Clintons “sent me overseas to kill people for them and told me it was for the good of the country.” (He later rescinded those statements.) In April 2015 Nichols told *Mother Jones* that he might have to support Hillary Clinton for president.

Larry Case died suddenly at his Little Rock home in January

2014, after claiming that persons unknown were “out to get” him.

Michael Isikoff was a reporter for *NBC News* from 2010 until 2014, when he left following clashes with Nightly News anchor Brian Williams. He is currently the chief investigative correspondent at Yahoo News.

Since 2000, **David Bossie** has been president of Citizens United, the right-wing activist organization. Their attack film *Hillary: The Movie*, led to the Supreme Court campaign-finance decision known as *Citizens United v. Federal Election Commission* in 2010.

Floyd Brown is the president of consulting company Excellencia Inc. He authored *Obama Unmasked: Did Slick Hollywood Handlers Create The Perfect Candidate?* in 2008. He founded Citizens United, where he now serves as board chair.

Parker Dozier died of cancer in 2012 at the age of 70.

Stephen S. Boynton is president emeritus of the International Foundation for the Conservation of Natural Resources.

Justice Jim Johnson, suffering from cancer, died of a self-inflicted gunshot wound at White Haven in 2010.

David W. Henderson, since working on the Arkansas Project for *The American Spectator*, has faded from public view.

Lauch Faircloth was defeated in his 1998 bid for re-election by Democrat John Edwards and returned to his hog farm in North Carolina.

Alfonse D’Amato was defeated for U.S. Senate re-election by Democrat Charles Schumer in 1998. Afterward, D’Amato founded a lobbying firm, Park Strategies, where he still works.

Christopher Ruddy is the founder and Editor-in-Chief of NewsMax.com. Like Scaife, he reconsidered his previous attacks on the Clintons, became friendly with them, and has given generously to the Clinton Foundation.

David Sentelle acted as chief judge for the U.S. Court of Appeals for the District of Columbia Circuit from 2008-2013, and then assumed senior status. In 2002 he wrote *Judge Dave and the Rainbow People*.

Jesse Helms retired from the U.S. Senate due to illness in 2002. He died of vascular dementia in 2008.

Jerry Falwell died in 2007 at the age of 73.

Formerly the Washington correspondent for the *London Daily Telegraph*, **Ambrose Evans-Pritchard** is now the paper's international business editor and stays away from all things Clinton.

James Leach retired from the House in 2007 to serve as chair of the National Endowment for the Humanities from 2009-2013. Formerly on the board of ProPublica and a trustee at Princeton, he teaches law at the University of Iowa.

Helen Dickey is currently a founder/partner at Harris & Dickey, a consulting firm. Before that she worked at Jefferson Wells and Bank of America in accounting and auditing positions.

Larry Patterson is now a retired Arkansas state policeman. He no longer talks about the Clintons.

Following his shift from right to left, **David Brock** befriended the Clintons. He founded Media Matters for America, American Bridge, and Correct the Record, and is expected to play a substantial role in the 2016 election on behalf of Hillary Clinton.

Stephen Labaton, since leaving *The New York Times* in 2009, has developed a second career in consulting and is now the president of Finsbury. Before that he worked for Goldman Sachs and founded Georgetown Policy Advisers LLC.

After leaving CNN, **Jeff Greenfield** became a political commentator CBS from 2007-2011. He currently works for *NBC News*.

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