

# Aggressive Prosecutor

Robert Bishop Fiske Jr.

By STEPHEN LABATON

Special to The New York Times

WASHINGTON, Jan. 20 — Robert B. Fiske Jr.'s reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater

Man in the News  
Man in the News  
News

about Bill and Hillary Clinton's business dealings to rest. "The choice is one that you simply can't argue with," said former Treasury Secretary Nicholas F. Brady, a close friend of former President George Bush and a college classmate of Mr. Fiske's more than 40 years ago. "He's one of those guys who's always conducted himself with integrity."

But Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor; if the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the First Family.

## Blunt and Effective Style

Mr. Fiske's blunt and effective style was evident immediately after he was appointed today, when he curtly dismissed a reporter's ques-

An investigator whose findings will carry great weight.

tion about the White House refrain that no evidence existed to suggest the need for a special prosecutor.

"I think we're past that," he said at the news conference. "I have been asked to do this job and I'm going to do it."

He said that he would hire a "significant number" of lawyers and investigators, and that he would be the kind of hands-on prosecutor who makes the case rather than a counsel who simply sits back to make the big calls and leaves the day-to-day work to younger lawyers.

At a time when many clients prefer flashy lawyers, Mr. Fiske's style is unflashily described as "workmanlike" and "low-key."

He has rarely lost a big case, in large part because he does not prosecute unless he thinks he has abundant evidence to win. In close calls,

Mr. Fiske's colleagues say, he will look for more evidence rather than bring a case, even if he dislikes the targets of an investigation or others are clamoring for prosecution.

"He's not hamboying in any stretch of the imagination, but he's businesslike," said Harold R. Tyler, a former Federal judge and senior Justice Department official, who first met Mr. Fiske in the 1950's, when he was a young lawyer and Mr. Fiske was a summer intern.

Mr. Tyler ultimately became one of Mr. Fiske's most important mentors. As Deputy Attorney General in the Ford Administration, he persuaded the President to name Mr. Fiske as the top Federal prosecutor in Manhattan.

Mr. Fiske is also a protégé and former partner of Lawrence E. Walsh, dating from the days when the two worked together at the Wall Street firm of Davis, Polk & Wardwell. In 1986, shortly after Mr. Walsh was appointed independent counsel to investigate the Iran-contra affair, he turned to Mr. Fiske for advice about who to select as his deputies. Mr. Walsh ultimately considered selecting as his deputy either Mr. Fiske or Bernard W. Nussbaum, who is now White House counsel, but at the time, neither man was able to take the job.

## Two Different Styles

Although Mr. Fiske admires Mr. Walsh, their styles are different. Colleagues of both said today that it would be a mistake to assume that Mr. Fiske's investigation would end up as fruitless as his mentor's. Among other things, they said, Mr. Fiske is more decisive, moves faster and is able to recognize when he cannot make a case.

Mr. Fiske, a Republican who was appointed United States Attorney by President Gerald Ford in 1976, submitted his resignation when Jimmy Carter was elected President. But Mr. Carter kept him on at the suggestion of a number of Democratic admirers, including Senator Daniel Patrick Moynihan of New York.

Mr. Fiske broke the conventional mold of a United States Attorney by personally trying some of his office's biggest and most difficult cases. One case, involving Anthony M. Scotto, a leader of the International Longshoremen's Association, was brought by Mr. Fiske with the aid of a young agent of the Federal Bureau of Investigation, Louis Freeh. Mr. Freeh, who is now the Director of the bureau, met today with Mr. Fiske to discuss what role the F.B.I. will be playing in the

new investigation.

Alan Levine, who tried the Scotto case with Mr. Fiske, said Mr. Fiske's cross-examination style does not employ trickery, but he has a firm grasp of minute facts.

"We had on a tape the fact that Scotto had handed over an envelope to the Commissioner of Ports and Terminals," Mr. Levine recalled. "Scotto had said that there were tickets to a political event in the envelope, but Bob was able to show through his cross-examination and through his questioning of other witnesses how unbelievable that was."

Other lawyers who worked with Mr. Fiske recalled his restraint, and said he can be conservative in making decisions about whether and how to charge potential defendants.

"I remember an incident that quickly showed his mettle," said Frederick P. Hafetz, who was the chief of the criminal section under Mr. Fiske. "When he first came in as United States Attorney, a young prosecutor had a large and complex fraud

A thorough investigation of the Clintons appears certain.

investigation against a high-visibility person. Fiske made the call not to go on the case because he didn't think it could be proved.

"It showed real guts that he had the judgment to say no, particularly because investigations often develop a momentum of their own. And it was a call for which he earned the wide respect of the office."

But Mr. Fiske has not always moved smoothly between New York and Washington legal circles. Almost five years ago, some conservative Senators succeeded in shooting down Mr. Fiske's proposed appointment to be the Deputy Attorney General in the Bush Administration.

The proposed appointment was opposed because in the 1980's he headed a committee of the American Bar Association that questioned some of President Ronald Reagan's nominees for the bench. Critics, led by Senators Strom Thurmond of South Carolina and Charles E. Grassley of Iowa, both Republicans, accused Mr. Fiske of undermining efforts to reshape the courts in the Reagan mold.

The conservatives contended that Mr. Fiske had erred in seeking the views of the Alliance for Justice, a liberal group in Washington. The Senators painted this as part of a conspiracy, although Mr. Fiske maintained that he was merely trying to find out whether any of the nominees had histories of discriminating against women or members minorities.

Mr. Fiske left the bar association committee shortly before it issued a divided appraisal that contributed to the failure of Mr. Reagan's nomination of Judge Robert H. Bork to the Supreme Court. But the appraisal so angered the conservatives that the normally staid bar association became a target of searing criticism.

Reno names lawyer to probe Whitewater deal

WASHINGTON (UPI) Attorney General Janet Reno named New York lawyer Robert Fiske Thursday as the special counsel to investigate President Bill Clinton's connections to a failed land deal when he was governor of Arkansas.

Fiske, 63, is a Republican and a partner in the Wall Street firm of Davis, Polk & Wardwell. In 1976, President Gerald Ford appointed him U.S. attorney in Manhattan, a position he held until 1980.

Reno made the announcement at her regular weekly news conference, which was attended by Fiske. He said he would start his investigation Thursday by meeting with Justice Department lawyers.

Fiske said his authority "was very broad" but expressed reluctance to place himself in a position of completing the investigation. He said he would question the president and the first lady under oath with the aim of conducting an independent investigation.

The president and Mrs. Clinton invested in a real estate venture, Whitewater Development Corp., managed by James McDougal. Questions arose when McDougal purchased a savings and loan that went bankrupt.

Investigators have been looking into whether McDougal funneled money from the thrift, Madison Guaranty and Savings and Loan Association, into the Whitewater deal during Clinton's re-election campaign in 1984.

Fiske also represented Clark Clifford, adviser to four Democratic presidents, who became head of a U.S. bank that was secretly and illegally owned by the Bank of Commerce International.

Fiske said he has not discussed his assignment with Lawrence Walsh, a special prosecutor who released his final report on the Iran-Contra arms-for-hostages deal.

\*\*\*\* filed by:UPI-(us) on 01/20/94 at 09:53EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/20/94 at 10:03EST \*\*\*\*

BC-CLINTON-WHITEWATER

FISKE NAMED AS CLINTON WHITEWATER PROSECUTOR

WASHINGTON (Reuter) - Attorney General Janet Reno Thursday named New York lawyer Robert Fiske as an independent counsel to conduct a wide-ranging criminal investigation into President Clinton's land and financial dealings in Arkansas in the 1980s.

In a statement, Reno noted she had promised to appoint someone who was ``ruggedly independent,'' a characteristic she said the former federal prosecutor would bring to the job.

Reno said the scope of his investigation would include any violation of federal criminal law by ``any individuals or entities'' relating to dealings conducted by Clinton and his wife Hillary.

She said those dealings included the failed Madison Guaranty Savings & Loan, Whitewater Development Corp, a money-losing real-estate venture in which the Clinton's were part-owners, and the Arkansas-based firm Capital Management Services Inc.

``I don't expect him (Fiske) to report to me. I expect him to report to the American people and I do not expect to monitor him,'' Reno told a news conference.

She said the independent counsel would also have the authority to investigate any possible obstruction of justice and ``any material false testimony or statement'' in connection with the investigation.

She said Fiske would be able to seek indictments and prosecute anyone who is ``reasonably believed to have committed a violation of any federal criminal law ... including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any criminal offense.''

Asked whether he would investigate whether the July 1993 suicide of Vince Foster, a close friend and Clinton and a White House counsel, was linked to Whitewater or Madison in any way, Fiske said in a news conference: ``That will be one of the things we will be trying to find out.''

Fiske was named a federal prosecutor in New York in 1976 by Republican President Gerald Ford but he was kept on in the post until 1980 by Democratic President Jimmy Carter because of this ``skill and integrity,'' Reno said.

Recently he worked as a defense attorney for former secretary of defense Clark Clifford and his partner Robert Altman in the Bank of Credit and Commerce International scandal.

REUTER

\*\*\*\* filed by:RB--(--) on 01/20/94 at 09:59EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/20/94 at 10:03EST \*\*\*\*

URGENT

Reno Names New York Attorney as Special Counsel

EDs: Combines pvs; news conference under way

By CAROLYN SKORNECK= Associated Press Writer=

WASHINGTON (AP) A former Republican U.S. attorney today was named special counsel to probe President Clinton's ties to a failed Arkansas savings and loan when he was governor.

The appointment of Robert B. Fiske Jr., was made by Attorney General Janet Reno at a morning news conference.

Reno's selection of the 63-year-old Wall Street attorney answered suggestions that the special counsel be a veteran attorney and, to demonstrate independence, a Republican.

But some conservatives are likely to oppose Fiske, who ran the U.S. attorney's office for the Southern District of New York in Manhattan from 1976 to 1980. He was appointed by President Ford but continued in office during the Carter administration.

Conservatives scuttled Fiske's chance to become deputy attorney general during the Bush administration because of his involvement in the American Bar Association's screening of potential judges.

Former Sen. Gordon Humphrey, R-N.H., accused Fiske of sharing the names of prospective nominees with liberal groups, ``thus enabling those groups to target conservative candidates even before their nominations were made public.''

Fiske, with the Wall Street law firm of Davis Polk & Wardwell, recently has represented key defendants in the Bank of Credit and Commerce International fraud case.

He previously helped his former law partner, Independent Counsel Lawrence Walsh, pick a staff to investigate the Iran-Contra arms and money scandal.

The choice was finalized a week after Clinton asked for an outside investigation of his investment in the 1980s in Whitewater Development Corp. and its links to Madison Guaranty Savings & Loan.

Justice Department investigators have been trying to determine whether depositors' money was diverted illegally from Madison, which failed in 1989, to Whitewater, a planned vacation-home project in Arkansas.

Madison was owned by longtime Clinton supporter James McDougal. He and his former wife, Susan, co-owned Whitewater with the president and Hillary Rodham Clinton. The Clintons have said they lost \$68,900 on their investment.

Also being investigated is whether Madison funds were diverted to help retire Clinton's 1984 gubernatorial campaign debt.

Among the candidates said to have been considered for special counsel were former Attorney General Benjamin Civiletti, who served under President Carter; former U.S. Attorney Dan K. Webb of Chicago, who was deputy independent counsel in the Iran-Contra investigation; and Michael Manning of Kansas City, who prosecuted of Charles Keating, owner of Lincoln Savings in Irvine, Calif.

Senate Republican leader Bob Dole pushed Reno for weeks to appoint a special counsel, and he suggested Civiletti and Webb, among others.

Reno resisted, saying anyone appointed by her would not be considered truly independent because he or she would still be answerable to Reno.

But after Clinton succumbed to political pressure Jan. 12 and asked her to appoint a special counsel, she vowed to select a ``ruggedly independent'' prosecutor.

\*\*\*\* filed by:APE(--) on 01/20/94 at 09:39EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/20/94 at 10:04EST \*\*\*\*



## Whitewater, public money and Congress

Why, it has been asked, is there any need for a congressional investigation and Capitol Hill hearings in the Whitewater affair now that Attorney General Janet Reno has acquiesced to demands that she appoint a special prosecutor? Don't such undertakings by lawmakers serve merely to undermine the inquiries of prosecutors? No.

Even though Lawrence Walsh blamed the fact that he came up empty-handed in part on the immunity granted to key Iran-Contra players by the select congressional committee that first delved into the scandal, the truth was that there wasn't a vast web of criminality to be prosecuted. Mr. Walsh got into the nasty habit of assuming that everyone he targeted was guilty, however, and the lack of evidence to support that assumption was somehow evidence of an even more sinister conspiracy. Even if the convictions of John Poindexter or Oliver North had not been overturned on grounds that their immunized testimony before Congress tainted the accounts of witnesses against them, Mr. Walsh would still have closed shop with a minimally feathered cap. The fact that he didn't bag President Reagan, President Bush, Secretary of State George Shultz and so on had nothing to do with the fact that Congress held hearings and everything to do with the absence of evidence of wrongdoing.

The most important reason for Congress to hold hearings on Whitewater, beyond the need to give the matter a much-needed public airing, is that Whitewater, tangled as it is with the failure of the Madison Guaranty Savings & Loan Association, speaks to one of the most pressing legislative issues facing the Congress' banking committees: reform of federal deposit insurance.

Madison Guaranty cost taxpayers \$50 million in a fiasco that seems to exemplify the problems with federally insured savings and loans. The thrift, owned by Clinton friend James McDougal, was chartered by the state of Arkansas, but was federally insured. This points up a serious weakness in federal banking laws. If it were the state that was insuring a thrift like Madison, then losses resulting from sloppy regulation or political hanky-panky would fall on

the taxpayers of Arkansas, and would be their problem to deal with. But when it is the taxpayers of the nation as a whole who have to pick up the tab, there is little pressure on Arkansans to clean up their less-than-scandal-free political and financial environment.

Some apologists for the president have said that anything unseemly regarding Madison and Whitewater is no big deal, just the way business is done in Arkansas. Well, it is up to Congress to find out just how business is done in that state, and if it is as shifty and incestuous as it seems, it is up to Congress to change a system that puts federal guarantees behind such business practices.

Rep. Jim Leach, the Iowa Republican and ranking minority member on the House Banking Committee, has done yeoman service to catalog the regulatory breakdown at Madison Guaranty and pursue a careful investigation into whether such failings are being repeated in Arkansas and other states. Mr. Leach points out that Madison stayed open long after it was shown to be insolvent and continued to be "a private piggy bank" for Mr. McDougal and his associates. The amount of loans given to officers, directors and executives of the thrift exploded once Mr. McDougal bought it, ballooning from \$500,000 to \$17 million. Mr. Leach argues compellingly that Congress should inquire into whether the growth of such insider loans should be made a warning signal that a thrift's assets are being abused. The accounting and documentation at Madison was a disaster. Why? And even more important from a congressional point of view, how? How is it that a federally insured institution could bumble along, burning money, and seemingly burning the records as well?

These are questions that a special prosecutor — looking into the specific questions of whether the president and/or his wife were involved in criminal wrongdoing — will not and cannot address. Aside from the issues of presidential scandal, this is an opportunity for Congress to find out how to save taxpayers from more Madisons in the future. That's what congressional investigations are supposed to be about, and now is the time for lawmakers to do their job.

The Washington Times

4/20/94

The Washington Times  
1/20/94

# Whitewater counsel selected, officials say

## Republican Fiske may get job today

By Jerry Seper  
THE WASHINGTON TIMES

Robert B. Fiske Jr., a former U.S. attorney in New York, is expected to be named today by Attorney General Janet Reno as special counsel to investigate President and Mrs. Clinton's involvement in the Whitewater-Madison affair, Justice Department officials said last night.

The 64-year-old Republican, who reportedly was one of three lawyers on a short list of candidates, will be assigned by Miss Reno to look into financial irregularities involving Mr. Clinton, the first lady and the owner of a failed Arkansas savings and loan.

Miss Reno has discussed the ground rules for the probe with Mr. Fiske, the official said.

The expected appointment comes after the president succumbed to clamorous bipartisan demands that a special counsel be named to investigate charges that James B. McDougal, owner of the now-defunct Madison Guaranty Savings and Loan Association, issued illegal

loans and channeled some of the cash to Mr. Clinton's gubernatorial campaigns.

The Clintons, Mr. McDougal and his wife Susan, were partners in Whitewater Development Corp., a northern Arkansas real estate venture at the time of the financial irregularities. Whitewater eventually failed.

Mr. Fiske was U.S. attorney in the Southern District of New York in Manhattan from 1976 to 1980, during the Carter administration. The New York office is the largest of the 93 U.S. attorney's offices in the nation. Mr. Fiske is now a senior partner at the New York law firm Davis, Polk and Wardwell.

In 1990, during the Bush administration, then Attorney General Dick Thornburgh sought to have Mr. Fiske appointed as deputy attorney general, the Justice Department's No. 2 position, but GOP conservatives objected to his involvement in judicial screenings by the American Bar Association and blocked the nomination.

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## FISK

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Most recently, he has represented key defendants in the Bank of Credit and Commerce International fraud case. He previously helped his former law partner, independent counsel Lawrence Walsh, choose a staff to investigate the Iran-Contra scandal.

According to Justice Department officials, the selection came after a weeklong search, with a decision being made late yesterday.

The sources said other short-list candidates included Dan K. Webb, former U.S. attorney in Illinois, and Kenneth W. Starr, solicitor general during the Bush administration.

Others mentioned include former Sen. Warren Rudman, former Supreme Court Justice Byron White, Iran-Contra counsel Arthur Liman, past federal attorneys general Griffin Bell and Benjamin Civiletti, former Senate Ethics Committee counsel Robert Bennett, former U.S. Attorneys Michael Baylson and Anton Valukas, and Reagan administration White House Counsel A.B. Culvahouse.

Miss Reno had rejected early demands to appoint a special counsel in the case, saying it would not guarantee independence. She said the appointee would still work for her.

She had suggested that she would be receptive to waiting until Congress passes the Independent Counsel Act, which would allow a three-

judge panel to appoint an independent, outside investigator in the case. Her position changed after the White House decided on Jan. 12 that the appointment of a special counsel was necessary.

The sources said Assistant Attorney General Jo Ann Harris, who heads the Justice Department's criminal division, played an integral role in helping to narrow the choice to Mr. Fiske.

Mrs. Harris is a former assistant U.S. attorney in New York who specialized in white-collar tax, securities, antitrust and fraud cases; pro bono defense of indigents; and teaching law students and young lawyers.

The special counsel will be asked to make a public report to the American people on his findings in the tangled financial dealings involving Madison, Whitewater, the Clintons and the

Mr. Fiske was not available last night for comment. A call to his Darien, Conn., home was answered by a woman who said he was not home and would not be available for comment until today.

Republicans, led by Senate Minority Leader Bob Dole of Kansas and Rep. James Leach of Iowa, the ranking Republican on the House Banking Committee, have called for a special counsel for weeks. The Clintons steadfastly opposed such a probe but yielded after 11 Democratic senators joined the Republicans in asking that a special counsel be named.

Miss Reno repeated her contention that no one she chooses will be seen as truly independent, but she argued: "It is important that public confidence be preserved and that the public knows we are doing everything we can. . . . People have submitted a number of lists, but we will consider everybody possible to make sure that we select the person who can be fair, impartial, and who has a reputation for integrity and skill," she said.

Justice Department investigators have been looking into the Whitewater-Madison affair for months. It was first handled by U.S. Attorney Paula J. Casey in Little Rock after the Resolution Trust Corp., which oversees failed S&Ls, made 10 criminal referrals involving Madison to her office.

Later, she recused herself when press reports confirmed that she was married to a man Mr. Clinton had appointed to a state job in Arkansas.

Much of what the special counsel is expected to examine will be documents released last week by the White House showing the Clintons' involvement with Whitewater. The White House has released 10 boxes of Whitewater documents but has declined to make them public.

Some of the records include those taken from the office of Deputy White House Counsel Vincent W. Foster Jr., who killed himself July 20.

# The growing sense of urgency on welfare reform

Daniel Patrick Moynihan has a long memory and an even longer attention span. He's been trying to get welfare reformed for years.

His long memory reminds him that his bill was aggressively opposed six years ago by the Children's Defense Fund. Hillary Rodham Clinton, merely the wife of the governor of an obscure Southern state, was board chairman. She was followed by Donna Shalala, now secretary of health and human services. Both of these women are leading proponents of health care reform.

Does anyone doubt now that Mr. Moynihan means it when he says, "I might just hold health care hostage to welfare reform"? It's hardball time in the busy downtown Washington. He

doesn't like it that welfare reform, an issue Bill Clinton vigorously supported during the campaign — "to change welfare as we know it" — is now considered considerably less urgent than the first lady's health care reform.

It's probably not coincidental that Mr. Moynihan was the first Democratic senator to tell the president to submit a special

counsel to find out what really went on in Whitewater, despite the first

lady's stubborn resistance. Hillary's insistence that she was only a "passive partner" in the Clintons' Whitewater investment — when everyone suspects she was more than that in her work as the lawyer for a savings and loan that went bust after putting

money in Whitewater — has weakened her position as a power proponent for health care.

Worse, to a welfare reformer like Mr. Moynihan (and others), Hillary is strongly suspected of trying to lead her husband on that garden path where so many "Old Democrats" lie buried in the Republican landlides of the past two decades. Mr. Moynihan (and others) want to coax the president to remember his promise to be a "New Democrat." New Democrats are welfare reformers.

"There's no health care crisis in America," says Mr. Moynihan. "There is a welfare crisis in America."

His concern goes back almost three decades, when he saw the "negative incentives" created by the welfare culture, and the growing numbers of single young black mothers being caught up and ground down in the cycles of welfare. The latest statistics tell the grim progress of the cycle: Illegitimacy comprises 68 percent of births to black women, 22 per-

cent of births to white women. Welfare payments not only lead to increased illegitimacy, but undercut values of abstinence, education and work.

If welfare reform includes cutting payments after two years; if there is a freeze on benefits for additional children; if children who have children are required to live with their own parent or parents rather than moving out to live independently; if able-bodied men and women are required to work for welfare checks, then — and probably only then — young women in the welfare cycle may have a decent chance of not getting pregnant.

Liberals have always had an inherent reluctance to push work as a criterion for receiving welfare payments, especially for single mothers. Conservatives have always been reluctant to pay for training programs because they see too much make-work instead of real work.

But nearly everybody agrees that

the welfare system is not working and a complete overhaul is required to break the cycles of poverty created

*Nearly everybody agrees that the welfare system is not working and a complete overhaul is required to break the cycles of poverty created by welfare-supported illegitimacy.*

welfare-supported illegitimacy. The notion that the White House can't direct two major pieces of legislation at the same time is behind the effort

to separate health and welfare legislation, with welfare a decided second.

Mr. Moynihan is a powerful opponent as chairman of the Senate Finance Committee because he knows how to figure. Sixty votes are necessary to break a filibuster. A filibuster is likely if the Clintons insist on employer-paid health care and universal coverage.

Reforming welfare is much less controversial; many liberals have joined conservatives in noting that the importance of work and responsibility are tied to family values. (Many have not.) Those who see work as "punitive" are like permissive parents who never teach their children limits. Such indulgence invariably cripples.

Growing numbers of teen-agers and even family planning enthusiasts can once again talk about the virtues of teen-age virginity without smirking. The talk is of devotion and love, not raw sex. If these moral attitudes can spill over into our understanding of welfare reform, linking love and work as staples of a secure society, Mr. Moynihan's long attention span (and memory) might be rewarded with reform and reunion at last.

Suzanne Fields, a columnist for The Washington Times, is nationally syndicated. Her column appears here Monday and Thursday.

# N.Y. Lawyer Fiske Is in Line to Head Whitewater Inquiry

By Michael Isikoff  
Washington Post Staff Writer

Robert B. Fiske Jr., a Wall Street lawyer and former federal prosecutor, emerged yesterday as Attorney General Janet Reno's expected choice as special counsel to investigate the Whitewater Development Corp. affair, sources said.

Reno is planning to name her choice at a news conference today. Sources familiar with the process said Fiske, 63, became the leading contender after Justice Department officials developed a "short list" that also included former solicitor general and federal judge Kenneth W. Starr and former U.S. attorney and Iran-contra prosecutor Dan Webb.

Fiske was described by department officials and outside lawyers as having unusually strong credentials for a politically sensitive and, some believe, thankless task. A Republican named by President Gerald R. Ford to be U.S. attorney for the southern district of New York, Fiske continued to serve in that post during the Carter administration and was praised for his handling of a number of high-profile cases. As a senior partner in the New York firm of Davis, Polk & Wardell, Fiske most recently was in the news as one of the lawyers who helped defend Clark M. Clifford and Robert Altman in the BCCI case.

Fiske has close ties to a number of Justice Department officials, including Criminal Division Chief Jo Ann Harris, who worked in the U.S. attorney's office under Fiske, and FBI Director Louis J. Freeh, who had been one of the top agents in a major waterfront racketeering case prosecuted by Fiske. In 1989, then-Attorney General Dick Thornburgh sought to name him deputy attorney general.

But Fiske withdrew his name from consideration after conservatives complained he had undermined some Reagan administration nominees for the federal judiciary while chairman of an American Bar Association screening committee from 1984 to 1987.

The selection comes more than a week after Reno, faced with a for-

mal request from the White House, agreed to name a special counsel to take over the department's investigation into allegations of possible wrongdoing involving Clinton's investment in Whitewater as well as the company's ties to the failed Madison Guaranty Savings & Loan. The S&L closed in 1989 at a taxpayer cost of about \$60 million, according to a recent estimate by the Resolution Trust Corp.

Madison Guaranty was owned by James McDougal, who, along with his ex-wife Susan, was a business partner of Clinton's in Whitewater, an Ozark mountain real estate venture.

Reno said in a news conference last week that she wanted to name a "ruggedly independent" prosecutor with a reputation "for honesty and for real skill in terms of matters such as this." But while Reno had hoped to make the selection almost immediately, finding a candidate proved difficult.

Sources said one significant problem was potential conflicts of interest.

At least some of the lawyers initially under consideration worked for firms that have represented prominent savings and loans. Justice Department officials were concerned that such ties might raise too many questions.

One example was former Carter administration attorney general Benjamin Civiletti, who had been suggested as a possible candidate by congressional Republicans. Civiletti's Baltimore law firm, Venable, Baetjer, Howard & Civiletti, was sued by the state of Maryland in the mid-1980s as part of a savings and loan scandal. Civiletti said yesterday that while he had gotten a message to call the Justice switchboard this week, nobody got back to him after he returned the call, leading him to conclude he was no longer in the running.

But equally troublesome, sources said, was finding a candidate willing to take over the investigation.

Some investigators believe a complete investigation of the Whitewater matter could take more than a year and could require an

array of hard-edged prosecutorial tactics, such as threatened indictments and grants of immunity to key players.

One administration official said yesterday the investigation "could get ugly," one reason that some candidates appeared reluctant to accept the job.

Sources said that in recent days Starr had been mentioned as a possible candidate, touted as another prominent Republican lawyer and former judge who would give the selection a bipartisan cachet. He had been selected by President Bush for the U.S. Court of Appeals for the D.C. Circuit at the unusually young age of 37; he later was solicitor general in the Bush administration.



# Reno Is Said to Choose New Yorker as Counsel

By STEPHEN LABATON  
Special to The New York Times

WASHINGTON, Jan. 19 — Attorney General Janet Reno has settled on Robert B. Fiske Jr., a New York lawyer and a Republican, to be the special counsel to investigate the real estate investments of President Clinton, an Administration official said today.

Ms. Reno and other senior Justice officials were described today as completing their work on the appointment and going through a final background check on the selection before making the announcement.

Aides to Ms. Reno said that she could make the announcement as early as Thursday morning at her weekly news conference. The conference was scheduled even though the Justice Department was closed because of the cold weather.

Mr. Fiske, a 63-year-old partner in the Wall Street law firm of Davis, Polk & Wardwell, was appointed by President Gerald R. Ford in 1976 to be the United States Attorney in Manhattan, and held that position until 1980. He has had a series of high-profile clients in recent years in both political and finance circles. He did not respond today to several messages left at his home in New York and his office.

## Seasoned Litigator

In selecting Mr. Fiske, Ms. Reno has turned to a seasoned and widely respected litigator who is known for his low-key, yet effective approach towards cases. Justice Department officials have said that Ms. Reno has struggled to find a person of unmatched integrity, particularly so that if no wrongdoing is ultimately found, she would be able to deflect any criticism about the independence and thoroughness of the investigation.

During the Bush Administration, Mr. Fiske had been selected to be the No. 2 official at the Justice Department. But he withdrew his name from consideration as Deputy Attorney General after a protracted battle with conservative Republican senators. Mr. Fiske had been chairman of the American Bar Association's committee on the Federal judiciary from 1984 to 1987, a time when the A.B.A. panel criticized some of President Ronald Reagan's choices for the bench.

Nonetheless, Mr. Fiske is highly regarded in New York circles as a litigator and defense lawyer. A native of Brooklyn, he graduated from Yale University and earned his law degree at the University of Michigan. He has long been considered a leader of the New York bar, and many of his friends and colleagues now have senior positions in the Clinton Administration.

In 1986, when one of his former partners from Davis, Polk, Lawrence E. Walsh, was named to be independent counsel in the Iran-contra investigation, Mr. Fiske was consulted by Mr. Walsh about what lawyers to be appointed as the deputies in the investigation.

## Defending Clifford

Most recently, Mr. Fiske was named in news as a defense lawyer for Clark M. Clifford, the lawyer and lobbyist who advised four Democratic Presidents and later headed a Washington banking company that was secretly and illegally owned by the Bank of Credit and Commerce International. Mr. Clifford, who was never tried because of ill health, ultimately switched lawyers because he disagreed with Mr. Fiske's advice that he not respond publicly to accusations that he was involved in wrongdoing.

One of the special counsel's first duties will be to work out with the Attorney General the scope of his assignment. In particular, the Justice Department must decide about whether the counsel will also investigate the

circumstances of the death of Vincent M. Foster Jr. At the time of his suicide last July, Mr. Foster, a deputy White House counsel and longtime friend of Mr. Clinton and his wife, Hillary, had been handling some of their involvement with the Whitewater Development Company, the real estate business that the Clintons owned with James and Susan McDougal.

The search for an independent counsel had thrown into question the investigations by the Justice Department into the Whitewater affair. Mr. McDougal also ran an Arkansas savings and loan that failed almost five years ago and investigators have been examining whether the institution, Madison Guaranty Savings and Loan Association, improperly funneled money into Whitewater or into Mr. Clinton's 1984 election campaign when he was Governor of Arkansas.

Separate investigations have been conducted over Madison's relationship to Whitewater and a note apparently left by Mr. Foster. As Mrs. Clinton's law partner in Little Rock, Mr. Foster handled some matters relating to Whitewater and Madison and when he died, Whitewater files were found in his office. They were secretly sent to Mr. Clinton's family lawyer, David Kendall, by the White House counsel, Bernard W. Nussbaum.

Although a Republican, Mr. Fiske has many friends who were lawyers in New York and now hold senior positions in the Clinton Administration. Those officials involved in his selection included Deputy Attorney General Philip Heymann and Assistant Attorney General Jo Ann Harris, the head of the criminal division and a former New York prosecutor who has worked with Mr. Fiske.



BC-COUNSEL national editors:NY  
Reno to announce Whitewater counsel today  
By Richard Sisk  
New York Daily News

WASHINGTON Attorney General Janet Reno on Thursday will announce her choice of a special counsel to investigate the tangled business affairs of President and Hillary Rodham Clinton in the Whitewater development, legal sources said.

Among the top contenders are former U.S. Attorneys Robert Fiske of New York and Dan Webb of Chicago, according to sources.

Fiske, 64, was appointed U.S. attorney by Republican President Gerald R. Ford. He was also tapped to be the top deputy to Attorney General Dick Thornburgh during the Bush administration but was forced to withdraw his nomination because of strong opposition by conservatives in Congress.

Reno, who had initially resisted making such an appointment because it would be perceived as politically tainted, was to make the announcement at her weekly briefing for reporters, the sources said.

The attorney general has tightly guarded the names she has under consideration for the politically sensitive post of special counsel. But she has acknowledged being familiar with a list suggested by Senate Minority Leader Bob Dole, R-Kan., who suggested former Attorneys General Griffin Bell and Benjamin Civiletti, among others.

Last week, after several Democrats joined Republican calls for a special counsel, Clinton dropped his resistance to the move.

The Whitewater affair, which hounded Clinton through the 1992 presidential campaign, began with the Clintons' 1980s investment in the Arkansas real estate development with James McDougal, the owner of Madison Guaranty Savings and Loan Association. The S&L eventually failed and cost taxpayers as much as \$47 million to bail out.

Clinton has insisted that he lost money on the real estate deal, but Republicans have called for a probe to determine whether funds from the S&L may have been used to offset Clinton's campaign debts.

Reno had been opposed to appointing a special counsel, arguing that she would be accused of picking an investigator who would go easy on the president. Instead, she urged Congress to pass a new special prosecutor statute that would enable her to have the courts pick an independent counsel.

But Reno bowed to Clinton's wishes after the president changed his mind as the Whitewater affair threatened to overshadow his European tour.

\*\*\*\* filed by:KR-F(--) on 01/19/94 at 23:54EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/20/94 at 10:01EST \*\*\*\*

SC-ROE-COLUMN op-ed editors:WI

I hope Clinton didn't get caught up in something illegal in the Whitewater deal

By Myrne Roe

Knight-Ridder Newspapers

Two words spring to mind when one considers how the Clintons have reacted to ``Whitewatergate``:

``Dumb.``

``Guilty.``

I hope the accurate word is the former, not the latter. And if they haven't done anything wrong, then dumb is a mighty fine way to describe the Clinton administration's handling of the situation. Doesn't anyone in the White House understand that, if the story is going around, stonewalling won't make it go away? Didn't anyone tell them that when they don't respond immediately and with all the relevant details that they are assumed guilty until proven innocent?

The whole matter of an Arkansas investment deal gone sour started piquing curiosity when papers were removed from the office of White House aide and close Clinton friend, Vince Foster, who killed himself last year. Reporters dug around and found just enough to get the public more and more curious about any connection between the Clintons' financial loss and a failed savings and loan. Unfortunately, instead of stepping forth and answering questions evolving from all the allegations, the president's response was pretty much an in-your-face-America non-response.

Let us assume that Bill and Hillary Clinton have done nothing worse than get caught up in a money-losing proposition. Let us assume that no laws were broken, that at a minimum there was some poor but not fatal judgment involved. If that is the case, then why wasn't the policy to approach the matter by telling all there was to tell up front and real loudly? All that foot shuffling and no-big-deal stuff has made what may well turn out to be a tempest in a teapot of white water a really big deal.

So what should the administration have done? As soon as the story began to break and not a minute later go to the media and say, ``Here are the facts. All the facts.`` Lay them out. Chances are if all questions are answered directly, the story will die. If there's no dirt, there's no dirt. If, however, there was some wrongdoing not criminal, but doubtful behavior then confess, say why it won't happen again, apologize and get on with it.

That was the tack with Gennifer Flowers. The Clintons went on ``60 Minutes,`` said that they had had marital problems. Pointed out discrepancies in Flowers' story. It worked. The story except among diehard Clinton foes went away. There was the saga of two former and apparently disgruntled aides and an old political nemesis going to a right-of-center publication and alleging some nonsense about Gov. Clinton using the Arkansas Highway Patrol to procure dates for him. That tall tale has pretty much died for lack of proof positive and consideration of the source. The Clintons stood together and said loudly and firmly, ``No way.``

So why be dumb about the Whitewater thing when the ``bimbo eruptions`` were addressed directly? Did the president suddenly forget that anyone in such a high office always needs to remember a basic political rule? To wit: The appearance of wrongdoing can be every bit as damaging as actual wrongdoing, especially when you try to ignore it?

As it is, there is a search on for a counsel to investigate. Some senators and representatives want Congress to do its own investigation. The story goes on and on and on, getting in the way of the president's recent trip abroad and such upcoming legislative imperatives as health care.

See, nothing is quite so damaging as a political story that just keeps unfolding, bit by bit and rumor by rumor. A hemorrhage in such situations is far better for the politician and for the country than a slow bleed. Get the bloody thing over with rather than keep mopping up and putting on Band-Aid after Band-Aid for weeks and months.

I'm hoping that the president didn't get caught up in something illegal in the Arkansas Whitewater deal. I already know that he has done something dumb about it in Washington.

X X X

(Myrne Roe is an editorial writer for The Wichita (Kan.) Eagle. Readers may write to her at The Wichita Eagle, 825 E. Douglas Ave., Wichita, KS, 67202.)

\*\*\*\* filed by:KR-F(--) on 01/20/94 at 09:17EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/20/94 at 09:57EST \*\*\*\*

bc-white-side

# TRIALS AND TRIBULATIONS

OF JAMES B. MCDUGAL

Eds: With mainbar, WHITEWATER.

By JOHN HANCHETTE=

Gannett News Service=

LITTLE ROCK If James McDougal ends up testifying before a federal grand jury Thursday as scheduled, it won't be his first time in the U.S. Courthouse on West Capitol Street.

McDougal, erstwhile business partner of Bill and Hillary Rodham Clinton in the Whitewater realty controversy, beat bank fraud and conspiracy charges in the same building after an eight-day trial in 1990.

Jim McDougal started out in the mid-1960s on the staff of the Senate Permanent Investigations subcommittee, a famous panel run by the late Arkansas Sen. John McClellan, which at the time was ripping apart the Mafia.

Three years later he switched to the staff of legendary Arkansas Sen. J. William Fulbright, where he met a young Fulbright aide named Bill Clinton.

Clinton has told friends he first was attracted to McDougal because he could do an uncanny imitation of Franklin Delano Roosevelt, a hero to them both.

McDougal and his wife, Susan, brought the Clintons in on an Ozark realty deal in 1978. Whitewater and four years later bought a savings and loan of their own, Madison Guaranty. McDougal always had wanted to be a banker; he tried to start one in his hometown in his mid-20s, but then-Gov. Orval Faubus would not approve it.

In any case, Madison Guaranty went belly-up in 1989, costing taxpayers between \$47 million and \$60 million. McDougal soon was indicted by the Justice Department, accused of bank fraud and misapplying funds.

The government said he arranged a "sham" transaction by having Madison loan "straw buyers" \$950,000 for fake purchases of a Little Rock warehouse and surrounding industrial park acreage here. Deals financed entirely by the thrift, but made to appear as if others were using their own money.

Federal prosecutors claimed McDougal set up the "bogus" transactions to show a profit on the Madison books, then took \$75,000 in bonuses for those "profits." They also claimed he used his wife's two brothers, David and James Henley (the latter a Baptist minister)

as front men by paying them false real estate "commissions" which they used as down payments to buy the property in the name of another company.

In one transaction, a carpenter on the property was made president of the purchasing company, which had no assets or cash. He later testified he did not understand the whole deal.

These "straw man" transactions were fairly common in the S&L scandals of the 1980s. Intricate buy-backs set up to disguise the total use of a thrift's money on both ends of a sale; this allowed S&L chieftains to divert deposits.

His lawyer then and now, Sam Heuer, first offered a form of insanity defense, claiming McDougal was a manic depressive. He filed papers showing McDougal had been hospitalized in Little Rock in 1986 for "florid manic episodes" in which he "felt invincible and used poor judgment with money," then at other times "feels worthless and sees little hope for the future."

The judge sent McDougal to the Springfield, Mo., medical prison, where doctors "concluded that Mr. McDougal was mentally competent to stand trial and was not suffering from a severe mental disease defect that caused him to be unable to appreciate the nature and quality of the wrongfulness of his acts."

David Henley got his charges dismissed partly by showing he actually had begun paying back the "loan" he apparently thought was real.

McDougal and James Henley went to trial. Prosecutors claimed McDougal saw Madison as "an endless supply of money."

But Heuer argued the prosecution was a "witch-hunt," and the government had not proved McDougal actually had made money, or connived to defraud the

bank.

When the jury acquitted him and James Henley, McDougal said: ``This was a political show trial that would do Joe Stalin proud.''

A Little Rock columnist suggested the federal prosecutors did not use enough ``cornbread English'' to explain complex financial transactions to the jury.

In 1989, the Justice Department indicted 247 top S&L officers in trying to clean up the industry. McDougal was one of only three acquitted after trial. He could have received 40 years.

Heuer thinks the jury was quite sophisticated.

``We proved to them that McDougal hadn't taken any money out of Madison,''  
he told Gannett News Service. ``It would have been like robbing from  
yourself.''

Three years ago, looking back on the trial, McDougal told an interviewer  
``The one encouraging thing I thought of was that if they put me in jail,  
they'll have to fix my teeth and maybe pay for this medicine I take, which  
consumes about 45 percent of my monthly income.''

The court accepted McDougal's status as a pauper, his only income a \$560  
monthly disability check. In 1986, he had an operation to clean out the  
carotid artery that was causing blackouts and causing mini-strokes. He can  
read three minutes, then his vision blurs. His teeth were falling out before  
the trial.

The court awarded Heuer more than \$13,000 for his defense.

Now McDougal has been summoned to appear before another jury this time a  
federal grand jury to tell what he knows of the Whitewater property venture  
he embarked upon with the Clintons. His testimony will be secret, unless a  
special counsel to be named by Attorney General Janet Reno eventually decides  
to take the matter public.

\*\*\*\* filed by:GN-F(-- ) on 01/19/94 at 18:13EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/20/94 at 10:01EST \*\*\*\*



# NOTEBOOK

**W**HITewater RAPIDS: There's no easy way to dispel every concern about the Clintons' messy involvement with Whitewater Development Corporation; but the response of the administration is mystifyingly defensive. Why not the fullest public disclosure? Why not the most independent investigation possible? This is not a matter of privacy, as the state troopers' discredited reports were. It's a matter of public interest. In particular, Janet Reno's decision not to appoint a special prosecutor to investigate the affair is no longer tenable. "If I appoint a special prosecutor, it's still my prosecutor and there will still be questions about that person's independence," she said on December 24. "If I'm going to be responsible for the outcome of any investigation, then I want to make sure it's done the right way." In the same breath, Reno seemed to take responsibility and to disclaim responsibility for the investigation; and she refused to say whether she supported the decision of her career prosecutors to subpoena the Whitewater files. At this point, only a special prosecutor can dispel the impression that Reno's inquiry is compromised. And only the renewal of the independent counsel statute (killed by Republicans)—which would allow a special prosecutor to be appointed by judges rather than by the attorney general—can ensure that this tortured dance is not repeated again.

**E**UROPE CALLING: There's a dangerous new phenomenon in foreign policy these days: the notion that the relative success of neo-fascists in the recent Russian elections should determine our entire approach to the region. (Call it Zhirinovskism.) To the Poles, Czechs and Hungarians, Zhirinovskism proves they need NATO membership to protect against a more aggressive Russia. To the Clinton administration, Zhirinovskism means the opposite, because expanding NATO would lend credibility to the Russian nationalists and their allies in the Russian military. Both are wrong. The Zhirinovskites have no

coherent economic program and no political strategy. In two months Vladimir Zhirinovsky has shown himself to be a buffoon, and while buffoons do occasionally win power in places like Russia (and elsewhere), his ascension is neither inevitable nor immediate. Meanwhile, there's no tangible sign that Russia has either the means or the desire to threaten Eastern Europe. This is not, *pace* Lech Wałęsa, 1939. The administration's compromise of a "partnership of peace" with the Eastern nations is therefore right for the wrong reasons. It's right not because Yeltsin should exercise a veto over our foreign policy (he shouldn't); but because it's a pragmatic first step toward enlarging our alliance without imperiling

its focus and its effectiveness. A more urgent menace to democracy in Eastern Europe is economic distress. Western Europe's leaders would rather debate NATO than open their protected markets to Eastern European products. Yet speeding up the East's inclusion in the European Union might make a solid short-term contribution to the security and prosperity of those countries. The president should make use of his



trip to Europe to drive that point home.

## THE INVISIBLE HAND: Fed Dispels Notion Of Raising Rates Now

—The Washington Post, December 8, 1993

Short-Term Rates

Will Be Increased.

Fed Aide Indicates

—The Wall Street Journal, same day

Thanks to Julie Back, Washington, D.C.

**S**ORRY, BATMAN: We'd like to apologize to DC Comics for the gratuitous use of its cartoon characters, Batman and Robin, in a context that was clearly inconsistent with the way the characters are portrayed in the company's publications and merchandise. •

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## Grand Jury Reconvenes

### on Arkansas S. & L.

WASHINGTON, Jan. 18 — A Federal grand jury looking into the collapse of a failed savings and loan association reconvened today in Little Rock, Ark. There was no indication that it heard any evidence about the ties between the association and President Clinton's land development company.

Grand jury proceedings are secret, but people involved in the investigation said today that there had been no presentation of evidence about the real estate concern, the Whitewater Development Company. Mr. Clinton and his wife, Hillary, invested in Whitewater with James B. McDougal, the owner of

the Madison Guaranty Savings and Loan Association, which was taken over by Federal regulators in March 1989.

A Federal prosecutor moved last week to have a second grand jury empaneled, saying the first jury did not have the time to take up the Whitewater investigation. It was unclear today what jury would take up the matter. Furthermore, with Attorney General Janet Reno expected to name a special counsel in the Whitewater case in a few days, it was also unclear what role a grand jury in Little Rock would play in an investigation.

Mr. McDougal has already been ordered to appear before a grand jury, and other Clinton associates have said that they were notified that they would be subpoenaed. Betsey Wright, Governor Clinton's chief of staff, had also said she was to be summoned, but she told The Associated Press today that she had heard that the subpoena had inexplicably been withdrawn.

Federal investigators are trying to determine whether money was improperly diverted from Madison to Whitewater or to help Mr. Clinton repay a \$50,000 loan for his 1984 campaign for governor. Mr. Clinton has said that he engaged in no wrongdoing and that he lost money in the Whitewater investment. But last week he yielded to Congressional pressure and asked the Attorney General to appoint a special counsel to investigate the case.

# An Old Friend of the Clintons Stays Loyal, Spends Spare Time Doing Damage Control for President

By JAMES M. PERRY

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Poor Betsey Wright, capital insiders said with a hint of condescension. Her old Arkansas boss, Bill Clinton, didn't offer her a job in the White House or anywhere else in his new government. And so, they said, the best she could do was accept a kindly benefice—an empty desk in a downtown lobbyist's office.

Poor Betsey Wright indeed.

All she's done since she came to town last March is make a splash lobbying for everything from the North American Free Trade Agreement to American Airlines to health care. And when she wasn't doing that, she was flying down to Little Rock on her own time to work some dextrous damage control over allegations by Arkansas state



Betsey Wright

troopers that they had seen Mr. Clinton in some pretty compromising situations.

"I'm having the time of my life," she says in an interview in her comfortable office on the sixth floor of Washington's first steel-beamed office tower. "This is wonderful."

"She's a great strategist and she's doing wonderful things for us," says her boss, Anne Wexler, a prominent Democrat and chairman of Wexler Group, a government relations and public affairs consulting unit of Hill & Knowlton Inc. Its client list runs from American Airlines to General Motors Corp. to J.P. Morgan & Co.

Ms. Wright won't even discuss who her clients are, let alone how much she is paid as one of Wexler Group's seven executive vice presidents. But it's a fair bet that it is a lot more than she made in her years as one of Mr. Clinton's top aides and political operatives in Little Rock. "For the first time in my life, I can say it's no one else's business," she says.

What makes the 49-year-old Ms. Wright so special is her relationship to Bill and Hillary Rodham Clinton. She's so close to the first couple that she can afford to turn down an invitation to drop by the White House for an informal dinner and a movie, an opportunity most lobbyists and wheeler-dealers here would die for. "I didn't want to see the movie," she says.

So close, too, that Ms. Wright expects to be subpoenaed by a federal grand jury in Little Rock looking into Mr. and Mrs. Clinton's role in the controversy surrounding their Whitewater Development Co. real-estate investment. Ms. Wright says the Federal Bureau of Investigation told her to expect such a subpoena, but she says she has now been told to disregard that warning. In any event, she says, she expects to be subpoenaed eventually because she knows so much about Mr. Clinton's Arkansas campaign records. She says she will co-operate with investigators.

Ms. Wright comes from rural Texas—she was reared in little Alpine, just down the road from Marathon, in the southwestern "Big Bend" corner of the state—and honed her political skills at the University of Texas. She met Bill Clinton in 1972, when they both worked in Texas in George McGovern's forlorn presidential campaign. She came to Little Rock in 1980, after Mr. Clinton had been defeated for re-election as governor, and then served as his chief of staff after he was returned to office in 1982. She ran his successful re-election campaigns in 1982, 1984 and 1986.

"There is no person in the entire universe who is more loyal to Bill and Hillary Clinton than Betsey," says Ms. Wexler.

Ms. Wright is almost as protective of the state of Arkansas. She loves the place. When Mr. Clinton decided to run for president, Ms. Wright saw that each of the hard-edged handlers he hired was given a copy of Diane Blair's book about Arkansas government and the state's rich, and sometimes gamey, political history. She wanted them to read the book and learn to appreciate Arkansas's rural charms.

The fact that none of Mr. Clinton's hired guns—she calls them the "white boys"—read the book, or tried to give Arkansas a fair shake, still riles her. "They showed so much disdain towards the state. I felt it was very offensive," she says.

At a campaign-managers' seminar at Harvard University's Institute of Politics after the election, she unloaded on the attitudes of a number of Mr. Clinton's handlers, fingering pollster Stanley Greenberg as being particularly nasty about Arkansas and what Mr. Clinton had done for the state during the 12 years he was its governor. "I don't know why I singled him [Mr. Greenberg] out," she says. "He wasn't any worse than the rest of them."

She is intense about her Clinton-Arkansas connection, and it was this intensity that often led the campaign handlers to work around her during the campaign, in which she was officially listed as deputy chairman. The handlers won't soon forget the time she set out to rebut charges that Mr. Clinton had raised taxes and fees in Arkansas something like 128 times. Not so, she told reporters, it was only about 110 times—an admission that left senior strategist James Carville speechless.

She continues to view the "white boys" left over from the campaign and still working for Mr. Clinton with deep suspicion. She says the White House's problems in dealing with the Whitewater controversy to the fact that "none of them knew anything about the issue. There was no continuity. They couldn't connect the dots." Left unsaid was the thought that she did know something about Whitewater and could have done a better job connecting the dots.

And so, when it comes to lobbying the White House, not everyone working there is her friend. She prefers to deal with old friends and colleagues from Arkansas whose connections to the Clintons go

back beyond the campaign. Fortunately, Washington swarms with them. "It's nice," she says, "I can't walk much more than a block or so without bumping into someone from Arkansas."

She was first used at Wexler Group to lobby for Nafta, working mostly to drum up support from governors and mayors. "I must say, I was impressed," says Craig Fuller, a former high-ranking aide to George Bush, and now senior vice president of Philip Morris Cos., who worked with Ms. Wright on the Nafta campaign. "We were at the White House almost every day, and she won the respect of a lot of people."

She has also used her connections to set up White House meetings for representatives of the paper industry in their efforts to water down federal provisions on how much recycled waste should be contained in paper bought by the federal government. The Wexler firm's client is the American Forest and Paper Association.

Ms. Wright also has put in a lot of time with an obscure, congressionally sponsored agency called the College Construction Loan Insurance Association, better known to its friends as Connie Lee. Congress set up Connie Lee in 1987 to guarantee low-rated bonds for building programs at colleges and universities. The congressional thinking was that the private market would cover the insurance for the higher-rated bonds.

But with such restrictions in its operating charter, profit-seeking Connie Lee hasn't had much of a chance to spread its wings. And so it has turned to Ms. Wright and Wexler Group to lobby the White House and Congress for permission to

expand its insurance business to bond issues for secondary and elementary schools and possibly to bond issues for infrastructure work—everything from bridges to sewers.

Ms. Wright says she knows a lot about this line of business from her days in Little Rock. "People keep saying if you come from local government you don't know anything about Washington. That's a crock. We've been the ones dealing for years with all these programs dumped on us by the federal government."

"Betsey Wright has been very effective," says Oliver Sockwell, Connie Lee's ambitious president. "She has an almost unique skill to translate highly complex issues into words that everyone can understand."

Ms. Wright has now reached the point where she gets credit for pulling off lobbying coups in situations where she has barely been involved. It was rumored, for example, that she was a pivotal factor in getting President Clinton to intervene in the American Airlines strike just before Thanksgiving, and that a grateful airline had paid out \$1 million to the Wexler firm in acknowledgement. "Ridiculous," says Ms. Wexler. Ms. Wright was barely involved with the strike, according to several people familiar with the situation.

Ms. Wright sees nothing wrong in blending personal rescue missions for the president with her lobbying efforts inside the administration. "I'm very careful not to abuse the relationship," she says. "When I call people I always mention the subject I want to talk about and I always identify my client."

But it does help, she concedes, that she knows so much about the president and how he thinks. "Every now and again, some staffer tells me, 'The president believes this or the president believes that.' 'Boy,' I sometimes can say, 'you better check back with him on that. It's not what he told me.'"

## Bigger than Watergate

"The only reason he refuses to release them [the documents] is because he knows they will be politically damaging to him," Al Gore remarked.

OK, so our vice president isn't talking about his boss, Bill Clinton, or even Whitewater-Madison, for that matter.

Instead, the date is Oct. 15, 1992, just two weeks before the presidential election, and Mr. Gore is demanding that opponent George Bush release documents pertaining to any U.S. dealings with Iraq before its invasion of Kuwait.

"What we are seeing now," Mr. Gore said then, "is President Bush presiding over a cover-up significantly larger than the Watergate cover-up."

## Reinventing gas

As we all know, President Clinton and Vice President Gore have begun the monstrous task of reinventing government. Doing his part in this unimaginable process, Treasury Secretary Lloyd Bentsen appointed representatives from each of Treasury's offices and bureaus and placed them on a "six-month detail," dubbing them the "Treasury Reinvention Team," or TRT. It is the TRT's job to advise the executive level of any Treasury reinventions.

For instance, we've learned that the TRT invented two new news services — the "Reinvention News Service," which compiles and distributes reinvention news to employees, and "Reinvention On Line," an 800-numbered phone service that provides Treasury employees with reinvention news at their fingertips.

Callers to the latter can hear approximately five minutes of recorded messages about Treasury reinvention activities, events, successes and other topics. For instance, the recording yesterday told us that Treasury's inspector



Lawrence Eagleburger has a wry take on the Clinton-Assad talks.

general's office, in doing its share to reinvent government, will "revise" its mission of "strict compliance auditing" and instead develop a "strategy for improving customer satisfaction."

## Nothing of value

Gene Randall was host of CNN's "Late Edition" early Sunday night, and his guest was former Secretary of State Lawrence Eagleburger.

Q: "Secretary Eagleburger, I am told you consider President Assad of Syria one of the toughest leaders

in the world to negotiate with. Should President Clinton be checking his pockets on the way home to D.C.?"

A: "President Assad is very tough. Whether President Clinton should be checking his pockets or not depends on whether he had anything in them to begin with."

## Clinton vs. Dole

President Clinton is expected to address the nation's governors not once but twice when they hold their 1994 winter meeting here later this month. Reforming the nation's health care, welfare and education systems will top an agenda where the governors will also hear from Senate Minority Leader Bob Dole, who's all but announced his intention to seek the presidency in 1996.

On health care, the Republicans contend that Mr. Clinton's "rhetoric has not matched the substance" of what's officially called the Clinton Health Security Act, H.R. 3600.

## Certain theme park

Back on Nov. 3, we were the first to report that Walt Disney executives were replacing Abraham Lincoln, of all popular presidents, with Bill Clinton as a talking figure in Walt Disney World's Hall of Presidents.

Mr. Clinton's bust, we reported, has become the first living president to "speak" to guests in the theater. "He" explains to visitors the many important freedoms of being an American and how, aided by strong presidential leadership,

these rights came into being. In the past, only Abe Lincoln has had such a "speaking" role.

Well, our item didn't sit well with Donna Wiesner of Arlington, an obvious Lincoln fan who fired off a letter to Martin Sklar, president of Walt Disney Imagineering in Glendale, Calif.

She wrote: "If Disney is going to be so political, register as a campaign contribution and be above-board. If [you] are a theme park, act like one, politics aside. I will remember this when you want tax breaks from our area to build another park."

## Oral utter

Things were fairly quiet around Washington yesterday, maybe because the federal government was on holiday or because the snow and ice deadened the usual noise of rhetoric, punditry and assorted other gasbaggery. So we thought it a good time to peek inside our nation's courtrooms, gathering a few excerpts from actual court transcripts contained in Richard Lederer's new book, "Anguished English."

Q: "Mrs. Jones, is your appearance this morning pursuant to a deposition notice which I sent to your attorney?"

A: "No. This is how I dress when I go to work."

■ ■ ■

Q: "What is your name?"

A: "Ernestine McDowell."

Q: "And what is your marital status?"

A: "Fair."

■ ■ ■

Q: "Doctor, how many autopsies have you performed on dead people?"

A: "All of my autopsies have been on dead people."

■ ■ ■

Q: "And lastly, Gary, all your responses must be oral, okay?"

A: "Oral."

Q: "How old are you?"

A: "Oral."



## Whitewater hypocrisy on the Hill

The word "hypocrisy" has been tossed around a good deal by White House aides and liberal reporters and pundits when discussing calls by Republicans for a special prosecutor to look into the Whitewater affair. In fact, in arguing against the now-defunct independent counsel law — the Watergate-era legislation under which a special "court" appoints an independent counsel who is accountable to no one in the executive branch, much to the detriment of the Founders' concerns about the separation of powers — Republicans have mostly maintained that executive branch scandals can be sorted out, when necessary, by outside prosecutors appointed by the attorney general as well as by Congressional hearings. This is just what the political minority has called for in the Whitewater case, with varying success. Janet Reno, upon instruction from her boss, has finally bowed to political inevitability and announced she will appoint a special prosecutor to conduct an investigation into the Clintons' land-development scheme. But Democrats on the Hill have bobbed and weaved and squirmed their way out of holding hearings of their own to uncover the Whitewater facts.

This is hypocrisy of a breathtaking order. There can be no explanation for the stonewalling on Capitol Hill other than a desire to protect a president of the majority party. Compare congressional Democrats' new-found reticence with the zeal lavished upon any question about propriety in Republican administrations. Investigative hearings were not even limited to issues that touched on the activities of the president.

Consider the wilding inflicted on Allen Hubbard two years ago when he was the executive director of the Vice President's Council on Competitiveness. Mr. Hubbard stepped on toes all over Capitol Hill by trying to short-circuit the lines of command by which lawmakers exercise unaccountable power. Legislators are used to getting their way by privately calling up regulators, rulemakers and other federal bureaucrats and telling them what to do. (This often goes by the name "constituent service.") Mr. Hubbard made multiple enemies by encouraging George Bush and Dan Quayle to review and sometimes override the decisions made by bureaucrats at the surreptitious direction of powerful congressmen.

And so Congress ganged up on him, with six dif-

ferent congressional committees holding investigations. The crime they accused Mr. Hubbard of was not exactly conflict-of-interest, but rather the possibility that at some point in the future he might have a conflict of interest.

Similarly, when allegations surfaced that there might have been irregularities in the food assistance program to Iraq, irregularities that might have allowed the regime of Saddam Hussein to buy some heavy trucks for his military, Congress again went into overtime with multiple hearings by multiple committees, most notably the House Banking Committee chaired by Texas Democrat Henry Gonzalez. Mr. Gonzalez thought it sufficiently important to educate the public about presidential doings that he read classified documents into the Congressional Record. In fact, as editorials here agreed at the time, he thereby shed much light on a disgraceful part of the Bush administration's record. Yet this same lawmaker has repeatedly shrugged off demands that his committee look into the Whitewater case, which would be a natural for him given that the questions all swirl around the failure of a savings and loan.

There is palpable relief in some quarters on Capitol Hill that the whole matter is going to be in the hands of a special prosecutor, where it will be handled quietly for some time. The apparent hope is that if there is no discovery of criminality, the affair can be buried.

But is criminality the only concern? No. The White House has gone to extraordinary lengths to keep the Whitewater files — or what is left of them — out of public view. It is hard to avoid the conclusion that something mighty interesting is lurking there. As Sen. Robert Dole said over the weekend, in his ongoing campaign to embarrass Democratic lawmakers into doing what they have long professed is their duty, "Somebody must know something we don't know."

What is most troubling about Whitewater isn't what is known about it, but what is not known. It seems the White House doesn't want the fog to clear and is willing to go to great lengths to see that it doesn't. Capitol Hill is accommodating its desire. If legislators want to protect their own credibility, they should join the call for hearings — if for no other reason than to pry loose for public release all the documents the White House is so zealously guarding.

## A Syrian commitment to peace?

Another remarkable announcement came over the wires Sunday morning just in time for the talking heads to chew on. President Clinton announced, speaking at a Geneva news conference, that Syrian President Hafez Assad had committed himself to "normal peaceful relations" with Israel. Puzzled commentators, such as former Secretary of State Henry Kissinger, found it a generally positive sign, it being the first time Syria has acknowledged any such willingness, but there was a lot of uncertainty as to what exactly it meant. In fact, Israeli politicians and American analysts are still wondering, since neither the American nor the Syrian president have been forthcoming with details.

Mr. Assad's plans in relation to Israel are open to a variety of interpretations — most of them not very confidence-inspiring for Israel. But it is pretty clear that he wants better relations with the United States. Sunday's more than four-hour long discussion with Mr. Clinton was part of that campaign. In fact, it was part of Syrian conditions for showing up at the next round of peace talks, which begins in Washington today and was arranged during Secretary of State Warren Christopher's visit to the Middle East in December.

Mr. Assad would dearly like the United States to pressure Israel to agree to withdraw from the Golan Heights. This the administration has wisely refused to do so far. He would also very much like to be removed from the State Department's list of nations that sponsor terrorism. It was reported in early December that Mr. Christopher favored such a move. In a reply to concerned inquiries from parents of victims of Pan Am 103, however, National Security Advisor Anthony Lake stated that it was not under con-

sideration. Removal from the list of terrorist nations would mean great benefits for Syria in terms of preferential trade agreements and access to military technologies from the United States.

But Mr. Assad did get something for himself. He got the prestige of a highly publicized meeting with Mr. Clinton. In addition, even as the Geneva meeting was proceeding, Mr. Assad got the first of three Boeing 727 jets he has long wanted, the Commerce Department having granted the necessary export license. The State Department considers the 727s a goodwill gesture, a sign of "improved" relations with Syria and a needed incentive to get "over the hump" in the peace process.

Mr. Clinton also announced that the two leaders had discussed U.S.-Syrian relations and that they had instructed their secretaries of state "to establish a mechanism to address . . . issues in detail and openly." The alert reader might wonder what "issues" stand in need of such a special mechanism. Probably Mr. Clinton meant terrorism, but felt that the T-word was too indelicate for such a fine occasion.

Actually, there already is a mechanism. When Syria sustains such groups as the Hezbollah, which attacks Israeli settlers from southern Lebanon, or the Popular Front for the Liberation of Palestine or the Hamas or the Marxist Kurdish Workers Party or (as families of the victims believe) the terrorists who blew up Pan Am 103, Syria ends up on the State Department's list of terrorist states. If it ceases these activities, then it will be removed from that list. This may sound a little primitive, but as long as the evidence is honestly considered and not glossed over for reasons of political expediency, then it actually works.



# Whitewater Probe Sparks Little Public Interest, Survey Finds

By THOMAS B. ROSENSTIEL  
TIMES STAFF WRITER

WASHINGTON—Despite intense media coverage, most Americans are paying little or no attention to news accounts of the investigation into President Clinton's past business dealings, according to a survey released Friday.

Moreover, after a month in which the so-called Whitewater

## ■ FROM SATURDAY EDITIONS

story has increasingly become the focus of White House press coverage, Clinton's approval rating has remained unchanged at 48%, according to the study by Times Mirror Center for People and the Press.

The rating is nearly equal to the highest point it has reached in the Clinton presidency. Only in the first few days after the inauguration was it higher.

The survey, in which 1,494 adults were interviewed from Jan. 6 through Jan. 13, has a margin of error of plus or minus three percentage points. The results could have been influenced by the wording of the questions.

The Times Mirror Center is owned by Times Mirror Co., which also owns The Times and other newspaper and communications operations.

Only 13% of those interviewed said they had paid "very close" attention to questions about the First Family's investment in Whitewater Development Corp., an Ozark Mountain vacation resort, while Clinton was governor of Arkansas, the survey found. Twenty-nine percent said they had paid "fairly close" attention.

By contrast, 57% said they had followed the stories "not too closely" or "not at all."

Only 15% of those surveyed said they had paid very close attention to claims by some Arkansas state troopers that they helped arrange extramarital affairs for Clinton when he was governor and before his presidential inauguration.

Nearly 60% of those interviewed said they had followed that story "not too closely" and "not at all closely."

Unlike coverage of some other controversies, the Whitewater story has not yet provoked anger at the press. Rather, the matter seems simply not to have registered with the public.

Sixty-one percent of those interviewed said the press has been fair to the Administration, while only 21% said it has been unfair, about the same as last August.

In June, after news accounts of a purported \$200 haircut for the President and the firing of several White House travel office workers, about 43% of those polled said they

thought the press was being unfair.

Clinton's approval rating was highest in February, 1993, gradually dropping to a low point in June and August. It has climbed since then, with a slight dip in October.

The low level of interest in the Whitewater story is not out of line with past survey figures concerning stories about Washington controversies or allegations of wrongdoing.

Since 1989, when the Times Mirror Center first began examining such matters, the highest level of interest in such stories—31%—occurred during the Iran-Contra trial of Oliver L. North.

The use of public planes for private travel by John H. Sununu, White House chief of staff during the George Bush Administration, was followed very closely by 26%.

In Clinton's tenure, the most closely watched controversy involved attorney general candidates Zoe Baird and Kimba M. Wood.

Both women lost out over issues surrounding the hiring of household workers who were immigrants and whether the nominees had paid Social Security taxes. That story was followed closely by 24% of those interviewed.

Other controversies involving Clinton—the suicide of White House counsel Vincent Foster and the firing of the travel staff—generated about the same public interest as Whitewater.

# A Warning Exit in Moscow

On its face, Yegor Gaidar's departure from the Russian Government is a blow to Boris Yeltsin and an embarrassment to President Clinton. Only last Friday in Moscow, Mr. Clinton praised President Yeltsin for his commitment to economic reform, though he was apparently then aware that Mr. Gaidar, one of Russia's ablest reformers, was about to quit as First Deputy Prime Minister. Citing profligate decisions taken without Cabinet consultation, Mr. Gaidar gave a blunt farewell: "I cannot be at one and the same time in the Government and in opposition to it."

A dramatic exit, certainly. But not yet a last bow for Mr. Gaidar, who has quit, or threatened to quit, on previous occasions. Resignations are a way of forcing decisions, and one of the biggest facing Mr. Yeltsin is whether to continue on a ruinous inflationary course. The specific moves protested by Mr. Gaidar illustrate the point: the earmarking of \$500 million for a lavish new parliamentary building and, far more troubling, a proposed monetary union between Russia and insolvent Belarus.

The draft agreement with Belarus, adopted by the Yeltsin Government without discussion, provides that already weak rubles would be exchanged one for one with a still weaker local currency, worsening Russia's own monetary hemorrhage. It

is the kind of decision that has made Viktor Geraschenko, chairman of the Russian central bank, a symbol of incompetence. He has printed money chiefly to keep unproductive factories afloat. So appalling has been his stewardship that Boris Fyodorov, the Finance Minister as well as a Deputy Prime Minister, threatens to resign rather than serve with Mr. Geraschenko.

To view these disputes as arguments over the pace of reform wholly misses the point. Runaway inflation sabotages any economic system, and the poorest are the biggest losers. Voters cannot eat worthless rubles. Unfairly if understandably, Mr. Gaidar's reformist party was punished in recent elections by frustrated Russians who turned to ultra-nationalists.

Fiscal restraint is a precondition for any functioning economy, with or without reforms — a point underscored by Mr. Clinton and his economic team in their overtime talks last week. How Russia moves against hyperinflation is first and foremost the job of the Russians themselves.

While not taking sides in Moscow's internal quarrels, Washington needs to keep pressing for an end to fiscal folly. Seen in this context, Mr. Gaidar's exit is a warning that, if unheeded, could presage a calamity.

## Aftershock

To the people of southern California, it always seems to happen the same way. Sometime before dawn, in that deepest hour of sleep, they suddenly awaken, confused and disoriented. The china is shaking. The windows are rattling. In an instant — less time than it takes to read this sentence — they leap from bed, staggering and stumbling and gathering other family members under the flimsy security of a door frame.

And so it was yesterday in the San Fernando Valley, where a violent predawn earthquake, measuring 6.6 on the Richter scale, killed at least 24 people, set fires, buckled freeways and turned buildings into rubble.

"This place was moving like a jackhammer was going at it," said Richard Goodis of Sherman Oaks, an affluent Los Angeles suburb. "Our bedroom wall tore away. I was looking at the ceiling one moment, then I was looking at the sky. I thought we were dead."

## The Veep Signs On

The Clintons' style of damage control has certain hallmarks that have been on clear display since the 1992 campaign.

Phase one involves expressions of anger from President and Mrs. Clinton. Mr. Clinton's unseemly outburst at NBC correspondent Jim Miklaszewski in Prague was a classic example of his calibrated tantrums. The anger is usually followed by dollops of self-pity. The implied message is this: "Why are you asking me these petty questions when I am working so hard to improve the world?"

Next come the surrogates asserting that any questioning of Mr. Clinton's behavior, motives, legislative compromises or personal or campaign finances is out of bounds. If the questions come from the Republicans, Mr. and Mrs. Clinton are cast as the undeserving victims of partisan malice. If they come from the press, they are the targets of promiscuous curiosity designed to undercut bursts of Presidential popularity.

One interesting feature of Clintonian damage control is that the spokesmen seldom have full firsthand knowledge or the authority to produce documents. Their job is to assert that based on their faith in Mr. and Mrs. Clinton, nothing untoward could have occurred. These spokesmen are also expected to attack the character or motives of anyone who asks for information on questions such as how much the Clintons paid for their half share of

The elapsed time is generally about 30 seconds, start to finish. And then it stops, although the adrenaline flow, the fear and the aftershocks, some of them large, do not. And then the damage assessment begins.

For the people in and around Los Angeles, that damage includes the tragedy of lost lives, the millions of dollars in property destruction and the widespread inconvenience caused by the severing of four of the region's busiest highways, daily arteries for hundreds of thousands of commuters.

Only someone who has been through an earthquake can possibly understand the terror it brings. In the days and weeks to come, the slightest noise in the night — the creak of a screen door, the flapping of a shutter — will bring residents of the San Fernando Valley fully awake, hearts quivering. They, better than most of us, will understand the precariousness of human life on the edge of nature's immense, imponderable forces.

Whitewater Development Corporation and whether Mr. Clinton's Arkansas bank regulators went easy on the Clintons' Whitewater partner, James McDougal.

Throughout his relationship with Mr. Clinton, Vice President Gore has resisted serving in the role of uninformed political bodyguard. His public refusal to defend Mr. Clinton's veracity against attacks from then Vice President Quayle in their Oct. 13, 1992, debate got Mr. Gore in trouble with Mr. Clinton's strategists. But it was also read in political Washington as a tough signal from Mr. Gore to his running mate that he would not vouch for Mr. Clinton's conduct in the years before they teamed up.

But Mr. Gore has now signed on as a defender sans facts. In a series of appearances recently, he has said categorically that there was no wrongdoing on Whitewater. Loyalty is expected of Vice Presidents, of course, but students of politics will want to note that Mr. Gore has now stepped boldly into territory he avoided. He has bonded himself to Mr. Clinton as never before.

Is this move based on Mr. Gore's knowledge, his faith or a gambler's instinct for what best serves his own ambitions? Interesting speculation in light of the fact that the Vice President has not, according to his office, read the Whitewater documents himself.

# Clinton, Marking King Holiday, Pushes Domestic Policy Programs

By GWEN IFILL  
Special to The New York Times

WASHINGTON, Jan. 17 — Declaring that "the absence of discrimination is not the same thing as the presence of opportunity," President Clinton today marked the Rev. Dr. Martin Luther King Jr.'s birthday holiday by promoting several of the Administration's domestic policy initiatives and linking them to Mr. Clinton's just-completed trip to Europe.

The President, speaking at Howard University to an audience of students and prominent blacks, was accompanied by most of his black senior advisers, including Mike Espy, the Secretary of Agriculture.

Drawing on elements of the speech he delivered to black ministers in Memphis last year, Mr. Clinton said Dr. King, the civil rights leader who was assassinated in Memphis on April 4, 1968, would be disappointed if he saw what had become of his ideals.

"As I come home on this Martin Luther King Day from a trip that fought for democracy and economic progress and security, I have to ask myself, 'How are we doing on these things here at home?'" Mr. Clinton said.

## Practice What Is Preached

"If democracy is the involvement of all of our people, if it is making strength out of our diversity, if we want to say to the people in the troubled areas of Europe: 'Put your ethnic hatreds behind you. Take the differences — the religious differences, the racial differences, the ethnic differences — of your people, and make them a strength in the global economy,' surely we must do the same here."

The President also sought to drive his point home today by holding a ceremony in the White House state dining room to announce that the application process has begun for communities to

apply for a new, federally sponsored development program of "empowerment zones" for urban and rural areas.

Mr. Clinton tried to emphasize his urban policy agenda by making the empowerment zone announcement and signing a memorandum on fair housing enforcement at the end of the Howard University speech.

Tossing two other initiatives into his grab-bag of references today, he also called attention to his Administration's national service program and efforts to promote innovations in high technology.

"We've also learned, after several years of neglect, that neglect is not a very good policy either," Mr. Clinton said as he discussed the empowerment zone plan at the White House. "Somehow, there needs to be a new partnership between Washington and the communities and the individuals of this country, and there needs to be a way of doing business in which we try to create the conditions in which people can seize opportunities for themselves."

## Tax Incentives and Grants

The President's new Community Enterprise Board will oversee efforts by the Department of Housing and Urban Development, the Small Business Administration and the Department of Agriculture to designate the nine empowerment zones and 95 enterprise communities that will receive \$2.5 billion in Federal tax incentives and \$1 billion in grants. The deadline for applications is June 30.

Asserting that in his first year in office there had been a 35 percent increase in the number of housing discrimination complaints that were filed, Mr. Clinton said, "That is the sort of thing that Martin Luther King would want us to do — not just to let discrimination go away, but to create opportunity."

Time and again during his speech at

Howard University, the President commented on the results of his 10-day trip to Europe, where he said he witnessed the kinds of steps being taken toward peace, democracy and freedom that Dr. King would have supported.

## Rise in Domestic Violence

"I pledged to help the people who believe in democracy," Mr. Clinton said of his trip. "And democracy means more than one thing. It means majority rule. It also means respect for minority and individual human rights."

Citing the continued rise in domestic violence and the contrast that presents

to Dr. King's life work, Mr. Clinton said the United States has problems at home that are as significant as the challenges he faced abroad.

"I come home thinking to myself I am so proud of the fact that I had the chance to be President at a time when the United States was leading an agreement with Russia and Ukraine and Belarus and Kazakhstan to dismantle weapons of mass destruction," he said. "But we can't get guns out of our own schools."

"We would be asked, I think, by Martin Luther King, 'How come this is so?'"

## Panel Starting Critical Phase In Clinton Land Deal Inquiry

By DAVID JOHNSTON  
Special to The New York Times

WASHINGTON, Jan. 17 — A Federal grand jury in Little Rock, Ark., will reconvene on Tuesday and begin a critical new phase in the investigation of ties between President Clinton's land development company and the owner of a failed Arkansas savings and loan. For the first time, the panel is expected to hear from several central witnesses, including Mr. Clinton's former business partner, and weigh potentially pivotal evidence from the boxes of documents the White House was ordered to turn over to Government prosecutors in recent days.

The White House files — shipped to Little Rock under F.B.I. guard — relate to Mr. Clinton's investment in the Whitewater Development Company, the real estate concern in which the Clintons were partners with James B. McDougal, the owner of Madison Guaranty, a savings and loan taken over by Federal regulators in 1989.

Mr. McDougal has been ordered to appear before the grand jury later this week. Other Clinton associates have also been subpoenaed, including Betsy Wright, Governor Clinton's chief of staff, who supervised campaign finance records.

Investigators from the Justice Department are trying to determine whether Madison funds were improperly diverted to Whitewater or to help Mr. Clinton repay a \$50,000 loan for his 1984 campaign for governor. Mr. Clinton has said he engaged in no wrongdoing, and that he and his wife, Hillary, lost money in the Whitewater investment.

As Federal prosecutors seek to understand the financial relationships between the Clintons and Mr. McDougal, Attorney General Janet Reno is scheduled to return to Washington on Tuesday evening from a trip to the South-

west. Aides say she hopes to name an independent prosecutor quickly to take over the inquiry into the President's Arkansas land dealings.

Last week, Mr. Clinton requested an independent prosecutor after months in which he and his aides dismissed news reports about his financial dealings in his home state as outdated accusations that he had already adequately explained.

As the grand jury prepared to renew its deliberations, some Federal law-enforcement officials said they were unsure whether the testimony and documents obtained by the grand jury would have to be sought anew when a special prosecutor enters the case.

## Seeking a National Reputation

The search for a lawyer to carry out the inquiry appears to be a complicated task, as Ms. Reno's aides sift through the records of prospective candidates to avoid any who might be perceived as partisan. The Attorney General's advisers said Ms. Reno wants someone with a national reputation.

They also said that she wants to avoid appearing to be dragging her feet in making her choice. Some aides worked through the weekend to narrow the list of possibilities.

The President's willingness to bring in someone from outside the Government to investigate has not silenced Republican critics, like Representative Jim Leach of Iowa, who continued to press for a Congressional inquiry. But Mr. Clinton's allies in Congress, like Senator David Pryor, Democrat of Arkansas, have said the Republicans are simply trying to keep the issue alive long enough to embarrass Mr. Clinton in the 1996 Presidential campaign.

Wright-2: Clinton Friend Fiercely Loyal To Arkansas

What makes the 49-year-old Wright so special is her relationship to Bill and Hillary Rodham Clinton. She's so close to the first couple that she can afford to turn down an invitation to drop by the White House for an informal dinner and a movie, an opportunity most lobbyists and wheeler-dealers here would die for. So close, too, that Wright expects to be subpoenaed by a federal grand jury in Little Rock looking into and Clinton's role in the controversy surrounding their Whitewater Development Co. real-estate investment.

She met Bill Clinton in 1972, when they both worked in Texas in George McGovern's forlorn presidential campaign. She came to Little Rock in 1980, after Clinton had been defeated for re-election as governor, and then served as his chief of staff after he was returned to office in 1982. She ran his successful re-election campaigns in 1982, 1984 and 1986.

'There is no person in the entire universe who is more loyal to Bill and Hillary Clinton than Betsey,' says Wexler.

Wright is almost as protective of the state of Arkansas. She loves the place. When Clinton decided to run for president, Wright saw that each of the hard-edged handlers he hired was given a copy of Diane Blair's book about Arkansas government and the state's rich, and sometimes gamey, political history. She wanted them to read the book and learn to appreciate Arkansas's rural charms. The fact that none of Clinton's hired guns - she calls them the 'white boys' - read the book, or tried to give Arkansas a fair shake, still riles her. 'They showed so much disdain towards the state. I felt it was very offensive,' she says.

(MORE) AP-DOW JONES NEWS 01-18-94

0532GMT

\*\*\*\* filed by:DOWV(--) on 01/18/94 at 00:38EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/18/94 at 07:54EST \*\*\*\*



## NATION

# Whitewater

## AND THE White House

What began as a simple real estate venture for Bill and Hillary Rodham Clinton in the late 1970s has led to the announcement that a special counsel will investigate the now-complex matter. How deeply were the Clintons involved and what did they gain? What follows is a history of what is known so far about the Whitewater affair.



Bill and Hillary Clinton during his first term as governor.

**1** Bill Clinton and James B. McDougal, old friends who had worked for Sen. J. William Fulbright of Arkansas in the 1960s, become 50-50 partners (along with their wives) in Whitewater Development Corp., a real estate venture offering cabins and vacation homes along the scenic White River in the northern Arkansas Ozarks.



Sales pitch from Whitewater brochure

*"We're thankful we found Whitewater and have the opportunity to enjoy life the way it was meant to be lived. We're really lucky—just 10% down and seven years to pay it off."*

**1** McDougal, who by now has left state government, lends Hillary Clinton \$30,000 to build a three-bedroom ranch-style unit at Whitewater. The next year she sells the property for about \$27,500. In 1988, after the buyer defaults on his payments and dies, she buys the property again for about \$8,000 and resells it for about \$23,000. After paying a \$13,000 debt on the property, the Clintons report a \$1,640 capital gain from the transaction.

**1** McDougal buys Madison Guaranty Savings & Loan, a small financial institution with assets of about \$3 million. He begins lending money to important people in the state and becoming involved in large speculative ventures. He also continues to run the Whitewater real estate business, but buyers for the vacation property on the 200-acre site are becoming harder to find.



J. McDougal

**1** Federal regulators begin to question banking practices at Madison Guaranty after McDougal transfers five bad loans to the thrift from a bank he also owns. In this same period, Whitewater makes Clinton's loan payments on a \$20,000 note he had taken out on another Arkansas bank.

**1** In April, McDougal hosts a political fund-raiser in the lobby of his S&L to help retire Clinton's 1984 campaign debt of \$50,000. About \$35,000 is raised during the party, with some of the proceeds in the form of cashier's checks drawn on Madison Guaranty.

Investigators now suspect a total of about \$12,000 may have come from overdrafts at the institution. Madison Guaranty's assets have soared to \$107 million. Loans to its own officers and directors have grown from \$500,000 to \$17 million. Large loans are also being extended to Fulbright and other state political figures. Jim Guy Tucker, who later will follow Clinton into the governor's office, negotiates a 50% reduction in his debt of more than \$1 million. Seth Ward, father-in-law to Webster L. Hubbell, then a law partner with Hillary Clinton at the Rose Law Firm and currently a Justice Department official, defaults on \$587,793.

Madison Guaranty puts Hillary Clinton on a \$2,000-a-month retainer to do legal work. McDougal, in an interview later, says he hired her because Bill Clinton told him the family needed the money. The White House denies Clinton solicited the job for his wife.

With regulators increasingly concerned about Madison Guaranty's stability, Hillary Clinton, on behalf of the institution, seeks state approval to recapitalize the institution with a special stock sale. The request is supported by a financial report that indicates the institution is solvent.

Beverly Bassett Schaffer, the state securities commissioner appointed by Gov. Clinton, approves the sale. However, the plan is never put into effect because Madison Guaranty's financial condition becomes too dire.

**1** David Hale, a Little Rock judge appointed by Gov. Clinton and head of a small business investment company, lends \$300,000 to a real estate firm owned by McDougal's wife, Susan. He later claims the loan was solicited by Clinton and McDougal, who needed the

money to clean up some bad loans at Madison Guaranty. (They deny this.) About \$110,000 winds up in Whitewater's accounts.

Hale will later be indicted on charges of defrauding the Small Business Administration, which backed the loans his investment company was supposed to be making to minority small businesses. Having resigned from the bench, he is scheduled to go on trial in March.

Federal regulators move in on Madison Guaranty and oust McDougal as chairman.

According to McDougal, all Whitewater records are sent at Hillary Clinton's request to the governor's mansion in Little Rock. The Clintons say they made no such request and did not receive them. Many records are believed to be missing.

Madison Guaranty fails and is taken over by the Federal Deposit Insurance Corp. and the Resolution Trust Corp. Vincent Foster, a senior partner at the Rose Law Firm, solicits the FDIC to handle its legal work on

failed financial institutions in Arkansas. The FDIC hires the firm to sue the Frost & Co. accounting firm for negligence in auditing Madison Guaranty's books.

Much of the legal work is handled by Hubbell. The suit is later settled for \$1 million.



V. Foster



negotiated down from the government's original demand for \$6 million. The law firm receives \$400,000 in legal fees from the FDIC.

McDougal is indicted on federal charges of bank fraud. He is acquitted the following year.

With Clinton now running for President, new attention is drawn to Whitewater and the Clinton-McDougal association. The Clinton campaign hires James Lyons, a Denver attorney and Clinton confidant, to review the matter. He releases an accounting report, based on incomplete Whitewater records, that concludes the Clintons gained nothing from the investment. Rather, he says, they lost \$68,900. McDougal

insists that the Clintons could not have lost that much. The Clintons, represented by Foster, sell their interest in Whitewater to McDougal for the nominal amount of \$1,000. In the fall, the RTC presents the U.S. attorney's office in Little Rock a detailed summary on their investigation of Madison Guaranty. The 21-page report accuses McDougal and his now ex-wife Susan of criminal wrongdoing. It identifies the Clintons and Jim Guy Tucker, now the governor, as principals in "shell corporations" created by McDougal but says there is no hard evidence that they were involved in improper activities related to the institution.

In October, federal prosecutors in Little Rock file a report to the Justice Department, indicating that further investigation of the matter is needed.

Clinton is elected President.

Federal prosecutors in Washington decide against authorizing a formal criminal investigation in the case. But they leave the final decision to the U.S. attorney in Little Rock.

On July 20, Foster, now White House counsel, shoots himself in an apparent suicide. As White House officials later acknowledge, the Clintons' records on Whitewater are removed from Foster's office before investigators probing his death have a chance to examine them. The files are sent to Clinton's personal lawyer, David Kendall.

In September, the RTC asks the Justice Department to open a criminal investigation into Madison Guaranty's collapse. This time, RTC investigators note that they have found evidence that depositors' funds may have been improperly diverted to Clinton's 1984 campaign and to

Whitewater. The expanded request lists nine instances of possible criminal activity.

The report is sent to the new U.S. attorney in Little Rock, Paula Casey. A Clinton appointee and former campaign volunteer, she refuses herself from any role in the matter. A team of Justice Department attorneys goes to Little Rock to look into the case. At year's end, with political pressure on Clinton mounting, the White House agrees to surrender the Clintons' Whitewater records to the Justice Department. It does so under a subpoena that blocks their public disclosure.

On Wednesday, Jan. 12, Clinton changes his posture and asks Atty. Gen. Janet Reno to name a special counsel to investigate the Whitewater matter. She begins considering candidates for that post.

### THE KEY QUESTIONS

Among the questions that lie at the heart of determining the depth of President and Hillary Clinton's involvement:

1 Were funds illegally diverted from Madison Guaranty Loan to the Whitewater Development Corp., which was partly owned by the Clintons, or used to defray a \$50,000 debt from Clinton's 1984 campaign for governor of Arkansas?

2 Did the Clintons use political influence in any way to help keep the troubled institution in business longer than it should have been, thereby increasing the cost to taxpayers when the thrift ultimately failed?



## Clinton Didn't Profit in 1979 Transfer Of Land to Whitewater, Associate Says

By JEFFREY H. BIRNBAUM

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — President Clinton didn't make a capital gain when he and his partners transferred some Arkansas land to their own Whitewater Development Co. in 1979, according to a person close to the Clintons who is familiar with the transaction.

The comment was made in response to a Time magazine article this week. The article notes that the land's value—\$882 an acre when it was first purchased by Mr. Clinton and his partners in 1978—was pegged by them at a higher price, \$1,087 an acre, when it was transferred to Whitewater about a year later.

The Whitewater investment is under federal scrutiny, and, at the president's request, Attorney General Janet Reno plans to appoint a special counsel to look into it and related matters. Among the issues involved are whether Mr. Clinton earned any profit on the investment and whether he and his wife accurately reported any profits or losses to the Internal Revenue Service and other authorities.

The person close to the Clintons, who declined to be identified otherwise, asserted vigorously that the asset transfer in 1979 wasn't a taxable transaction from which a capital gain or loss could be recorded. Four people—Mr. Clinton, Hillary Rodham Clinton and James and Susan

McDougal—bought the land in 1978, and those same four formed the Whitewater partnership into which that asset was placed in 1979.

That kind of transaction is better classified as a reorganization, the person close to the Clintons said, and does not lead to either profit or loss, regardless of what value the owners place on it. No money actually changed hands. And, the person asserted, the increased valuation of the land was reasonable because in the year of ownership, work was done on the property, including the building of a road and surveying and marketing of the land for sale.

The Clintons and McDougals bought the land from a company called 101 River Development Inc. The land was part of a 3,600-acre tract for which 101 River Development had paid about \$400 an acre less than a month earlier. The person close to the Clintons said this price discrepancy was irrelevant because the Clintons and McDougals were buying choice pieces of the larger tract. The person also said 101 River Development was not owned by either family.

The White House declined to comment on any specific allegations raised by the Time article. "The Whitewater matter is in the hands of the special counsel, once it is appointed," said George Stephanopoulos, a senior aide to the president.

# Hillary Clinton in Spotlight for Her Role in Whitewater

■ **Inquiry:** Her reputation as a top corporate lawyer seems to conflict with her purported naivete about high finance.

By JOHN M. BRODER  
and JAMES RISEN  
TIMES STAFF WRITERS

**W**ASHINGTON—As the White House struggles to contain the controversy surrounding the First Family's involvement in the tangled Whitewater real estate and banking affair, First Lady Hillary Rodham Clinton's role has begun to raise as many questions as her husband's.

Indeed, the Whitewater matter now seems to be a controversy befitting the Clintons' modern, two-career political marriage: Just as the First Lady has played a critical role in major policy decisions on health care and other issues, she now finds herself a central figure with her husband in this politically threatening affair.

It is Hillary Clinton's independent career as a top attorney in Little Rock, Ark., while her husband served as governor—and her reputation for being the financial brains of the household—that have prompted questions about her role in the Whitewater matter.

Even friends in Arkansas are wondering why she has not come forward with a fuller account of what she did and what she knew at the time the events in Arkansas were unfolding.

"I don't know why she hasn't been more open about explaining" her work as a lawyer for the defunct savings and loan at the center of the affair, said Beverly Bassett Schaffer, a former Arkansas state regulator and longtime acquaintance. "I don't understand why they [the Clintons] were in business with someone like McDougal," the thrift's owner.

James B. McDougal, a friend of Clinton's, owned Madison Guaranty Savings & Loan and was half-owner with the Clintons in an Ozark Mountain real estate venture called Whitewater Development Corp.

The President and Hillary Clinton have said they were innocent bystanders as McDougal drove his lending institution into the ground with a binge of bad loans and frittered away nearly \$70,000 of their assets on the bankrupt Whitewater project.

Unresolved, though, is the mystery of how to reconcile this image of naivete in the world of high finance with

Hillary Clinton's reputation as a top corporate lawyer and board member of some of the nation's biggest corporations.

The question being asked more openly in Washington and Arkansas is: How could Hillary Clinton—whom one legal journal called one of the 100 most influential lawyers in the United States—be unaware of gross mismanagement at a savings institution she represented as an attorney and neglect her family's only substantial financial asset?

**T**hose questions intertwine with a web of others as federal investigators continue their inquiry.

Specifically, they are trying to determine whether, amid the careening disorder in the runaway S&L and Whitewater, money from a federally guaranteed thrift was diverted into Clinton's 1984 campaign coffers. Also, there is the matter of whether the institution got favorable treatment from Arkansas authorities that helped keep it in business before federal regulators finally shut it down in 1989.

It is Hillary Clinton's role as a former attorney for the savings and loan that has raised concerns about her actions.

McDougal, who worked with Clinton in Sen. J. William Fulbright's office in the 1960s, bought Madison Guaranty in 1982 and soon began using it to make loans to important figures and to finance an assortment of speculations including his 4-year-old Whitewater venture with the Clintons, according to records filed with state regulators.

Before long, the S&L was on dangerous ground, and in 1984 federal regulators warned that they considered its lending practices questionable. The Federal Home Loan Bank Board directed the S&L—along with others in Arkansas—to raise more capital and put its house in order.

McDougal hit upon a quick way to raise money: selling stock. But that was not normal practice for savings and loans in Arkansas, and the proposal needed approval from the Arkansas Securities Commission. So McDougal had Little Rock's Rose Law Firm—and specifically partner Hillary Clinton—make his case for the stock sale to state regulators.

The White House has acknowledged that Hillary Clinton, then on a \$2,000-a-month retainer with Madison Guaranty, worked on the proposal in 1985. But senior presidential adviser Bruce Lindsey said her involvement

Please see HILLARY, A3

# HILLARY: First Lady in Spotlight

Continued from A2

was minimal and that most of the legal work was done by a junior associate, Richard N. Massey, then a 28-year-old, first-year lawyer at the firm.

Joe Madden, the current commissioner of the Arkansas Securities Department, said there are at least three Rose Law Firm documents to the commission that refer questions back to either Hillary Clinton or Massey. But he said the case was fairly routine and that a "competent first-year attorney [as Massey was at the time] could have been primarily responsible for doing the research and doing the drafting."

Schaffer, who had just been appointed securities commissioner by then-Gov. Clinton when the case arose, said Massey handled meetings with her staff and that Hillary Clinton was the only senior attorney at the Rose firm with whom she or her staff communicated.

Ultimately, Schaffer and her staff decided that the unusual capital-formation plan did not violate Arkansas law and approved it. Because of its growing financial problems, though, the plan was never carried out by the thrift.

Schaffer, now an attorney in private practice in Fayetteville, Ark., said she did not feel pressured to rule favorably because the governor's wife was involved in the case.

But she expressed frustration at her old friend's seeming hesitation to publicly explain her role as a senior attorney in the case and thereby allow suspicions to grow.

Repeatedly, Hillary Clinton has insisted that questions arising from private matters a decade or more ago are not a fit subject for public scrutiny. She has refused to respond to any detailed inquiries, including the central one: whether it was proper to represent a business partner before a state regulatory board run by a personal friend and appointee of her husband's.

She has expressed bewilderment that the press and investigators are interested in the aftermath of a money-losing private real estate investment.

Jack Pitney, a political scientist at Claremont McKenna College in Claremont, said the First Lady's response created a credibility problem. It is difficult, he said, to believe she would ignore a major family investment and overlook a potential conflict of interest.

"She can't just throw her hands in the air and say she doesn't understand all this legal stuff. She can't claim ignorance of legal details," he said. "It is not a credible defense. Her involvement is a fix of her own making."

Friends and associates said the two images of Hillary Clinton—meticulous lawyer and absent-minded investor—are not mutually exclusive. While she was a keen professional at work, she had little interest in acquiring wealth or closely monitoring her family's finances, according to her defenders.

Lindsey, a longtime Arkansas friend of the First Family, said the Clintons got into the Whitewater deal on the assumption that McDougal would manage the property and the Clintons would simply make payments periodically on loans taken out to purchase the undeveloped land.

"They went into a real estate development with a developer with the clear understanding that he would manage the investment and with the clear understanding they would be passive investors," Lindsey said.

"When they were asked to write a check to Citizens Bank of Flippin [Ark.] or even to the McDougals when

McDougal said there weren't sufficient funds from property sales to cover that month's mortgage payments, that didn't seem unusual."

He said the Clintons were aware that the property appeared to be losing value, but rather than questioning McDougal or seeking detailed financial statements on the deal, they just wrote it off as "bad business judgment," Lindsey said.

Another family friend's assessment is that neither of the Clintons was interested in getting rich; they concentrated through the 1980s on Clinton's political career and his wife's policy crusades.

"They don't know beans about business," said this Arkansas friend, who asked to remain nameless.

According to McDougal, the Clintons early in 1985 expressed interest in Madison Guaranty's affairs—as well as their personal enrichment—and sought the thrift's legal work for the Rose Law Firm. McDougal said he put Hillary Clinton and the Rose firm on the \$2,000-a-month retainer at then-Gov. Clinton's request—a claim the White House has denied.

In 1988, when Madison Guaranty clearly was on the verge of failure and McDougal was suffering personal problems, records show that Hillary Clinton wrote to McDougal to seek power of attorney over all Whitewater-related business.

She received that power but apparently did not use it until 1992, when she authorized Rose firm law partner Vincent Foster to work on Whitewater's delinquent tax returns.

In an unrelated case, she took a distinctly active role in a family investment involving much less money. In 1983, she, Foster and Webster L. Hubbell, another law firm partner, formed an investment partnership called Mid-life Investors, with each contributing an initial \$15,000.

Roy P. Drew, a stockbroker who helped them set up the venture, said neither Foster nor Hubbell later expressed much interest in the performance of the partnership but that Hillary Clinton called frequently to ask about her investment, at times phoning him daily with questions and instructions.

The partnership eventually foundered, paying annual dividends of between \$2 and \$20 from 1986 to 1992, according to the Clintons' income tax returns. Lindsey, who follows the Clintons' personal business closely, said he knew virtually nothing about Mid-life Investors except that it was an insignificant part of the family's portfolio.

Some of the White House defensiveness about Whitewater questions over the last three weeks can be attributed to concern for Hillary Clinton's potential exposure to political damage.

The chief item on the White House agenda for 1994 is the health care reform initiative, which the First Lady has headed.

White House aides—and ultimately the Clintons—concluded this week that until questions are resolved about the First Family's business matters, little progress can be made on affairs of state, officials said.

"There ain't going to be no health care campaign if they don't get Whitewater out of the way," said Betsey Wright, Clinton's former gubernatorial chief of staff and an informal adviser.

"Right now, it is very difficult for the White House to be heard on health care or anything else. . . . Until that cacophony quiets down, you can't get health care back on track."

Times staff writer Thomas B. Rosenstiel contributed to this story.

# Ex-Clinton Aide Faces Subpoena in Madison Case

WASHINGTON EDITION / LOS ANGELES TIMES

TUESDAY, JANUARY 18, 1994

■ **Whitewater:** The FBI focuses on what the chief of staff to the then-Arkansas governor knows of a thrift owner's role in the paying off of a \$50,000 loan.

By DOUGLAS FRANTZ  
and WILLIAM C. REMPEL  
TIMES STAFF WRITERS

LITTLE ROCK, Ark.—The FBI has notified Betsey Wright, a senior aide to President Clinton when he was governor of Arkansas, that she will receive a grand jury subpoena in the expanding investigation of Clinton's business dealings with the owner of a failed savings and loan, Wright acknowledged Friday.

The FBI also subpoenaed documents from a small Arkansas bank that loaned Clinton and his wife, Hillary Rodham Clinton, \$50,000 to help finance his 1984 campaign for governor.

The subpoenas are part of a wide-ranging federal investigation into ties between the Clintons and their

## ■ FROM SATURDAY EDITIONS

former business partner, James B. McDougal, the owner of the now-defunct Madison Guaranty Savings & Loan here.

Numerous questions have been raised about whether the Clintons and McDougal improperly benefited financially from the relationship and Atty. Gen. Janet Reno is preparing to appoint a special counsel to investigate the matter.

The primary focus of the investigation is the Whitewater Development Corp., a partnership formed by the Clintons and McDougal in 1978 to develop 200 acres of resort land in the Ozark Mountains. The Clintons have said that they lost \$68,900 in the venture, but key records apparently are missing and FBI agents have been trying to reconstruct the finances of the project.

Among some of the questions investigators hope to answer is whether McDougal received political favors in exchange for helping the Clintons pay off the \$50,000 loan. McDougal has told reporters that he staged a fund-raiser in 1985 to help retire the debt.

Investigators apparently believe that Wright may be able to shed light on the loan issue. She attended the 1985 fund-raiser as then-Gov. Clinton's chief of staff and helped collect \$35,000 toward the loan repayment.

Although campaign laws require such contributions to be reported to the state, the list of contributors to the Madison Guaranty fund-raiser has disappeared and Wright has said that she does not know what happened to it.

Wright acknowledged Friday that the FBI had informed her that she would be subpoenaed. She also said, however, that she was told the subpoena had been withdrawn temporarily pending the naming of the special counsel.

In anticipation of the subpoena, Wright said that she moved several boxes of documents from her office at the Wexler Group, a Washington lobbying firm and part of the Hill & Knowlton communications firm, to her Washington home. She said that she planned to sort through the material over the weekend.

"I will be happy to help anyone to get the history sorted out," Wright said.

She declined to disclose the nature of the material sought by the FBI or the types of documents she said she is examining.

However, during the 1992 presidential campaign, Wright collected numerous documents to rebut questions raised then about the Clintons' involvement with McDougal.

The Whitewater case is not the first White House controversy in which Wright has become involved.

Last month, she took time off from her lobbying job to help senior presidential aide Bruce Lindsey coordinate the White House response to allegations made against the President by two Arkansas state troopers. They claimed that the President offered them federal jobs to discourage them from speaking publicly about his alleged extramarital affairs while he was governor.

FBI agents also served a new subpoena on the small Arkansas bank that actually made the \$50,000 loan to the Clintons in 1984, in an apparent attempt to uncover the loan's paper trail.

The institution—the Bank of Cherry Valley—was owned in part by W. Maurice Smith, a former member of Clinton's staff. There was no collateral for the loan, which was used by Clinton to bolster his gubernatorial campaign in its final days.

Smith, later named by Clinton to head the Arkansas highway department, is a longtime friend and political confidant of the President. According to Wright, he was Clinton's mentor and "like a father" to the young Arkansas politician.

Federal investigators examining the failure of Madison Guaranty suspect that some of the money raised by McDougal may actually have come from the savings and loan's funds, sources said. The White House has said that Clinton and his campaign would have had no way of knowing the origin of the contributions.

Leon Foust, the president of the First Bank of Arkansas, which bought the Bank of Cherry Valley, confirmed Friday that the institution has received three subpoenas in recent weeks from FBI agents, the most recent coming Wednesday.

Foust declined to discuss the nature of the material sought by the subpoenas. But a knowledgeable source said that the FBI is seeking bank records related to the Clintons' loan and checks used to pay it off in 1985.

Sources said that investigators also are interested in checks sent to the Bank of Cherry Valley from the Whitewater Development Corp. account at Madison Guaranty.

Some records have been located and turned over to the FBI, Foust said, and bank staff members are trying to find additional material.

"We've complied with the subpoenas to the best of our ability, and we are still searching for records," Foust said.

The possibility that Madison Guaranty funds were contributed to Clinton's campaign is one of several questions expected to be examined by the special counsel.

Special correspondent Michael J. Goodman contributed to this story.

**'I will be happy to help  
anyone to get the  
history sorted out.'**

BETSEY WRIGHT  
Clinton aide, commenting on  
documents sought by FBI

# Search Begins for Special Prosecutor on Land Deal

By DAVID JOHNSTON  
Special to The New York Times

WASHINGTON, Jan. 13 — Attorney General Janet Reno began a search for an independent prosecutor today, sorting through names of what aides described as a "handful" of candidates for the politically perilous job of investigating President Clinton's role in a failed Arkansas land deal.

Justice Department officials said Ms. Reno and several top advisers have weighed the names of several well-known lawyers as potential candidates and have telephoned some to determine whether they were interested. The officials would not identify the prospective choices but said they did not expect to have difficulty finding a prosecutor.

A spokesman for the Justice Department, Carl Stern, said Ms. Reno "wants to do it quickly, to minimize any disruption to the investigation."

One official said tonight that Ms. Reno had made progress today in narrowing the list of potential candidates and might name a prosecutor within days.

## Legal Obstacles

But there were legal obstacles that could delay the decision. One was that an independent prosecutor must comply with Federal ethics rules that bar such a lawyer from representing clients on matters before the Justice Department for at least a year after completing a term as prosecutor. Department officials could seek a waiver of the restrictions, but preparing such an action could take several days.

Ms. Reno had made no preparations for selecting a special prosecutor, the officials said, and she had started with a "blank slate," though it appeared likely she was focusing her search on nationally known lawyers with prosecutorial experience.

The officials said Ms. Reno was meeting with aides like Philip B. Heymann, the Deputy Attorney General, and Jo Ann Harris, head of the criminal division, who has been supervising the Justice Department's investigation. The inquiry centers on the Madison Guaranty Savings and Loan Association, a failed Arkansas thrift.

Madison Guaranty was owned by James B. McDougal, the Clintons' partner in the Whitewater Development Corporation, a vacation-home development in northern Arkansas. The Justice Department is investigating whether Madison Guaranty improperly funneled money into Whitewater or into Mr. Clinton's 1984 re-election campaign when he was governor of Arkansas.

Webster L. Hubbell, the Associate Attorney General and No. 3 official at the Justice Department, who is often involved in personnel matters, has recused himself from the inquiry and is not included in the deliberations concerning an independent prosecutor. Mr. Hubbell is a friend of Mr. Clinton and a former law partner of Hillary Rodham Clinton in the Rose law firm of Little Rock. In addition, Mr. Hubbell's father-in-law defaulted on loans from Madison Guaranty.

Ms. Harris was a Federal prosecutor in New York, and her role in the selection process has aroused speculation that Ms. Reno might consider well-known lawyers from the New York area, like Robert Fiske, a former United States Attorney in Manhattan, or Arthur Liman, who was a top lawyer in

the Congressional inquiry into the Iran-contra affair.

No one at the White House was being consulted on the decision, the officials said.

Some Justice Department officials, stung by news accounts suggesting that Federal prosecutors had responded slowly to the case, expressed concern that a lengthy search for a special prosecutor could slow the investigation or raise questions about the Government's tactics.

## Grand Jury Subpoena

In recent days, agents from the Federal Bureau of Investigation delivered a grand jury subpoena to the president of First Bank of Arkansas, a small bank in Wynne, Ark., that had financial dealings with Mr. Clinton and Whitewater in the past. Leon Foust, the bank's president, said he was served with the subpoena on Wednesday by F.B.I. agents.

Mr. Foust's bank, once called the Bank of Cherry Valley, lent money to Mr. Clinton and to Whitewater during the 1980's, according to public records. The bank also served as a repository for Mr. Clinton's 1984 gubernatorial re-election campaign funds. In 1985, Federal regulators traced money from Madison to Mr. Clinton's campaign account at the Bank of Cherry Valley, Federal officials said.

Mr. Foust declined to discuss the contents of the subpoena, and it is not clear whether the bank still had the relevant records requested by the grand jury. Mr. Foust said that the bank retained paper records for five years and that some additional records might still be available on microfilm.

Last week, the Senate Republican leader, Bob Dole of Kansas, gave Ms. Reno a list of seven people he said would be credible candidates for special prosecutor. Ms. Reno said she would consider Mr. Dole's candidates.

On Mr. Dole's list were two Carter Administration attorneys general, Griffin Bell and Benjamin Civiletti; Robert Bennett, formerly a special counsel to the Senate Ethics Committee; former United States Attorneys Michael Baylson, Anton Valukas and Dan Webb; and A. B. Culvahouse, a counsel in the Ronald Reagan White House.

## Bowing to Pressure

Ms. Reno's search began after Mr. Clinton bowed on Wednesday to heavy pressure from lawmakers in both parties to request a special prosecutor. Ms. Reno, who opposed bringing in a prosecutor from outside the Government, acceded to the President's request, saying it was necessary to maintain public confidence in the criminal justice system.

Early today, the White House press secretary, Dee Dee Myers, said in Moscow that Mr. Clinton had made his decision after conferring on Tuesday with his Mrs. Clinton, who was in Washington, as well as with aides. "The President slept on it overnight and decided to go forward," she said.

Ms. Myers said there were no communications between the President and the Attorney General in the days preceding the White House decision to ask for an independent review of the issue. Mr. Clinton has not spoken to Ms. Reno during his overseas trip and did not plan to discuss the matter with her, Ms. Myers said. "I just don't think we have a lot to say about it."

Other officials said the Justice Department did not know that Mr. Clinton was going to seek an independent prosecutor until a few minutes before the White House disclosed a letter from Bernard W. Nussbaumer, the White House counsel, to Ms. Reno asking for the inquiry.

## Related Development

In a related development, Federal banking regulators are reviewing whether Mrs. Clinton's former law firm in Little Rock misled them about the firm's past dealings with Madison Guaranty.

The inquiry, which is separate from the Justice Department investigation, stemmed from a lawsuit originally brought by Madison Guaranty against its accountants. When the savings and loan was taken over by bank regulators in 1989, the Government inherited the suit.

## Quick action is sought for an inquiry on Clinton.

When he was governor of Arkansas.

Webster L. Hubbell, the Associate Attorney General and No. 3 official at the Justice Department, who is often involved in personnel matters, has recused himself from the inquiry and is not included in the deliberations concerning an independent prosecutor. Mr. Hubbell is a friend of Mr. Clinton and a former law partner of Hillary Rodham Clinton in the Rose law firm of Little Rock. In addition, Mr. Hubbell's father-in-law defaulted on loans from Madison Guaranty.

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# Aspin Moves to Open Many Military Jobs to

By ERIC SCHMITT  
Special to The New York Times

WASHINGTON, Jan. 13 — In one of the last major actions as Defense Secretary, Les Aspin today announced a policy change that could eventually open thousands of jobs that are now off limits to women in the Army and Marine Corps.

It will take several months, however, to tell how the new policy works in practice. Using a new standard definition of what is risky in ground combat, the armed services will review all the positions now closed to women to determine if they should stay closed. Troops involved in direct ground combat, like infantry and tank units, will remain all male, but several maintenance, engineering and other combat support positions could open to women.

Pentagon officials today predicted that 15,000 to 20,000 positions could be open to women in the reserves and active-duty military. But Marine and Army commanders have resisted relaxing the prohibition against women in ground units and could seize on exceptions in the new policy to continue barring women from traditionally male jobs.

Today's action follows sweeping changes Mr. Aspin made last April to open combat aircraft and surface warships to women. These changes affected mainly the Air Force and the Navy and have proceeded smoothly.

## 'Right Thing to Do'

"We've made historic progress in opening up opportunities for women in all of the services," Mr. Aspin said at a news conference. "Expanding the roles for women in the military is the right thing to do, and it's also the smart thing

to do."

Mr. Aspin said today that he has discussed the changes with his designated successor, Bobby Ray Inman, and that Mr. Inman supported the new policy. Mr. Inman would be responsible for reviewing the armed services' proposed changes, which are due by May 1.

Mr. Aspin said today that he would remain Defense Secretary until the Senate confirmed Mr. Inman's nomination. The Senate Armed Services Committee has scheduled hearings on Jan. 25 or 26.

The final proposed changes from the Defense Department are to be submitted to Congress by Oct. 1 for review. The Pentagon does not need formal Congressional approval, but lawmakers could block changes they thought went too far.

Women would be eligible to serve in 99 percent of all positions in the Air Force, 90 percent of positions in the Navy and 67 percent of all positions in the Army. The Marine Corps could not provide a figure, but personnel experts said it would be lower than the Army's.

## Fundamental Change

The new policy hinges on a fundamental change in the standard by which women are excluded from direct ground combat. Until now, the military barred women not only from ground combat units, but also any support positions that faced the same risk of direct enemy fire.

It has been military tradition to bar women from ground combat partly because of physical requirements, a threat to the morale of all-male units and an unwillingness by the American public to suffer large number of female

A new standard that will define what is risky in ground combat.

casualties in combat.

Mr. Aspin today rescinded this so-called risk rule and replaced it with a new definition that bars women from ground combat positions only if troops in those jobs have a high probability of fighting enemy forces in close combat under hostile fire near or at the front lines.

The Army immediately issued a statement saying that the change could open about 7,000 additional spaces to women in the active-duty forces, and 11,000 in the National Guard and Army Reserve. The additional jobs would include military police, mechanics, scouts, engineers and intelligence analysts. Women serve in these jobs now, but mostly at headquarters or units far from the battlefield.

## Matter of Interpretation

The Army and Marines are likely to open some positions in air defense artillery, like Hawk antimissile batteries. Despite the objections of senior civilian Pentagon officials, the Army is likely to continue barring women from one of its most sophisticated artillery weapons, the multiple-launch rocket system. Although the rocket system has a range of about 20 miles, field commanders in

the Persian Gulf war used the system at the front lines against Iraqi forces.

Female Army officers expressed tempered optimism about the prospect of additional spaces in ground units.

"Aspin has done great things in expanding opportunities for women, but it comes down to how the Army and Marine Corps choose to interpret this," said Maj. Lillian Pfluke, a West Point graduate who has commanded ordnance units that repair tanks and trucks on the battlefield.

Major Pfluke and other military officials who support broadening opportunities for women said that commanders could seize on four exceptions to the new policy to deny positions to women.

Women, for example, could be barred from units where the cost of renovating berths and arranging for privacy are prohibitively expensive. The Navy, thus, might refuse to put women on a warship that was near retirement.

Long-range scout and special operations units would remain off limits to women, as would any job with physical requirements beyond the ability of the vast majority of women.

The exception about which most female officers expressed concern was one that allows the armed forces to bar women from support jobs that by military doctrine operate and remain with direct ground combat units that are closed to women.

Mr. Aspin initially intended to announce the new policy last week, but sent back a draft submitted by his top personnel aide, Edwin Dorn, because Mr. Aspin said the draft's language could be interpreted as more restrictive than the current policy.

## Whitewater Issue Hampers Nightline's Access to Clinton

By BILL CARTER

The special access that President Clinton has granted to the ABC News program "Nightline" during his trip to Europe was temporarily interrupted on Wednesday when Mr. Clinton refused to give an interview to the program's anchor, Ted Koppel.

Mr. Clinton had agreed to give "Nightline" an interview on each of five consecutive nights this week, an arrangement that has had the other networks grumbling. But the President refused to answer questions on Wednesday about the decision to seek a special prosecutor in the investigation of the Whitewater Development Corporation, so no interview was conducted.

The executive producer of "Nightline," Tom Bettag, said that White House officials agreed to resume the interview agreement without conditions yesterday.

In a telephone interview from Moscow, Mr. Bettag said the White House had been aware all along of the risk that another news story would break during the week regarding Mr. Clinton's involvement in the Whitewater real estate development project and its relationship to a failed Arkansas savings and loan and that the President would be asked about it.

## 'The Agreement Was Broken'

"We made an agreement that the President would give us an interview each night," Mr. Bettag said. "We feel the agreement was broken."

The agreement with "Nightline" has given the program unusual access to the President, his staff, planning meetings and everything that has taken place on the daily travel aboard Air

Force One. CBS, NBC, and CNN have all formally complained about the deal, though the protests are less a matter of anger than of strategy. Executives at the other news organizations acknowledged that they were hoping to force the White House to grant them their own interviews.

And, as CBS News executives said this week, the strategy has worked. Both the CBS anchor, Dan Rather, and the NBC anchor, Tom Brokaw, had interviews with Mr. Clinton on Tuesday night. Jim Miklaszewski, an NBC correspondent, also had an interview with the President on Wednesday night, but Mr. Clinton walked out after being asked about the Whitewater issue.

"There's no question there's grumbling," said Eric Ober, the president of CBS News. "Obviously we, CNN and NBC are not going to be thrilled if there's an extraordinarily long amount

of time. But, as Mr. Ober and other network executives pointed out, the exclusivity being enjoyed this week by "Nightline" is not all that unusual for this President. "Nightline" already established a close connection to Mr. Clinton when it won special access for a behind-the-scenes look at Election Day 1992. That program, "72 Hours to Victory," won an Emmy award.

CBS also had exclusive access to Mr. Clinton for a special news program built around the Inauguration. NBC's Mr. Brokaw had access to the President and his staff for a special program last May about a day behind the scenes at the White House.

"They kind of pick their spots and try to even it out anyway," Mr. Ober said.

BC-WHITEWATER national editors:GL

Investigation of Whitewater deal may produce no clear-cut answers  
(HAS TRIMS)

By John Aloysius Farrell and Adam Pertman  
Boston Globe

LITTLE ROCK, Ark. Their toughest critics blanch and stutter when asked to list the crimes that Bill and Hillary Rodham Clinton are supposed to have committed as investors in the now-notorious Whitewater Development Corp.

"I think there is hardly a soul who thinks there is not some sort of eyebrow-raising circumstance," said Rep. James Leach, the Republican from Iowa who has led congressional attacks on the Clintons. "But that doesn't bring down a president, and it shouldn't."

An examination of records here and in Washington and interviews with key figures in the case suggest conflicts of interests and ethical missteps by the Clintons and their friends in the close-knit Arkansas business, legal and political circles.

But elements necessary to make a criminal case proof the Clintons had knowledge of the unseemly actions that their associates are said to have taken, or evidence that Clinton used his power as governor in exchange for financial favors have yet to emerge in the available files.

Whether those elements are in still-confidential materials is not known.

If the available public record turns out to be a sound representation of what lies behind the scenes, legal experts say, the special counsel to be selected by Attorney General Janet Reno to investigate the Whitewater saga may have a difficult task finding flames beneath the smoke.

"It's an amazingly complicated swamp," says Jack Blum, a Washington lawyer who investigated the Bank of Commerce and Credit International, or BCCI. "A special counsel looking for something criminal is probably going to find some very difficult and complicated numbers, and trouble with the statute of limitations. Then, in a terribly unsatisfactory way, the special counsel will come back and say, 'Ain't anything I can do.'"

Now that the Clintons have turned over their records to the U.S. Justice Department, and bowed to calls for a special counsel in the case, their interlocking relationships with old pals and partners may present Clinton and his wife with a need to explain more embarrassing episodes and actions, Leach said.

But "I see nothing," he acknowledged, "that is beyond very serious embarrassment."

The case presented against the Clintons is simple in theory: Clinton is alleged to have done favors as governor for James McDougal, the desperate owner of the crumbling Madison Guaranty Savings and Loan. In return, McDougal is alleged to have employed Hillary Clinton as a lawyer; improperly funneled Madison's funds to help pay off loans owed by Clinton, and used Madison Guaranty to boost their joint investment in the Whitewater Development Corp., an Ozarks real estate development in which the Clintons and McDougals invested in the late 1970s.

If such a quid pro quo were proven, the scenario could lead to charges of embezzlement, bribery, political corruption, false statements and obstruction of justice.

But making a case on the known evidence could be difficult, say legal experts. The available documents are ambiguous. Most of the testimony thus far tends to support the Clintons.

"If you had to do this stuff over again, you might avoid some of these appearances and buddy-buddy things," said Charles F. Handley, the financial examiner supervisor for the Arkansas securities division, a civil servant who was not a Clinton appointee. "But I've been here 26 years and I never had any sense there was any pressure" by Clinton to protect McDougal. "I don't believe that happened at all."

"You would have to say that Mrs. Clinton's actions, since she presumably knew she was in partnership with the McDougals, were dubious when she also

4  
agreed to represent that bank that her partner owned," said a Justice Department official with knowledge of the case. "That's not illegal or anything, but you'd have to guess that's at least one reason the White House didn't want too much light focused on this initially."

Clinton served as governor of Arkansas from 1979 to 1980 and from 1983 to 1992. The Clintons' major exposure to questions of wrongdoing occurs in 1984 and 1985, when McDougal sped Madison toward its final crash under the noses of state banking regulators. Federal auditors warned in 1984 that Madison, while solvent, was engaged in unsound practices. Yet McDougal was not removed until 1986. The thrift's failure eventually cost U.S. taxpayers around \$50 million.

During this time, McDougal performed several favors for the Clintons. If the Clintons were found to be aware of, or active participants in, McDougal's wheeling-dealing, federal prosecutors might try to build a case that there was an illegal quid pro quo.

In the spring of 1985, McDougal hosted a fund-raiser for Clinton to help pay off leftover debt from the governor's 1984 campaign. Like many politicians, Clinton had borrowed money in this case \$50,000 in the closing weeks of an election that he then loaned to his campaign to pay for television ads and other expenses. McDougal, by hosting the fund-raiser, helped Clinton pay it back.

(EDITORS: NEXT 2 GRAFS OPTIONAL)

Neither of the Clintons attended McDougal's fund-raiser at Madison, and some of the campaign finance records are missing. But U.S. investigators are trying to determine if McDougal used the event to illegally channel Madison funds into Clinton's campaign treasury.

"I don't think it is pretty that the Clintons went to this savings and loan for this fund-raiser," said Leach. "On the other hand, they can't really be held accountable if there is some fudging down at the S&L."

(END OPTIONAL TRIM)

McDougal performed another favor for the Clintons when he hired the nationally-known Rose law firm, at which Hillary Clinton was a major partner, to represent Madison before Arkansas securities commissioner Beverly Bassett Schaffer.

(EDITORS: NEXT 2 GRAFS OPTIONAL)

Correspondence in the security division files shows that Hillary Clinton was one of two lawyers listed by Rose in two requests it made on behalf of Madison, which wanted to issue stock to stay afloat. Schaffer OK'd the request, but it was never acted upon.

Hillary Clinton acknowledges that she discussed Madison's retention of the Rose firm with McDougal in April 1985, and that she worked on the case, but says, "My involvement there was minimal."

(END OPTIONAL TRIM)

Arkansas is a small state, but it was still an apparent conflict of interest although not necessarily illegal for Hillary Clinton to have represented a business partner, McDougal, before a state agency while her husband was governor.

It was around mid-1985, as McDougal frantically shuffled to keep Madison in business, that money began to churn through the Whitewater corporation accounts.

McDougal may have been using Whitewater as a shell through which to maneuver money for Madison, Leach said, but because the Clintons were his partners in the development firm, any knowledge of his transactions which they deny could expose them to tax, fraud and negligence charges.

-END-OF-AUTOBREAK(1)-

\*\*\*\* filed by:KR-F(--) on 01/18/94 at 08:14EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/19/94 at 08:58EST \*\*\*\*

BC-WA--Editorial Roundup  
By The Associated Press= Here are excerpts from recent editorials in  
Washington state newspapers:

Jan. 16

Seattle Post-Intelligencer on Whitewater:

President Bill Clinton's order to Attorney General Janet Reno to appoint an independent counsel to investigate the Whitewater matter should have come sooner but is nonetheless the right decision; for the sake of the Clintons and the American people.

The president was reported to be unhappy with having been forced into the decision. "The only argument I can see for doing it is just to free up all the people who work for me to go back to work for the taxpayers of the United States," Clinton told NBC News.

Precisely. And it is also the best argument for the decision.

The young president has shown excellent promise. He has clearly demonstrated the conviction, vision, vigor and political skills to accomplish great things on his domestic and foreign relations agendas. This nation needs the kind of change Bill Clinton is capable of producing. If, as the president and First Lady Hillary Rodham Clinton insist, they have been involved in no wrongdoing, then it would be a serious mistake to let public and congressional preoccupation with Whitewater continue to get in the way of the important things the administration needs to get done. If there has been wrongdoing, it cannot long escape discovery.

The appointment of an independent, credible special counsel is the best talisman against the sort of political witch hunt Sen. Bob Dole and the Republican minorities in both houses might like to see. The appointment of a credible special counsel eliminates the need for additional congressional inquiry at this time.

Let the special counsel's investigation be swift, thorough and conclusive. The country has got better things to do than arm-wrestle over Whitewater. The president has done himself and his country a service by channeling the inquiry into the proper venue.

Jan. 15

The Seattle Times on House votes:

Rep. Greg Fisher of Seattle has a terrific idea: House members should be present to cast a vote for legislation.

What a concept!

At present, House rules allow just about anybody to cast a vote for a House member who is away from the floor. Fisher blames an avalanche of legislation for creating a nearly endless cycle of voting, which in turn causes a domino effect of lackluster speeches, tepid debate and distracted or absent representatives.

If no one is around when roll-call votes are held, then colleagues and surrogates start punching the electronic yeas and nays. Fisher says mistakes are made, and the whole unseemly process makes a poor impression on the public in the House gallery.

Change the rules, otherwise the House will just continue to publish essentially phoney-baloney voting records. And, as if politicians have not noticed, the public is in no mood to be trifled with. Being too clever with something as basic as truth-in-voting is risky behavior.

This fundamental reform may not be easy or convenient, but, well, too bad. Busy House members might find it difficult to allocate time between constituents, committee duties and floor votes. Tough. Go back to Fisher's main point: The enemy is the volume of legislation.

Make representative government work, don't work around it.

Jan. 13

The Bellingham Herald on Hill's pension:



What's most infuriating about a wink-of-the-eye deal between Tim Hill and Gary Locke that will bilk taxpayers is that neither seems to understand why the deal really is so wrong.

Outgoing King County Executive Hill will get a bigger pension payoff and start receiving it 29 months earlier because incoming Executive Locke allowed Hill to stay on the county payroll one extra day.

Hill qualifies for pensions from both Seattle and King County. He should have begun to receive them after he turns 60 on Aug. 23, 1996.

But if Hill worked one day in 1994, a new law would double his Seattle pension to \$2,600 a month and allow him to begin receiving it and his \$2,170-a-month state pension beginning in March.

So he telephoned Locke and asked for a one-day job. Sure, Locke said. On Jan. 3, Hill worked as a personnel analyst.

Hill said he was just taking advantage of the new law. Locke said he wouldn't have agreed to the deal had he realized how much extra money Hill was going to receive more than \$70,000.

Didn't it occur to Hill that he'd be using a loophole to bilk taxpayers? It should have.

Didn't it occur to Locke that the violation of public trust would be a bigger wrong than the amount of money involved? It should have.

Jan. 13

The Herald (Everett) on nuclear tension:

Nuclear tensions remain much reduced from the days of the Cold War. But it is uncertain how well the Clinton administration is doing with its efforts to preserve the improvements.

The end of tensions between the West and the former Soviet Union brought a blessed reduction in the fear of nuclear war. Yet it also opened the door for new concerns.

The administration has been quick to recognize those dangers. Last summer, President Bill Clinton went to Korea and declared North Korea could not be allowed to build a nuclear bomb. The administration also has pursued vigorously efforts to assure that Ukraine gives up the nuclear missiles that had been stationed on its soil by the Soviet forces. ...

Much worse, though, is the situation with North Korea. Not long ago, administration officials were confidently predicting a diplomatic breakthrough in talks with the North Koreans. Now it appears that the talks have centered on an agreement that would fall far short of stated U.S. goals. ...

The best that can be said about the discussions with North Korea is that they leave open the possibility of further progress in additional talks the two sides anticipate. Yet that is a very slim result for 10 months of effort during which North Korea may have been secretly furthering any plans to violate the Nuclear Non-proliferation Treaty.

The Clinton administration may not want to put further pressure on the North Koreans. Japan and South Korea have shown uneasiness about outright confrontation on the issue. China doesn't appear willing to approve U.N. sanctions against North Korea. China wants continued talks.

So the administration may be getting as good a deal as it can with North Korea at this point. That hardly qualifies, though, as what an undersecretary of state, Lynn Davis, recently called "very good news." Indeed, the tentative agreement with North Korea seems more likely to increase nuclear concerns somewhat rather than to continue their reduction.

\*\*\*\* filed by:APW-(WA) on 01/18/94 at 14:06EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/19/94 at 08:59EST \*\*\*\*



bc-whitewater - a1658

(ATTN: National editors) (Includes optional trims)

S&L Lawyer Says Feds Would Have Known of Clinton Wrongdoing (Washn)

By Melissa Healy= (c) 1994, Los Angeles Times=

WASHINGTON The attorney for a key figure in the controversial Whitewater land deal on Sunday insisted that funds from a failed Arkansas savings and loan could not have been diverted into Bill Clinton's gubernatorial campaign coffers without being noticed by a host of federal agents.

Sam Heuer, attorney for James B. McDougal, the president of the defunct Madison Guaranty Savings & Loan, said the only possible source of diverted funds would be Madison Guaranty's "cash account" a pot of money that Heuer said "is the first thing the (bank) examiners look at."

Bank examiners, FBI agents and Justice Department attorneys pored over the account's records and McDougal "would have been very quickly charged at that point in time with criminal activity had any money been diverted," Heuer said on ABC's "This Week With David Brinkley."

Heuer was commenting on one of the central questions surrounding the tangled land deal in which President Clinton, his wife Hillary Rodham Clinton and McDougal were investors: whether Clinton's 1984 gubernatorial campaign benefited financially from his relationship with McDougal.

But the remarks left unanswered some of the Whitewater deal's other mysteries, including whether then-Gov. Clinton may have acted to shore up the failing thrift, which was seized by regulators in 1989, to help his business partner.

In another development, the administration stepped up efforts to put the Whitewater affair behind it following a decision last week to ask Attorney General Janet Reno to name a special counsel to investigate the Clintons' role.

Speaking on NBC's "Meet the Press," presidential counselor David Gergen, reviewing the White House's handling of the Whitewater affair, acknowledged that "there are some things we would have done differently" but he said that "we've dealt with it, we're moving on."

Two key Republicans suggested that there will be limits to the GOP effort to investigate the politically charged affair. Senate Minority Leader Bob Dole, R-Kan., who has called for a congressional investigation into the matter, said that "we need to wait and see" who is appointed as special counsel. "That may change the attitude some."

Rep. Jim Leach, R-Iowa, who has been one of the key GOP figures raising questions about the Whitewater affair, pledged to proceed on his own if the Democrats refuse to create a bipartisan panel to investigate Whitewater.

In pressing his case for a congressional investigation, Leach, the ranking Republican on the House Banking Committee, noted that while a special counsel would focus on potentially criminal activity, Congress would be the appropriate body in which to air issues of "public trust."

(Optional add end)

"This isn't the largest issue," he told CBS' "Face the Nation." "There are possible breaches of law, but more importantly there's a public ethic here that's at issue."

However, Heuer disputed the suggestion that investigators will find breaches of law in documents turned over to investigators by McDougal and others involved in the Whitewater deal.

Madison Guaranty's books were examined by the Federal Home Loan Bank Board twice, once in 1984 and again in 1986, Heuer said. The institution was also investigated by the Federal Deposit Insurance Corp., the Federal Savings and Loan Insurance Corp. and two independent accounting firms, as well as by attorneys of the Justice Department and the FBI, he said.

"I don't know of any real major secrets in any of the Whitewater materials, and I would suspect, were there some secrets, we would have known

before now," Heuer said.

filed by:LAWP(-- ) on 01/17/94 at 02:27EST \*\*\*\*  
printed by:WHPR(JEL) on 01/17/94 at 09:59EST \*\*\*\*

■ THE WHITE HOUSE

# SEARCHING FOR THE MISSING PIECES

The Clintons' messy handling of the Whitewater scandal intensifies the demand for a special prosecutor to find some answers to its complex puzzles

By GEORGE CHURCH



WHY WOULD A LAWYER ask the Justice Department to subpoena some of the papers of his own clients—especially if those clients are the President of the U.S. and his wife? White House senior adviser Bruce Lindsey has a simple answer: "Privacy." Indeed, subpoenaed papers become part of the record of a criminal investigation, unavailable for release under the Freedom of Information Act and thus shielded more effectively than otherwise from Congress and the press.

Accordingly, on the day last week that the Justice Department received a request under the Freedom of Information Act to make public files on Whitewater Development Corp.—an Arkansas land venture in which Bill and Hillary Rodham Clinton were partners—the White House announced that those files were under subpoena. David Kendall, the Clintons' personal lawyer, had asked for that subpoena almost two weeks earlier, on Dec. 23—the day Clinton announced he would turn over all the files to Justice "voluntarily." As it

happened, Justice lawyers were already drafting a subpoena; Kendall persuaded them to broaden it and demand more documents than they originally wanted to see. Kendall handed over about half the papers last week, after a couple of days of confusion and contradiction: the White House had first announced that all the papers had been turned over, and then that none would be for a couple of weeks because they had to be "cataloged."

Had the President wanted to amplify whispers of "cover-up" into roars, he could hardly have devised a better strategy. And the Administration promptly compounded the damage. Besieged by demands that she appoint a special counsel to look into the case, Attorney General Janet Reno steadfastly refused to do so at this time. That "might be a possibility," she said, if Congress passes a new law authorizing her to ask a court to choose a special counsel (the old law expired in 1992). But if she were to name one on her own now, said Reno, no one would believe the counsel would be "truly independent." To critics the reasoning seemed lame; and even inside the White House some aides were offering to bet that a





special counsel will be named soon. But might be too late to save Clinton from suspicion that he resisted as long as he could.

Altogether, it seems as if the President, the First Lady and their aides have forgotten everything they learned about damage control during the bitter campaign of 1992. Old Washington hands point out that suspicions of hiding a scandal usually hurt the President far more than the scandal itself. That seems especially true in this case. The affairs of Whitewater and its partners—the Clintons, James McDougal, the owner of failed Arkansas savings and loan, and his wife Susan—were so convoluted that the defy quick summary. Even the question that the dealings raise are too complex to fit on a bumper sticker. The press and television paid almost no attention until recently, and then largely because it developed that a file relating to Whitewater had been removed from the office of White House counsel Vincent Foster after he committed suicide last July (that file is one of the papers Justice subpoenaed and Kendall handed over last week).

But there is a strong reason for White House efforts to soft-pedal the whole affair, and it can be put in a single word: Hillary. Compared with the President, the First Lady was a central player. Among other things, she sought power of attorney for Whitewater and represented McDougal's S&L before a state regulator appointed by her husband, then Arkansas Governor. "This is hers," says a White House official. "If the troopers [who accused Bill Clinton of extramarital affairs] were about him, this one is about her."

But within the White House no one is allowed to voice anything that sounds like criticism of Hillary. The last person who tried—staff secretary John Podesta, who suggested that Mrs. Clinton might have had something to do with the dismissal of the White House travel-office staff—was banished from the inner circle for months. It would take considerable bravery for a Clinton aide to face the President with advice to agree to a special counsel and let the chips fall where they may, since some of those chips might fall on his wife's head. Late last week, nonetheless, some senior White House officials did discuss the special counsel idea with Clinton, but even the Commander in Chief deferred to Hillary's fierce opposition—at least for now. The problem for the White House, it is contended, that stonewalling, or the suspicion of it, only intensifies the question.

The essential background is simple enough: the Clintons and McDougal formed Whitewater, a company that tried unsuccessfully to sell land in northern Arkansas for vacation homes, in 1979. Clinton's first year as Governor, it lingered in existence until late last year. In 1985, McDougal's S&L, Madison Guaranty, went



## How Deeply Is Hillary Clinton Involved?

A loan she took out for Whitewater appears to be improper. A file on the company was removed from the office of

White House counsel—and the Clintons' personal lawyer—Vincent Foster (shown here with the First Lady and his wife Lisa) after his suicide in July.

broke, costing federal taxpayers \$47 million. Madison was regulated by Clinton's state government, while its deposits were insured by the Federal Government.

Suspecting check kiting and other abuses, the Resolution Trust Corp., the federal body formed to clean up the affairs of failed S&Ls, referred the matter to the Justice Department in 1992 for investigation and possible prosecution. The referral, which has never been made public, mentioned the Clintons, but in what capacity is uncertain. People who have seen the referral say it definitely did not identify the Clintons as suspected wrongdoers. Some say they were named as potential witnesses, or as people who might have benefited from improper activities, though perhaps unwittingly. As investigators delve more deeply into the tangled affair, they will be seeking answers to these questions:

### WAS MONEY FROM MADISON GUARANTY AND/OR WHITEWATER DIVERTED INTO CLINTON'S CAMPAIGNS FOR GOVERNOR?

The RTC is known to have raised this question. The grounds for its suspicions are

somewhat less clear. But there is no question that James McDougal was one of Clinton's money raisers. In particular, it is known that he held a fund raiser in 1985 and came up with \$35,000 to help repay Clinton for a \$50,000 loan that the Governor had made to his own campaign fund the previous year (making personal loans to their campaigns is a common practice among politicians). There is some suspicion that at least part of the money may have come from Madison's depositors rather than from bona fide individual contributors.

Iowa Republican Jim Leach, ranking minority member of the House Banking Committee, makes this charge explicitly. Says he: "The effect is that the money that flowed into the Clinton campaign to pay back a personal loan of the Clintons' ends up being deferred public financing of a campaign, and not by choice. That is, the money in effect came from an insolvent thrift [institution], paid back later by the federal taxpayer" in the form of reimbursements to money-losing depositors. Nothing has been proved, however, and

Clinton has denied any knowledge of money improperly diverted into his campaigns.

**DID THE CLINTONS GET SWEETHEART DEALS IN WHITEWATER AND OTHER VENTURES?** Quite the opposite, say the President and First Lady: they put \$69,000 into Whitewater and lost virtually all that money. But Bill Clinton once put the loss at "at least \$25,000," and the Clintons never wrote off any loss at all on their tax returns. A Clinton aide contends that the documentation is too poor to enable them to do so.

Other aspects of the Whitewater venture are somewhat odd. To begin with, the Clintons got a half share, although they invested much less than the McDougals (who put in \$92,000). The Clintons have claimed to be only "passive" investors who let the McDougals run the show, but that hardly squares with Hillary's known activities. In her 1988 letter requesting power of attorney, she mentions having been actively involved in selling lots. Also, she built, sold and then bought back a model home. It now turns out that Hillary built the house in 1981 with a \$30,000 loan from the tiny Bank of Kingston, which was controlled by McDougal and Steve Smith, a former top aide to Governor Clinton. (Another shareholder was Jim Guy Tucker, who has succeeded Clinton as Arkansas Governor.) Marlin Jackson, who was then Arkansas banking commissioner, has told TIME that the loan violated state regulations because the home and borrower's residence were outside the area in which the bank was permitted to lend.

Then there was an incident in which McDougal in effect swapped 20 Whitewater building lots, almost half the project's total, for little more than a twin-engine Piper Seminole airplane that was later sold for a loss of \$13,000. That loss was absorbed by Madison Guaranty's depositors, but federal taxpayers eventually had to pick up the tab through the RTC. Another intriguing factor is that the plane was at one point owned by Seth Ward, the father-in-law of Webster Hubbell, then a law partner of Hillary's and now Reno's top deputy at the Justice Department. McDougal sold Ward the plane, and his S&L loaned him the money for the purchase. Ward told TIME, in order to keep the aircraft off Madison's books, where it might have aroused suspicion among regulators. Hubbell acted as counsel to his father-in-law in the deal, one of several connections with the thrift that have had the effect of forcing Hubbell to dissociate himself from any investigations involving Whitewater or Madison. All in all, Whitewater's finances were tangled enough to make the traditional can of worms look simple.



## Why Was Whitewater Such a Messy Deal?

The forested property was entangled in the chummy and often clumsy world of Arkansas business and politics. For example, Steve Smith, a top aide to Bill Clinton, and James McDougal, the Clintons' principal partner in the Whitewater

enterprise, were on the board of the Bank of Kingston, which loaned Hillary Clinton \$30,000 in 1980 to build a model home on one of the 42 lots in the real estate development.



**DID STATE REGULATORS GO EASY ON MADISON GUARANTY IN RETURN FOR FAVORS TO THE CLINTONS?** This is another charge leveled by Leach, who cannot conveniently be accused of blind partisanship. He is, in fact, perhaps the least partisan Republican in the House. One reason for the contention: at the start of 1985, Clinton appointed Beverly Bassett Schaffer as head of the state department that regulates S&Ls. Later, Schaffer approved a proposal for an unusual stock sale to shore up McDougal's already troubled S&L. The proposal was presented by none other than Hillary Clinton, acting as attorney for Madison Guaranty. The stock sale, however, never went into effect, and records in the Arkansas state security division show that Schaffer was quite tough on Madison. In the middle of 1986, state and federal regulators joined in removing McDougal as its chief.

**WERE THE EVENTUAL INVESTIGATIONS LESS VIGOROUS THAN THEY SHOULD HAVE BEEN?** In 1992, when Whitewater's name was starting to crop up in stories about Bill Clinton's campaign, Denver lawyer James Lyons did an audit, at Clinton's request, that to critics seemed highly inadequate. The RTC's referral of the case to Justice landed in Washington in the fall of

## Where Does the Failed Madison S&L Fit In?

Almost everywhere—but never neatly. Hillary Clinton represented Madison before state regulators. Its wheeler-dealer chairman James McDougal, who also ran Whitewater, once received loans specifically restricted to "disadvantaged persons." The tactics of McDougal and his now estranged wife Susan eventually caused Madison to go under—at a cost of \$47 million to federal taxpayers.

the bench, and McDougal pressured him to arrange a \$300,000 loan to clean up some dubious Madison Guaranty loans. Hale did approve a loan of that amount to McDougal's wife, but \$110,000 went into Whitewater. Clinton denied exerting any pressure and said he had been unaware of such money winding up in Whitewater. Hale proposed to Casey that he have himself wired up to record incriminating conversations, perhaps with Clinton and aides. Casey refused, suspecting the offer was not serious. Hale, who had been indicted

Casey's recusal, the Justice Department in Washington took over the investigation; pending possible appointment of a special counsel, it is being run by Donald Mackay, a senior trial attorney—and a Republican.

It is important to note that no one has offered proof of any criminal activity. Even if anyone did, it would be very difficult to prove the Clintons knew of it and approved. Who would be a credible witness against them? James McDougal insists they did nothing wrong, appearing last week on the tabloid TV *A Current Affair* to make the point. Even if he were to decide otherwise, he has suffered a mental breakdown. Susan McDougal is separated from him; last week she pleaded not guilty to a California indictment charging her with embezzling \$200,000 from symphony conductor Zubin Mehta, whom she served as a financial adviser. Even Leach concedes the whole affair has no potential to be another Watergate; it is entirely possible the Clintons will never face any penalties at all or be asked only to repay some money to Madison Guaranty depositors and be accused of a conflict of interest. Still, even by the standards of Arkansas, where members of a tiny financial-political elite constantly deal with one another, Hillary's representation of a business partner before a banking regulator appointed by her husband the Governor seems to be going rather far.

At the very least, the Clinton's choices of James and Susan McDougal and David Hale as associates call into question their ability to judge character. And that, in turn, questions raised by the affair could come back to haunt Clinton in his probable 1996 re-election run. It may be that the President and his wife are guilty of nothing wrong. All the more reason to insist that a special counsel conduct a vigorous investigation that is free of any suspicion of bias. Unless that is done, no one will ever really know.

—Reported by Laurence I. Barrett and Michael Duffy/Washington, Richard Behar and Adam Zagorin/Little Rock

## What Did the Clintons Know About the Plane?

Did they know that their partner McDougal had exchanged Whitewater land and diverted money from Madison to purchase the Piper Seminole? Or was it simply another of McDougal's secrets? Madison's directors were certainly kept in the dark. Clarence Edwards, a board member, heard of the plane for the first time last week. "The board should have been informed," he said.

1992—just as Clinton was forging decisively ahead of George Bush in the presidential race. Justice officials were afraid they would be accused of a partisan effort to smear Clinton if they had Washington take over the investigation, so they left it with the U.S. Attorney in Little Rock. At the time that was Republican Charles Banks, but after Clinton's victory he was replaced by Democrat Paula Casey.

Enter David Hale, an Arkansas judge and head of a lending company that was backed by federal money. Hale claims that in 1986, Clinton, who had appointed him to

for fraud in a separate case, wanted Casey to give him a plea bargain. Casey offered instead a reduction in sentence if he pleaded guilty and cooperated with the government on other matters. But Hale refused the deal and will stand trial next month. Casey eventually recused herself from both the Hale and Madison cases, but most belatedly, last November. She would have trouble claiming impartiality, she had been a law student of Bill Clinton's and a volunteer in all his campaigns. Her husband works for Arkansas Governor Tucker, who had many dealings with McDougal. After

# Troubled WATERS

**White House:** The president has finally launched a Whitewater counteroffensive. But if he has nothing to hide, why is he so defensive?

BY HOWARD FINEMAN  
AND BOB COHN

**B**ILL CLINTON'S AIDES ARE AC-  
customed to his angry "morn-  
ing vents." But last Tuesday he  
was Vesuvius. A New York  
Times editorial said that the  
Justice Department's investi-  
gation into the tangle of Clin-  
ton business deals known as "Whitewater"  
wasn't credible. The paper demanded the  
appointment of a special prosecutor and  
accused the president of failing to seek  
"open government and impartial justice."  
Slamming his fist on the JFK desk in the  
Oval Office, the president declared that  
he had never been a punching bag—and  
wouldn't be one now.

So, two days before he left Washington to  
attend his mother's funeral in Arkansas and  
then embark on his trip to Europe, Clinton  
launched a counteroffensive. He renewed  
his promise to turn over all files to the Justice  
Department. A top-level team was told to  
get a handle on the facts ("We don't know  
what our total exposure is," moaned one top  
White House aide) and to persuade the  
world that there is no scandal here. Report-  
ers were offered detailed briefings. Aides hit  
the talk shows to denounce the GOP "witch  
hunt" and decry a town that wouldn't allow a  
president to mourn his mother.

But the damage control was several days  
and several dollars short. For too long the  
White House—and the Clinton campaign  
before it—behaved as though there were a  
land mine hidden in the Arkansas thicket of  
politically incestuous banking and business  
deals (next story). Disclosure has been  
grudging at best. Official statements were

contradictory. And the suicide last summer  
of White House Deputy Counsel Vincent  
Foster, who had been the Clintons' lawyer  
for years and had dealt closely with  
Whitewater, envelops the controversy in  
the aura of novelistic intrigue.

At the very least, a full review of the  
documents concerning the Clintons' busi-  
ness dealings in Arkansas would show that  
they associated, at times, with a sleazy as-  
sortment of 1980s hustlers. Not a flattering  
picture, especially for Democrats who ran  
against the wheeling and dealing of the  
Reagan-Bush years, but hardly enough to  
warrant raising the word impeachment, as  
GOP Rep. Jim Leach did last week. Still, if  
there's nothing illegal to hide, why has the  
White House been so unwilling to talk—  
and to chart the paper trail?

Part of the explanation may be simple  
miscommunication. Files related to White-  
water were found months ago in Foster's  
White House office, but that fact was dis-  
closed only recently. At the time, the Clin-  
tons' business dealings had faded from the  
news. White House Counsel Bernard  
Nussbaum, who oversaw the dispersal of  
Foster's files, apparently didn't know that  
authorities had started a new investigation  
into the dealings of James McDougal, the  
S&L cowboy who was the Clintons' part-  
ner in the original Whitewater develop-  
ment. Nussbaum sent the files to the  
Clinton's personal law firm, Williams &  
Connolly, which is only now in the process  
of turning them over to Justice. Disorgani-  
zation also helped create an image of dis-  
sembling. The Clintons hadn't declared  
their Whitewater losses. And White House  
aide George Stephanopoulos declared on





## DAMAGE CONTROL

After silence only fed the furor, last week the administration came out punching



**DAVID GERGEN**  
The spin doctor is in, specializing in pleas for a bygone 'decency'



**JANET RENO**  
She held the line against calls for a special prosecutor



**HAROLD ICKES**  
New deputy chief of staff is also chief of damage control

Jan. 2 that all Whitewater files had been turned over to the Justice Department. In fact, none had been. They won't all be transferred until Jan. 18.

But the grudging disclosure isn't entirely accidental. The Clintons apparently think a "zone of privacy" extends to their family financial records—a curious notion, at best, when applied to their Arkansas business ventures. Clinton was governor for a decade; the First Lady was one of the state's leading corporate lawyers, and she represented McDougal's S&L Madison Guaranty for the Rose Law Firm from 1985 to 1986.

The Clintons have brought a defensive campaign mentality into the presidency. The theory is: don't give ammunition to enemies. In 1991, before his candidacy, Clinton hired "opposition researchers" to examine his public record in search of troublesome issues. Whitewater was the most problematic. When *The New York Times* investigated it in March 1992, the Clintons declined to be interviewed, sending one of Hillary's best friends, New York attorney Susan P. Thomases, instead. Later, the campaign commissioned a report that cleared the Clintons. But the documents were never released.

**Iran-contra:** White House spin doctors have their own reasons for wariness. The business files are scattered and incomplete, and, aides say, leave too much room for conspiratorial fantasy. David Gergen worries about "selective leaking" from Justice. Knowing that Justice had drafted a narrow subpoena, David Kendall, the Clintons' lawyer, expanded it to cover a wide array of documents. Why? Because disclosing information from a subpoenaed document is a federal crime. And in an ironic twist on the lessons of the 1980s, Clinton aides fear that a special prosecutor might become a "run-away"—another Lawrence Walsh, who spent six years investigating the Reagan administration and Iran-contra. Attorney General Janet Reno thinks Justice lawyers can handle the case, but she is no longer ruling out naming a so-called "independent counsel" if Congress gives her the power.

Whatever else happens, the confusion should dissipate with the arrival of the new White House deputy chief of staff, Harold Ickes, a 54-year-old New York lawyer. His first task was to be health care, but he was detailed last week to run the Whitewater team instead. Blunt, foul-mouthed, indelible—known for breaking furniture and scuffling with foes—Ickes brings legendary organizing skills and zealous advocacy to the job. He was an early civil-rights lawyer in the South, and has 25 years of campaign experience in the only media environment tougher than the capital: New York. He'll need all that survival skill to help the Clintons make Whitewater go away. ■

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## THE POLITICAL SCENE

### THE BRIDGES OF MADISON GUARANTY

*Whitewatergate is one old story the Clintons can't shake—which means Capitol Hill is about to get a crash course in Little Rock mores.*

BY PETER J. BOYER

**B**ILL CLINTON'S Arkansas past arrived at his door like a Christmas ghost. "Old story," he said, but the old story—the Clintons' relationship with a reckless Arkansas savings-and-loan adventurer named Jim McDougal—kept spilling out revelations, one for each day of Yuletide. There was news of a personal loan McDougal made to Bill and Hillary Rodham Clinton, repaid by questionable means, and a hint of political favors granted to him. There were also new twists in the still-mysterious suicide of the White House lawyer Vince Foster: word that Foster kept a personal diary, which excited new speculations, and that records of the Clintons' business dealings with McDougal were removed from Foster's office after his death and kept from investigators. The latter, with its overtones of intrigue and coverup, produced a tense minidrama, in which the White House at first hesitated and then, facing a possible subpoena, said it would turn over to the Justice Department all papers relating to the Whitewater Development Corporation—the misbegotten Arkansas business partnership between McDougal and his wife and the Clintons. So there was plenty of unwelcome excitement to spoil the President's holiday mood without the sneak attack from the Arkansas State Police officers. Their tales of a sex-mad Bill Clinton, so enslaved by his appetites that he imperilled his reputation with low-rent assignments and his digestive system with incautious eating habits (picking up a whole baked potato and devouring it in two bites), heated up the December air before vanishing into the void between Christmas and New Year's. Even so, the stories killed any chance of rosy year-end reflections on Clinton's 1993 victories; instead, there were Letterman jokes ("Top Ten Ways Santa Relaxes: No. 4, The Arkansas State Police rustle him up some babes").

The Arkansas troopers are already off the screen, but Whitewater (as the Clinton-McDougal involvements are coming to be collectively known) is not going to fade anytime soon. This week, as the White House was directing attention to the President's European trip, Whitewater clamored distractingly from the sidelines. "I think the Whitewater matter is going to be a big problem for the President," Senate Minority Leader Robert Dole warned, and Representative James A. Leach, of Iowa, the ranking Republican on the House Banking Committee, continues to demand that there be congressional hearings on the matter. Whitewater is not yet a scandal, but in a way it is something worse—a potential scandal, the unfolding of which the White House will have to spend much energy endeavoring to control. If the White House succeeds—say, by avoiding the appointment of an independent counsel to investigate the matter—it risks the appearance of coverup; if the White House fails to control the issue and there is an independent inquiry or, worse, a full congressional investigation, the inevitable spectacle could step on welfare reform, health care, and other Clinton initiatives planned for 1994.

That President Clinton should be confronted with just this sort of controversy—murky financial dealings with shadowy figures who have criminal lawyers—surprises the common wisdom. Even those who criticize the journalism of adultery while privately accepting much of the raunch as true find it hard to believe that Bill and Hillary Clinton could be involved in financial shenanigans. After all, they are, in the now retired phrase that introduced the Clinton era, hopeless "policy wonks." This is in the Clintons' favor and reflects the deep impression that Bill Clinton is strictly the sum of those elements which built for him

a national persona—his Oxford education, his extraordinarily accomplished wife, his years of toil on the Democratic Leadership Council and the governors' conferences, his cultivation of friendships in the media. But Clinton was not pulled fully formed from the loins of C-SPAN; first, there was Arkansas.

Clinton ran for the Arkansas Congress in 1974, at the age of twenty-eight, and was involved in a statewide campaign every two years after that until he became President. Almost all his adult life has been spent in the untidy brawl of Arkansas politics, a milieu of naked favor-trading and of eye-gouging political warfare—the cocaine dependency of Clinton's brother, nurtured by the generosity of a Clinton financial supporter, was a theme of one gubernatorial race. All this is squeezed into the confines of a small, extremely insular state, where no one, it seems, is more than two degrees removed from the business of anyone else. (In a typical encounter during a recent visit to Arkansas, I ran into a couple at dinner, both of whom had connections to the Clintons: the wife used to be Chelsea's dance teacher, and the husband is Gennifer Flowers' attorney.)

Some of what the inquiries may reveal could be learned on a walk through downtown Little Rock, or a drive through one of its neighborhoods. The town's power culture lives and works elbow to elbow in an atmosphere that invites, with its particular sort of conviviality, a certain cronyism. Step out the front door of the venerable Rose Law Firm and you're a block away from the Worthen Banking Corporation, which provided Clinton's Presidential campaign with a \$3.5-million line of credit in the crucial days before Super Tuesday; housed in the Worthen Bank Building are the offices of Wright,

Lindsey & Jennings, the law firm that hired Clinton during his out years and that Bruce Lindsey, the White House aide who directed spin on the trooper/sex story, was a partner in; down Fourth Street stands the First Commercial Bank Building, where Frank White, the Republican who handed young Governor Clinton his only gubernatorial defeat, can often be found standing outside his glassed-in office in shirt-sleeves and suspenders, jawing politics; nearby is the Stephens Building,

from the Country Club of Little Rock, will take you past the late Vince Foster's house, which is just a little ways down Stonewall Road from the home of Kaki Hockersmith, Hillary Clinton's interior designer; a couple of streets away is the house that belongs to architect Terry Rasco (as almost anyone can tell you, he and his wife, Carol, got divorced after Carol went to Washington to become Clinton's director of domestic policy). "These people didn't just see each other downtown—

they shopped at the same Kroger's, they saw each other mowing their lawns," says one Little Rock Friend of Bill. In such an atmosphere, alliances are made and friendships are formed—particularly between politicians and their sources of money—that are deemed standard procedure but seem like conflicted entanglements when they are scrutinized outside that context.

THERE is no more vivid example of such an entanglement than that binding Jim McDougal to Bill Clinton. The two men met in 1968, while working on the reelection campaign of that Arkansas icon Senator J. William Fulbright. McDougal amused Clinton, then a college student at Georgetown, with his dead-on imitations of F.D.R., and advised him in politics, eventually helping to run Clinton's failed '74 congressional race. Each man harbored political ambitions, but it was plain that Clinton, not McDougal, had the talent with voters. McDougal was driven to



*Bill Clinton was not pulled fully formed from the loins of C-SPAN; first, there was Arkansas.*

monument to the megabucks Stephens family, longtime Clinton benefactors, where Clinton has his Arkansas White House office. Along the route are the Capital Hotel and the Little Rock Club, favorite dining haunts for the power crowd. A drive through the comfortable residential neighborhood known as the Heights, extending out

make the big score financially, and to benefit his political friends if he succeeded. Senator Fulbright and his family entrusted McDougal with a number of property deals, and in 1978, when Clinton was Arkansas Attorney General, McDougal invited Bill and Hillary Clinton to join him and his wife, Susan, in a land deal that promised to make



both couples a lot of money. The land, called Whitewater Estates, comprised two hundred and thirty acres of property on the White River in the Arkansas Ozarks; McDougal planned to subdivide and sell it for vacation homes, and a new company he formed with the Clintons—Whitewater Development—would develop it. Whitewater seemed a way for the Clintons, who had little money at the time, to cash in on the Sun Belt land boom at little risk: McDougal gave the Clintons fifty-percent ownership in Whitewater, although they apparently put up no cash; the project was financed by loans arranged by McDougal, with the land itself the only collateral.

Whitewater would eventually put Clinton in the awkward position of being in business with a man whose principal enterprise—banking—was regulated by the state. When this issue was raised during the Presidential campaign by a New York Times investigation, Clinton dodged it by pointing out that he hadn't yet become governor when Whitewater was formed. That was technically true—Whitewater Development was founded a few weeks before Clinton was elected governor. (He then named McDougal to his staff, as an adviser on economic development.) But Clinton maintained his business partnership with McDougal after McDougal left the staff to start his banking career—a decision that haunts him now, fourteen years later.

Still, that was the way of things in Arkansas, and Clinton's partnership with McDougal caused him no particular political strain through the years. On the contrary, McDougal seemed just the sort of friend that an ambitious Arkansas pol would value. In 1982, after Clinton came back from defeat to reoccupy the Governor's Mansion, McDougal took control of a small savings-and-loan called Madison Guaranty; in three years, he built Madison into one of Arkansas's largest state-chartered institutions. He rode the wave of the eighties with gleeful abandon, leveraging big, playing hunches, and acquiring the posture of success. He drove a blue Bentley, created a maroon Art Deco headquarters downtown, and featured

Susan, who was also the secretary for Whitewater, in television commercials for his developments. "We called him Diamond Jim, because he's the kind of guy who always had money, always promoted money, always drove nice cars," one close friend says. "You know, Jim was just a high roller." McDougal liked to create the impression that he would take care of his friends, and not only politicians such as Fulbright and Clinton and the current governor, Jim Guy Tucker; he ran Madison,



Representative Leach now says, like "a private piggy bank." In three years under McDougal's control, loans to officers, directors, and executives of Madison or its subsidiaries grew from five hundred thousand dollars to seventeen million.

Clinton, in contrast, had limited financial resources during this period, although his political fortunes were building. "He has absolutely no interest in money," David Leopoulos, a longtime friend of Clinton's, says, but money was a problem for someone who had to run for office every two years. Clinton's 1980 gubernatorial loss to Frank White heightened a tendency on his part to develop last-minute nerves before an election, touching off binge spending on campaign ads, which, in turn, heightened the need for friends with deep pockets. Such was the case in 1984, when Clinton went into the final days of his bid for a third term comfortably ahead in the polls but still worried about the outcome. He called on a close friend, W. Maurice Smith, who was a member of his staff and, more important, owned a small bank in the tiny town of Cherry Valley, Arkansas. Clinton asked Smith for a personal loan, and Smith granted it without asking for collateral: he simply transferred fifty thousand dollars to Clinton's campaign account—and it was shown on the campaign-finance reports as a personal contribution by Clinton to his own campaign. (After the election, Clinton named Smith director of the state Highway and Transportation Department, a patronage job ranking somewhere just below King in the state of Arkansas: whoever holds this office has considerable influence in awarding

highway contracts, and thus dispensing jobs in a district, and in deciding where state roads will be built.)

Clinton bought a lot of TV commercials with the money he borrowed from Smith, and, just as had been predicted, he easily won the race. He then asked Jim McDougal for a favor. As McDougal later put it, the Governor came to him and asked if McDougal could "knock out the deficit"—Bill and Hillary's personal fifty-thousand-dollar debt to the Bank of Cherry Valley. McDougal said, "Sure," and that spring he threw a fund-raiser for Clinton at Madison Guaranty's headquarters. According to McDougal, the event raised thirty-five thousand dollars, which went toward clearing the Clintons' debt. It was an extremely valuable favor that McDougal performed, because, according to a *Times* report last month, Bill and Hillary Clinton would have been hard-pressed to repay the fifty-thousand-dollar loan themselves. The couple had a combined income in 1984 of a hundred and eleven thousand dollars.

McDougal's generous gesture came at a moment when he himself was at the center of a gathering disaster. He had overpaid for bad property, indulged the wrong hunches, and in every way lived the S. & L. experience of the eighties. In 1984, the Federal Home Loan Bank Board examined Madison Guaranty, made note of "unsafe and unsound lending practices," and though it found Madison to be still solvent, warned that if McDougal stayed on the same course he could sink the bank. But McDougal, who loved the play of it, apparently believed that he could pull Madison out of its nosedive if he could only forestall the regulators. By 1985, when the situation became dire, he needed a friendly ear at the Arkansas Securities Department, whose permission would be required to keep the bank's doors open. As McDougal saw it, his friend and business partner, Governor Clinton, had already provided that for him.

**S**HORTLY after his 1985 inauguration, Clinton removed his sitting commissioner at the Arkansas Securities Department and appointed an old friend from Fayetteville named Beverly Bassett. Both Clintons had taught at the

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Guaranty was gone, but, in the hope of recouping some of the taxpayer money lost in the Madison bailout, the Federal Deposit Insurance Corporation decided that year to sue the accounting firm Frost & Company, which had prepared the audit that the Rose Law Firm used in arguing the case for Madison's continued operation back in 1985.

Lo and behold, it turned out that the chief auditor assigned to the case, James Alford, had had two outstanding loans at Madison. The F.D.I.C. looked for outside counsel. At that point, Vince Foster, Mrs. Clinton's partner and close personal friend at Rose, wrote a letter to the F.D.I.C. soliciting business for the firm. "The firm does not represent any savings-and-loan association in state or federal regulatory matters," Foster wrote, wording it in the present tense, and avoiding mention of the fact that Rose had previously represented Madison Guaranty. Rose got the F.D.I.C. case, and assigned as the lead lawyer Webb Hubbell, the former mayor of Little Rock, whom Clinton had appointed to the State Supreme Court in 1984, and who is now Clinton's No. 3 man at the Justice Department. (Incidentally, Hubbell's father-in-law, Seth Ward, had been an executive of a Madison real-estate subsidiary and had defaulted on two outstanding Madison loans, totalling \$587,793. Hubbell informed the F.D.I.C. of Ward's ties to the defunct bank.) Hubbell settled the F.D.I.C.'s case against Frost & Company for a reported one million dollars, which was considerably less than the accounting firm's insurance coverage; Rose collected a four-hundred-thousand-dollar fee.

Whitewater Development survived the demise of Madison, and until 1988 McDougal had continued to manage the partnership for himself and the Clintons. Some of the methods he apparently employed, however, are now the subject of federal investigation. One deal involved David Hale, a municipal judge and entrepreneur in Little Rock, who seemed to have bad luck with his investments (such as a Bible-based theme park), but who had a gold mine in the form of an investment firm, Capital Management, that was backed by the Small Business Administration. Under the S.B.A. program,

Hale's firm raised money to seed projects for disadvantaged companies, such as those run by minorities, and the S.B.A. matched the funds. As a judge, Hale was known for shows of temper, but when I met with him in the Little Rock office of his attorney, Randy Coleman, he was the picture of sad-eyed contrition, politely answering my questions with the "Yes, sir" and "No, sir" he had once demanded in his own court. He is under a federal fraud indictment in connection with his S.B.A. dealings but feels he is being made the "fall guy" for Arkansas politicians he helped with his investment company, including Clinton. Hale has said that in 1986, when McDougal was facing scrutiny from federal regulators and was about to be ousted from Madison, he had lent Susan McDougal three hundred thousand dollars in the guise of helping a disadvantaged (in this case, female) entrepreneur. Hale said that he had been pressured into making the loan during a visit by Clinton and McDougal, and that some of "that money had ended up in Whitewater." The White House maintains that no such meeting occurred.

Hale was caught by surprise when, as a result of the federal investigation into his dealings, his company offices were raided, on July 21st. Finding himself in a corner, he decided to try to make a deal with prosecutors. He told them that he had had financial dealings with some of Arkansas's most prominent politicians, including Governor Clinton and his successor, Governor Tucker, and he offered to cooperate in building a case.

A key element in such a case would be the fact that a hundred and fifty thousand dollars of Hale's S.B.A. money did end up in Whitewater's account. McDougal's lawyer, Sam Heuer, said that there's a simple explanation for that, however: "That was just a screwup, is all it was. That money was supposed to go as a down payment on [another piece of property] and Jim inadvertently put it in Whitewater's account. When he realized he'd made a mistake, he pulled it out."

Hale, however, said that he had "a ton of documents" to support his story, and copies of some of those documents are said by local officials to be in the

University of Arkansas School of Law, in Fayetteville, in the nineteen-seventies. (In the way of things, Bassett's brother Woody had taken criminal law from Hillary and constitutional law from Bill. Woody Bassett actively campaigned for Clinton in the 1976 Arkansas Attorney General race and became a close political adviser, managing the campaign in Washington County, which includes Fayetteville, during Clinton's critical 1982 comeback race against Governor White. Beverly Bassett, meanwhile, would eventually marry Archie Schaffer, a nephew of Arkansas's Senator Dale Bumpers and now an executive at Tyson Foods—owned by Don Tyson, a serious Clinton financial backer.) Bassett did not know McDougal personally, but, as a securities lawyer for a Little Rock firm called Mitchell, Williams, Selig, Gates & Woodyard, she had done work for Madison Guaranty.

In 1985, shortly after McDougal helped Bill and Hillary Clinton "knock out the deficit," his lawyers proposed to the Securities Department a plan that could save Madison—an unusual recapitalization scheme involving the issuance of new preferred stock in the savings-and-loan. One of those representing McDougal in this effort was Hillary Clinton, whom, McDougal later recalled, he had hired on retainer after her husband approached him one day complaining about family finances. In a letter to Bassett, Hillary Clinton argued that Madison should be allowed to issue the stock. Using an audit recently commissioned by the bank, another Rose lawyer argued that the bank was solvent.

It made for an amazing tangle of interests: Hillary Clinton was arguing for a rescue plan on behalf of her business partner (and her own financial rescuer) before a state official who was also a friend, and who had been appointed by Hillary's husband, the Governor, and who had herself done work for the bank in question.

Soon after McDougal raised the thirty-five thousand dollars for the Clintons, Beverly Bassett approved Madison's recapitalization plan in a letter that began, "Dear Hillary." In fact, despite the federal loan board's severe criticism of Madison's practices a year earlier, Bassett's Securities Department allowed McDougal to continue operat-

ing Madison Guaranty for another year, until the bank's board voted his removal. During that time, Madison grew from a forty-nine-million-dollar institution to a hundred-and-twenty-five-million-dollar institution, fattening the load—about sixty million dollars—picked up by taxpayers when the bank finally went bust in 1989.

Bassett, who now uses her married name, Schaffer, is bemused by any suggestion that she gave Madison preferential treatment. The obvious conflicts didn't seem as bad to her in 1985 as they seem now, she said recently. True, the rules of professional conduct probably should have precluded Mrs. Clinton from representing her business partner, but, Schaffer said, at the time she didn't know of the existence of Whitewater; besides, it wasn't in the state commissioner's power to decide a petitioner's legal representation. Members of her own staff had had strong reservations about Madison, but Schaffer told me that, on the basis of the information available to her, her only choice was to allow Madison the chance to recover. "What we had was their examination report"—the report by the Federal Home Loan Bank Board—"clearly showing them solvent, plus their audit showing them solvent," Schaffer said.

The 1985 audit that was commissioned by the bank and became the foundation for the Rose lawyers' argument that Madison should be allowed to continue operating is at the heart of the problem of conflicting interests. By 1989, McDougal had hit rock bottom. His wife had left him, and many of his political friends had abandoned him. ("He asked Clinton for a job even sweeping floors, anything," one friend says.) He had also been hospitalized for what was diagnosed as manic depression. A psychiatric report said of McDougal in 1987 that his "first really florid manic episode" was "characterized by increased energy, increased talkativeness, 'felt invincible,' used poor judgment with money, and apparently really lost his whole business and savings in unwise real estate and other investment ventures." In 1989, McDougal was indicted—and eventually acquitted—by the federal government for fraud, in a prosecution focussing on one of his development deals. Madison

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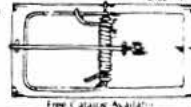
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hands of federal investigators. "They want to indict me, discredit me, convict me," Hale said, referring to a powerful clique of politicians he claims to have been associated with since his youth. The United States Attorney in Little Rock, Paula Casey, who is a Clinton appointee and a longtime Clinton supporter, has declined to make a plea bargain with Hale. He is nevertheless still hoping for some sort of leniency, and claims to be quite ready to make his case. "We haven't lost any of our records," he said.

The last comment was a pointed reference to the remarkably high incidence of missing records in connection with McDougal, with Madison, and, particularly, with Whitewater. In 1992, Susan McDougal told the *Washington Post* that, as Whitewater's secretary, she had kept all the corporation's records, but that at Hillary Clinton's request she had sent all her records to the Governor's Mansion—"every sheet of paper... every file I had, all the purchase agreements, copies of the deeds, all monthly payments by customers, all checks written by the corporation, all correspondence." The Clintons, who have maintained that they lost money on Whitewater, have said that they have only some of the corporation's records.

In his happier, high-rolling days, Jim McDougal was known to delight in his friendship with the Clintons, and in his access to the Governor's inner sanctum. Now the Clintons don't speak his name, and aides murmur about a business associate whose rogue dealings were strictly his own. And what is known about McDougal's life now seems to warrant the phrase that so many of his Arkansas friends employ when speaking of him: "Poor ol' Jim." McDougal's marriage and business are gone, and he has been living in a trailer home near Arkadel-

phia. (Susan McDougal, for her part, was recently charged with forgery and grand theft in an unrelated case in California and has pleaded not guilty.) After he was acquitted of criminal charges, "Bill Clinton did not help him one damned bit," says an old friend, but it is not likely that McDougal, who once shared his political savvy with the young Clinton, expects the President to get in touch. He survived the fraud trial, but current federal inquiries are likely to bring him back into court.

Federal investigators believe that McDougal channelled a great deal of money in and out of the Whitewater account, and it is still not known where much of the money went. That is one of the reasons investigators were so eager to inspect Vince Foster's Whitewater files. Foster had worked on Whitewater as the Clintons' personal

lawyer, and among the documents in his possession were records of the Clintons' sale of their share, in 1992.

Bruce Lindsey, the White House aide, said that the Clintons sold their interest in Whitewater to McDougal for a thousand dollars, and, in the process, discovered that the company had not filed tax returns for three years; on the advice of Foster, they had an accountant prepare the returns and then sent them to McDougal for filing. Lindsey added that a copy of the returns was also sent to Foster, who was by then working in the White House.

After Foster's suicide, the White House counsel, Bernard Nussbaum, retrieved the Whitewater material and forwarded it to David Kendall, the Clintons' new personal lawyer, instead of handing it over to the investigators probing Foster's death; Nussbaum cited lawyer-client privilege, thereby raising the separate issue of whether Foster, a government employee, should have been doing the Clintons' private work in his capacity as deputy White House counsel. On December 23rd, Clinton finally ordered the Whitewater papers turned over to Justice, but there was a further delay for "cataloguing." (Foster's diary, which Nussbaum gave to Foster's personal attorney, has not been turned over to government investigators.)

The paper trail recording McDougal's dealings with the Clintons follows a sinuous course, and often disappears altogether beneath the patchwork of Arkansas politics. One sought-after piece of paperwork is the campaign-finance report showing the contributions collected at that 1985 fundraiser given by McDougal to relieve the Clintons' personal debt. Government investigators believe that at least twelve thousand dollars of the money turned over to Clinton's aides that night may not actually have been raised but, rather, improperly diverted from Madison. The



"Arthritis Pain Formula Anacin, Poli-grip, and a home-pregnancy test."



Resolution Trust Corporation, combing through the records of the defunct savings-and-loan, discovered four certified checks, each in the amount of three thousand dollars and each bearing the name of a Clinton "contributor." One of those whose names appeared on a check was Kenneth Peacock, who was a college student at the time, and who says he didn't make a contribution to Clinton—a scenario that suggests that the checks bearing his and the three other names might have been phantom contributions intended to disguise a diversion of Madison depositors' money to Clinton. (The three other checks bore the names of Susan McDougal, Fulbright, and an employee of Peacock's father's.) "It's a disgusting situation," I was told by Betsey Wright, Clinton's longtime chief of staff in Arkansas, who ran his 1984 campaign and received the money from the McDougal fund-raiser. "I can't imagine anything worse than putting someone's name on a check that that person didn't put on himself, or request to put on himself. We had no way of knowing it."

McDougal has denied any such misdeeds. His lawyer, Sam Heuer, believes that there is probably a simple explanation for the phantom contributions. Noting that Peacock's father, Charles Peacock, of Bald Knob, Arkansas, was a business associate of McDougal's and a onetime member of the Madison board, Heuer said, "I suspect that Jim talked to Peacock's father, rather than to Peacock himself, on something like that. And I would assume that Peacock's father would have been a person in appropriate authority to have O.K.'d that deal."

However, up in Bald Knob, Charles Peacock maintains that he didn't authorize the contribution to Clinton, and offers as what he considers sufficient proof the fact that his line of Peacocks have been Republicans dating back to his granddaddy. Peacock said that he "never had" supported Clinton.

The campaign report, which Betsey Wright was obliged by state law to file with the Arkansas secretary of state, would show the names of other contributors at McDougal's fund-raiser, which was attended mostly by Madison executives and employees. (Clinton was

not there.) The paperwork would also, of course, be evidence that the Clinton campaign actually reported the take from that event. The report, however, is not among the Clinton files at the Pulaski County Clerk's office, in Little Rock—Wright said she should have filed it there but apparently didn't. Neither is it at the secretary of state's office. Officials there said that it might have been disposed of, because they were not then required to keep such records indefinitely. The consensus in Little Rock political circles is that



Wright, who is known for meticulous recordkeeping, would be the best source for the list of contributors. "I can't find those reports," she said. "It has us tied into a situation that emerged on other people's parts, not ours. And my not having the files is grist for getting more focus on us than on where the problem was. And I wish I could stop that, but I don't know how. I'd give anything to be able to solve this."

A former high-ranking official in the secretary of state's office told me that many such records—especially those likely to be of lasting public interest, such as a Clinton campaign report—were microfilmed for historical safekeeping. I asked Phil Hoots, who had been the secretary of state's manager of records in 1985, about this, and he confirmed that such records, probably including Clinton's crucial campaign report, were regularly microfilmed at that time. However, he added, "All that stuff was kept in a room that used to be a boiler room to generate steam heat. They had all that stuff back there in the catty-combs. Bingo! It was all ruined. You'd open the drawers and the stench from the acid would knock you down. It was all ruined."

It is likely, though, that another mountain of paper relating to Whitewater, McDougal, and his dealings with the Clintons will soon be building, as the Justice Department continues investigating the fact that S.B.A. funds ended up in Whitewater and the possibility that McDougal diverted insured depositors' money to political campaigns, including that 1985 Clinton fund-raiser. Not surprisingly, Republicans on Capitol Hill are pressing for hearings on Whitewater, and,

more ominously for the White House, Attorney General Janet Reno is considering the appointment of a special counsel to conduct an independent investigation. There is coming, one way or another, a discomfiting seminar on Arkansas manners.

FOR the Clintons, what could prove more troubling is the handling of the Whitewater-McDougal-Madison-Hale entanglements after they left Little Rock. They appear not to have benefitted financially from Whitewater—they assert that in fact they lost sixty-nine thousand dollars—but a final assessment can't be made until there is full disclosure, and the posture of the White House in that regard cannot be described as forthcoming. Whatever embarrassments the Whitewater papers hold—assuming they are not criminal—could hardly be as damaging as the impression now taking hold that the White House has something to hide. At the least, the two lawyers living in the White House, and the lawyers on their staff, caused the removal of material that is part of a federal investigation.

The prospect of inquiries—the very fact of the continuing interest in Whitewater—seems to have the First Couple somewhat nonplussed. Mrs. Clinton said, as the new revelations came spilling forth, "I am bewildered that a losing investment which for us was significant—sixty-nine thousand dollars, which is provable by the accountants—is still a topic of inquiry." A defense that a questionable business partnership couldn't have been improper, because it was not profitable, is hardly lawyerlike. Yet there may be something unintentionally exculpatory in the Clintons' loss on Whitewater—in the implicit assertion that if Bill Clinton were a crook he could have found a better accomplice than Jim McDougal and a more lucrative avenue than Whitewater.

When I asked Beverly Bassett Schaffer about the entanglements surrounding the official reprieve that she had awarded Madison Guaranty in 1985, she acknowledged that outsiders might see a conflict of interest. "We can't help bumping into each other all the time," she explained. "But we do do stuff out in the open, so at least y'all can check on us." ♦



# For Clinton, Whitewater Wisdom from Past Presidents' Defenders

By Sandra Torrey  
Washington Post Staff Writer

There are only a handful: Leonard Garment, James St. Clair, Theodore Olson and a few others. They are lawyers who have represented presidents in times of stress or scandal, including Watergate and the Iran-Contra affair. They know what President Clinton's lawyer, David Kendall, is going through in the Whitewater matter and what pitfalls may lie ahead.

Though they were reluctant to give advice to Kendall or his famous client, a list of do's and don'ts quickly emerged from interviews with them last week.

## ■ Get private counsel.

So far, Clinton gets an "A" for retaining a "private lawyer"—Williams & Connolly litigator Kendall—to handle questions about his Arkansas land dealings in the Whitewater Development Corp.

"Presidents do not view their . . . staff lawyers as lawyers, but as staffers," said Garment, who served as in-house counsel to President Richard M. Nixon during Watergate. And when your client is the president, Garment said, "you can't tell the client to show up at your office at 2:15."

Garment said he talked with Nixon about getting outside counsel as early as the spring of 1973, but Nixon's first choice—then-Secretary of State William P. Rogers—declined the job, according to Garment. Garment and Fred Buzhardt, then general counsel to the Defense Department, joined to assemble a legal team, mostly from within the government.

There are several good reasons why outside counsel is essential.

White House Counsel Bernard Nussbaum, like all White House counsels, represents "the institution of the presidency," not the president as an individual, said Fred Fielding, White House counsel to former president Ronald Reagan. The White House counsel "can never be giving the president legal advice about purely personal issues."

Another former White House counsel noted that there's a federal law mandating that government officials, including lawyers, notify the Justice Department if, while advising another government official, they learn of a matter that might have criminal consequences. The president, like anyone else in government, needs outside counsel "to whom he can talk freely," this lawyer said.

## ■ Protect the office.

Anything you do can create precedents for future presidents, so it's impossible to separate the person from the office. "You have to protect the institution of the presidency and the ability of the person to continue being

president. . . . And that's tricky," said Olson, who represented Reagan when defense lawyers sought the former president's diaries and testimony in the Iran-Contra trial of Adm. John Poindexter.

Most clients "have time they can give you to help themselves," he said. "But in a sense your highest responsibility is to protect and protect to go on and do things that the people elected him or her to do."

## ■ Speak with one voice.

Though they were too polite to say so, it's obvious Clinton gets an "F" on this score. A tangle of White House staffers has been talking to the press, while Kendall, in true Williams & Connolly style, has been speechless.

Speak through one person, say the experts, whether it's the lawyer or someone else.

"Everything you do is potentially subject to great deal of scrutiny, and you have the responsibility to deal with the public perception of what's being done as well as simply the legal issues," Olson said.

The lawyers were divided on whether Kendall should talk to reporters or avoid the signa-

should take part in briefing reporters to make sure they understand the legal reasoning.

Ironically, Garment, who is as comfortable at a press conference as in a courtroom, articulated the downside of Kendall going public: "Lawyers are not seen as credible spokesmen in this country at this time."

Mortenson suggested that the lawyer doesn't have to be the person giving the answers, but it should be "one spokesperson who has a direct line of communication with the lawyer."

## ■ Cut out the middle people.

In 1974, Nixon finally did retain outside counsel, Boston litigator James St. Clair. But then Nixon refused for the most part to deal directly with his lawyer. Instead, St. Clair and the legal team had to deal with Nixon mainly through White House Chief of Staff Alexander Haig.

By the time Nixon resigned, he got it right. When white-collar defense specialists Herbert J. (Jack) Miller and Stan Mortenson began representing Nixon days after the resignation they got direct access, Mortenson said.

"Working through a buffer with a client is terribly unsatisfactory," said Mortenson. "Cut out

the middle people."

## ■ Stay in touch with your client.

Sound simple? Not when it's the president of the United States.

You don't "want to wake up some morning and find out he is in Egypt," said St. Clair, who recalled a trip Nixon made to the Middle East at the height of the Watergate scandal. St. Clair insisted on knowing "what was going to happen and why and when," so he could tailor his work schedule around the president's.

Likewise, St. Clair said he met daily with Haig to discuss "what we'd say to the press today, what should the president be informed of" and what the president's response might be on Watergate issues.

Ultimately the president's lawyer is on his own, and there is no single answer to all the legal and political dilemmas.

"This is free-form litigation," said Garment, who described the Whitewater inquiry as "a very weird type of fungus that spreads quickly in a hundred different directions."

"There are no brilliant winning solutions," said Lloyd Cutler, White House counsel to former president Jimmy Carter. "If you had all the experience in the world, these are still very difficult choices to make."

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Washington Post, February 17, 1994

PM-AR--Whitewater-Heuer, 1st Ld-Writethru,570

McDougal Subpoenaed to Appear before Grand Jury This Week

EDS: Retransmitting to CORRECT spelling of subpoenaed in summary line  
phradfon

By JULIE STEWART= Associated Press Writer=

LITTLE ROCK (AP) James McDougal, the former Arkansas S&L executive who co-owned a real estate venture with Bill and Hillary Clinton, has been subpoenaed to appear before a federal grand jury in Little Rock.

McDougal's lawyer, Sam Heuer, said Sunday that McDougal is to testify before the grand jury Thursday.

Heuer said he accepted the subpoena Friday on McDougal's behalf.

Earlier Sunday on ABC's "This Week with David Brinkley," Heuer said the FBI had subpoenaed documents related to Whitewater Development Co Inc., the Marion County real estate venture in which the Clintons and McDougals were 50-50 partners from 1978 to 1992.

"We invite an investigation because there's no wrongdoing, and we're intending to comply fully with the subpoena and provide as many materials as we can to the FBI," Heuer said.

"I don't know of any real major secrets in any of the Whitewater materials, and I would suspect, were there some secrets, we would have known about them long before now," he said, referring to the number of times the S&L has been examined since McDougal left it in 1986.

McDougal was acquitted in 1990 of eight federal fraud charges in connection with the operation of the S&L, which was named Madison Guaranty Savings and Loan.

The S&L, of which McDougal owned a controlling share, failed in 1989, costing taxpayers \$47 million. Federal audits questioned practices of the S&L when McDougal was chairman, but he has said it failed because of actions of his successors and federal regulators.

Federal investigators are trying to determine whether Madison funds were illegally diverted to Whitewater or to help Clinton repay a \$50,000 loan for his 1984 gubernatorial campaign.

Clinton has been accused of no wrongdoing, and he has denied any wrongdoing. He has said he lost \$69,000 in the Whitewater venture.

Attorney General Janet Reno is expected to make an announcement soon of her choice as special counsel to investigate dealings involving Whitewater.

Heuer said no funds from Madison Guaranty were diverted to Clinton or anyone else. He said the S&L was examined by the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, two independent certified public accounting firms, and, previously, by the FBI and the Justice Department.

"Jim McDougal would have been very quickly charged at that point in time with criminal activity had any money been diverted," Heuer said.

"The linchpin of this whole thing seems to be the fact that Jim McDougal was a savings and loan executive, which is akin to being a communist in the McCarthy era, or a witch in the Salem era, and that's ludicrous. Jim McDougal is a fine fellow, and the Clintons are good people."

Heuer also talked about why Whitewater failed. "You have raw land in a remote area of Arkansas that has to have water and sewer, it has to have roads. It has to have all of these comforts that we have, and too much money was spent in developing those."

"Whitewater is not an IBM or a Xerox or any large it's a very small corporation that cost \$300 to form by filing with the secretary of state," he said.

\*\*\*\* filed by:APW-(AR) on 01/17/94 at 06:14EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 10:00EST \*\*\*\*

## OUTLOOK

### CALENDAR

**King Day concern.** The Martin Luther King Jr. holiday on January 17 is a time for reflection on the famed civil rights leader's accomplishments. But White House officials are worried about criticism because the administration has yet to fill top civil rights jobs—including that of assistant attorney general for civil rights and the chair of the Equal Employment Opportunity Commission.

**North exposure.** Later this month, Oliver North is due to announce he will run for the Republican nomination in Virginia's 1994 U.S. Senate race. The ex-marine and former aide to President Reagan is best known for his role in the Iran-Contra scandal.



### DATABASE

Number of days North testified before the congressional committee investigating Iran-Contra: **6**; transcript pages of testimony: **1,388**; word count: **more than 300,000**

Years independent counsel Lawrence Walsh conducted criminal investigations in Iran-Contra affair: **7**; amount prosecutors have spent on the investigation: **nearly \$40 million**; total indictments: **14**; total convictions: **11**; convictions upheld on appeal: **9**

North's sentence from federal district court, prior to appeals court dismissal: **\$150,000 fine, 1,200 h of community service, 2 years' probation and total disqualification from holding any office under the United States**

Number of copies of *Under Fire*, North's autobiographical account of the controversy, sold since publication in 1991: **625,000**

### U.S. NEWS

## WHO WILL PAY THE WHITEWATER TOLL?

As if the political price of the Whitewater affair now troubling the White House were not high enough (story, Page 43), the financial fallout from President Clinton's sour Arkansas real estate deals keeps growing as well. For the advice of Washington lawyer David Kendall, the Clintons are faced with legal fees that at the prestigious firm of Williams & Connolly can run close to \$500 an hour. Even at a discount, the bills could eat up a big chunk of the president's \$200,000 salary. So far, aides say, the Clintons plan to pay the bills themselves. But if the toll from the investigations piles up, might they consider a legal defense fund, a strategy with a long Washington tradition? Sen. Robert Packwood, whose ethics-investigation expenses are said to approach \$1 million, has established a fund, as have other elected officials under investigation. What Clinton is not likely to do, sources say, is risk further political scorn by paying legal expenses from campaign funds. Still, critics say any source other than Clinton's own pocket would be objectionable. "It's just another way to gain influence," says Charles Lewis of the Center for Public Integrity. "The indebtedness you would feel for one who has helped save your neck—you would remember that."



Full stop. At the Whitewater project

## WHERE THE (LICENSED) GUN DEALERS ARE

In hopes of driving many of America's 258,000 licensed gun dealers out of business, the Clinton administration proposes to raise the \$66-a-year gun-selling license to \$600. But fewer dealers doesn't automatically mean less crime. Florida, with 8.6 licensed dealers per 10,000 people, has America's highest violent-crime rate. North Dakota, with 25.8 dealers per 10,000, has the lowest.



U.S. & W.A.—Basic data: Bureau of Alcohol, Tobacco and Firearms; Census Bureau.

Map: © 1994 by U.S. News & World Report

ILLUSTRATION BY ERIC FALLOU FOR U.S. NEWS

U.S. NEWS & WORLD REPORT JANUARY 17, 1994

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# The Whitewater files

*How a botched land deal boomeranged on the Clintons*

It may be left to a Little Rock grand jury to decide whether Bill and Hillary Rodham Clinton broke any laws in their failed attempt to sell off a wooded bend of northern Arkansas's winding White River. But political veterans inside and outside the White House say the Clintons are guilty on all counts of breaking the two crucial laws on damage control: Offer quick and clear explanations, and, by all means, avoid any appearance of a coverup.

The breach is intentional. The Clintons have told aides that they resent continuing "intrusions" and have resisted a release of documents relating to their Whitewater Development investment. But the result is what might have been expected: lots of damage, very little control. Only last week, the White House announced that two weeks earlier a Little Rock grand jury had subpoenaed the Whitewater files. The fact that the Clintons simultaneously requested a subpoena—guaranteeing that the records would remain secret—also raised suspicions. Meanwhile, aides to Attorney General Janet Reno suggested that she may assign the inquiry to a special prosecutor if Congress reinstates the independent counsel law.

**Follow the money.** Under these roiled waters rest the still unanswered questions of Whitewater's books and the Clintons' refusal to disclose details of their investment. The facts are not simple. In 1978, the Clintons purchased waterfront real estate in northern Arkansas with James and Susan McDougal. The couples took on a \$183,000 mortgage and a \$20,000 bank loan for the down payment. They then formed Whitewater Development Corp., divided up the 230 acres and put the lots up for sale.

In 1979, Clinton became governor and named McDougal an aide. The

next year, McDougal quit to join a group buying the Bank of Kingston in northern Arkansas. In 1982, he bought Madison Guaranty Savings & Loan Association near Little Rock. Trouble followed. By 1983, federal regulators were examining Kingston Bank. The Clintons continued their dealings with McDougal, and regulators moved into Madison. One event in particular has since captured law enforcement interest: a

have a loss when something goes bad: a loan or a stock, and there's a capital loss," says one tax lawyer. "But neither of these things is reflected on the Clintons' tax return." Whitewater collapsed under the weight of the McDougals' Madison troubles—he was ousted in 1987 and later tried and acquitted of fraud charges. The Clintons sold him their share in 1992 for \$1,000, but they never declared a tax loss on their investment.



1985 fund-raiser McDougal held to help Clinton pay off a \$50,000 campaign debt. The event raised \$30,000—but some of that money may have come directly from Madison. If so, that could be a violation of federal law.

The Clintons say they eventually invested—and lost—\$68,900, though the loss was never claimed on tax returns. Instead, says White House counselor Bruce Lindsey, the Clintons claimed most of it as interest tax deductions on the Whitewater mortgage payments. Between 1979 and 1990, those deductions amounted to more than \$40,000, a substantial tax savings. The remaining Whitewater loss, Lindsey says, went for business expenses. Tax experts say that claiming an interest deduction isn't the same as declaring a loss. "You can only

The investigation today centers on the flow of funds at Madison and its subsidiaries. White House Chief of Staff Mack McLarty has asked his new deputy, Harold Ickes, to direct a "counteroffensive" against the Clintons' critics. But senior officials say they still have only spotty knowledge of what went on.

Indeed, within the administration, Hillary Clinton is considered the only person who really knows all the facts, especially after the suicide last June of Vincent Foster, the deputy White House legal counsel who had handled the case internally. Now, few dare ask Mrs. Clinton questions about it.

By STEPHEN J. HEDGES, KENNETH T. WALSH AND SUSAN HEADDEN

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PM-Whitewater,510

Need for Congressional Probe on Clinton Financial Dealings Disputed

WASHINGTON (AP) Republicans continue to press for Congress to investigate President Clinton's ties to a failed S&L, while the Democrats accuse administration critics of using the issue for political gain.

"All the information has been turned over, every scrap of it. A special counsel (is being) appointed. What do you want?" Vice President Al Gore asked Sunday on ABC's "This Week with David Brinkley."

Attorney General Janet Reno is expected soon to announce the name of a special counsel to investigate the ties between Clinton, first lady Hillary Rodham Clinton and James McDougal, owner of the Madison Guaranty Savings and Loan that failed in 1989 at a cost to taxpayers of \$47 million.

McDougal and the Clintons also co-owned the Whitewater Development Corp., an Arkansas real estate venture. Investigators are trying to determine whether Madison S&L funds were illegally diverted to Whitewater or to help Clinton repay a \$50,000 loan for his 1984 gubernatorial campaign.

Clinton denies any wrongdoing, saying he lost \$68,900 in the Whitewater venture.

McDougal's attorney, Sam Heuer, agreed Sunday. "I would suspect if there were some secrets, we would have known them long before now," he said. "Jim McDougal was a savings and loan executive, which is akin to being a communist in the McCarthy era."

Heuer also said Sunday that McDougal has been subpoenaed to appear before a federal grand jury in Little Rock on Thursday.

Rep. Jim Leach, R-Iowa, the ranking Republican on the House Banking Committee, repeated his call for bipartisan congressional hearings, saying the special counsel would look into illegal activities while Congress needed to air an issue of "public trust."

"This isn't the largest issue. It's somewhere between much ado about nothing and something might be a little rotten in part of the Ozarks," he told CBS' "Face the Nation." "There are possible breaches of law, but more importantly there's a public ethic here that's at issue."

Sen. Bob Dole, R-Kan., who also has pushed for hearings, on Sunday criticized the vice president for opposing them when, as a senator, Gore called on Congress to investigate controversies plaguing the Reagan and Bush administrations.

Gore responded that Dole last week said the appointment of a special counsel would satisfy him. "Let's let the special counsel ... do his or her job," Gore said.

"What we are looking at here is not an issue of national security," agreed Sen. David Pryor, D-Ark. "Sen. Dole and his Republican colleagues want to keep this issue alive until 1996 and beyond so it can be a campaign issue."

Leach pledged to proceed on his own if the Democrats refuse to create a bipartisan committee to investigate Whitewater.

But he said he did not envision questioning Mrs. Clinton, who was Madison's attorney at the time. "Nothing would be more inappropriate than a congressional effort to embarrass Mrs. Clinton," he said. "We are looking at a prior elected official, a current elected official."

\*\*\*\* filed by:APE(--) on 01/17/94 at 01:44EST \*\*\*\*  
\*\*\*\* printed by:WHP(RJEL) on 01/17/94 at 09:58EST \*\*\*\*



Politics & Policy: Clintons Made Profit In Series of Land Sales,  
Magazine Report Says

WASHINGTON -- The price of a parcel of land related to the Whitewater controversy rose almost 172% in a little more than a year, thanks to a series of sales, including one in which Bill Clinton and his business partners sold the property to the company they controlled, Time magazine reports.

Time said it was unable to obtain the Clintons' 1979 income-tax return to learn whether the couple paid capital-gains taxes on what appears to be a paper profit on their sale of the land to Whitewater Development Co. A White House spokeswoman said she couldn't comment on the Time report, saying all Whitewater matters are being examined by the Justice Department and will soon be the purview of a special counsel.

Citing deed records on file in Marion County, Ark., the magazine traced the Whitewater acreage from its original sale as part of a 3,600-acre tract sold by Arkla Land Co. in July 1978 to a company called 101 River Development Inc. The sale price was about \$400 an acre.

In early August 1978, according to Time, Bill and Hillary Rodham Clinton and their partners, James and Susan McDougal, purchased a 230-acre parcel from 101 River Development for \$203,000, or about \$882 an acre. That parcel was sold in late September 1979 to Whitewater Development, the company newly formed by the Clintons and McDougals.

The transfer from the Clintons' and McDougals' individual ownership to their corporate ownership was accomplished at \$250,000, or about \$1,087 an acre, according to Time. The president of the bank that provided a loan to Whitewater for that purchase -- James Patterson Jr. of Citizens Bank & Trust in Flippin, Ark. -- said the final per-acre price was higher than the original because the property had a large amount of river frontage.

\*\*\*\* filed by:DOWV(--) on 01/17/94 at 02:26EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:59EST \*\*\*\*

**By Wesley Pruden**



There's enough grief in the Whitewater for both of them, but Hillary Rodham is the Clinton with the problem.

There's enough grief in the Whitewater for both of them, but Hillary Rodham is the Clinton with the problem.

She came to Washington as the role model for a lot of feminists, particularly in the media, who were looking for the good mommies they thought they never had. Republicans, eager as always to roll over to have their bellies scratched by Democrats, flattered and gushed with an excess of gallantry at the very sound of the nanny's voice.

Actually, Mrs. Clinton is an old-fashioned kind of woman. She learned early in her marriage to throw her husband's weight around with maximum effectiveness, like the wife of the boss who arrives at the office or factory and demands that everyone stop work to accommodate her whims and pouts.

A lot of people know the type. Some of them live in Little Rock, Ark., where the fine mess the Clintons at last find themselves in is regarded with considerable *deja vu*. (That's the way we talk down there.) The president himself may regard the fine mess much in the way of the man in that well-known example of domestic bliss, watching his mother-in-law drive over the cliff in his new car.

Betssey Wright, who as the governor's chief of staff conducted what she calls "the bimbo patrol" and who may know him as well as any of his loyalists, insists this view, propounded by several old Arkansas hands in the White House, as "fundamental sexism." She calls it disloyal because it "makes Bill Clinton look like a wimp."

Well, yes, it does. But this is how, while Mrs. Clinton was back at the ranch trying to arrange the Whitewater files so they fall with minimum damage once they get into the hands of someone who may try to find out what actually happened, the president himself was talking in Prague:

"Basically," he told NBC News, "the press has editorialized and pressured the politicians into saying, 'Here's a guy that, as far as we know, hasn't done anything wrong, nobody's ever accused him of doing anything wrong, there's no evidence that he's done anything wrong, but we think the presumption of guilt almost should be on him. He should somehow prove his innocence.'"

Then, this to CBS News: "I can't recall anything like it in American history where everybody says, 'Well, there's no evidence this guy's done anything wrong, but we think he should invite another investigation of himself.'"

And, finally, this to NBC: "You got your two questions, Jim."

Jim Miklaszewski of  
NBC: "OK."



**Jerry Brown**

**Jerry Brown**

the months, finally broke it open with the publication of Mrs. Clinton's letter demanding the power of attorney to run the Whitewater investment, and then with the disclosure that files were looted from Vince Foster's office by Clinton aides before investigators could see them.

But if anyone has been treated with more care than a Bill, it's Hillary, and if David Gergen is doing his job this morning, he's telling her that in Washington there's always a payday someday.

"We women seek the glory," says Harriett Woods, president of the National Women's Political Caucus, "but we also have to take the consequences when we make mistakes. I don't know if she has made mistakes, but if she has I hope she would be equally accountable."

Anna Quindlen, among the most blindly devoted of the media princesses, is rattled, too. "While looking down your nose may work with sexual innuendo, it does not adequately address conflict of interest," she writes in the *New York Times*. "The Clintons have not controlled Whitewater. They have inflated it with the gases of temporizing. A big bang looms."

Mrs. Clinton earned the reputation in Little Rock as the Clinton who keeps her cool in the face of enemy fire when the other Clinton panics. Now we may see how much, if at all, our young president has grown.

FRIDAY, JANUARY 14, 1994

The Washington Times

## POTOMAC FEVER/Jane Norman

## Health care, ethics and Whitewater await Congress

The mayor of the District of Columbia last week declared a state of emergency and shut down all "non-essential" businesses due to electrical demands posed by the record cold.



Nonetheless, Congress is expected to return to business Tuesday, with the president's State of the Union address scheduled for that night.

Barely healed from the wounds of NAFTA, members will slog back through the ice and cold to tackle an ugly array of issues. They include:

**HEALTH CARE** — Committees will immediately begin fighting over the revamping of a \$1 trillion industry. Look for louder and more insistent criticism from some Republicans, including Iowa Congressman

Jim Nussle.

A recent memo from Project for the Republican Future, headed up by a former top aide to former Vice President Quayle, advised that "any Republican urge to negotiate a 'least bad' compromise with the Democrats, and thereby gain momentary public credit for helping the president 'do something' about health care, should... be resisted."

The memo also maintains Republicans should agree there are problems but "scrupulously avoid endorsing the president's depiction of a nation beset by fear over health care." No, there's probably not a lot of anxiety down at the country club.

**ETHICS** — What will happen to Senator Bob Packwood? Will Congressman Dan Rostenkowski be indicted? It's not clear but you can bet the farm on a related issue — members will resist a proposal banning virtually all gifts, meals and entertainment from lobbyists.

**WHITewater** — That nasty old independent counsel law that the Republicans so disliked now will move faster through Congress than a pay raise.

**CAMPAIGN FINANCE REFORM** — Unpopular, complicated and in dispute. Lack of action will keep Common Cause staffers gainfully employed.

**BALANCED BUDGET AMENDMENT** — As if a debate was needed yet again over this staple of campaign rhetoric. But senators have scheduled a vote for Feb. 22, and Congressional Quarterly says House Speaker Tom Foley has promised a House vote if the Senate approves it.

**USDA REORGANIZATION** — The vast main building had to close because of a lack of heat last week and no one noticed. Not a good omen.

**CONFIRMATION OF A DEFENSE SECRETARY** — Any applicants?

**BANK REGULATORY CONSOLI-**

**DATION** — Congressman Jim Leach gets to give yet more speeches using the word "intriguingly" at key points.

Then there's education funding, welfare reform, anti-crime measures, access to abortion clinics, foreign aid, revisions to the Brady bill, establishment of a national highway system and the 1996 budget. Plus it's now officially an election year. That first recess, scheduled for the week of Valentine's Day, can't come too soon.

**GRASSLEY UPDATE:** Senator Charles Grassley grinds on in his crusade against the Justice Department's stance on child pornography. This month, Grassley and more than 130 other members of Congress, Democrats and Republicans, filed a brief with the U.S. Circuit Court of Appeals for the 3rd Circuit in the case of Knox vs. United States.

The department wants the case re-

manded, or returned, from that court to a federal district court; Grassley and the other members oppose such a move. Grassley says if a new trial is granted it could "open a giant loophole" in child-porn laws passed by Congress. Justice officials have said they want a conviction and feared a reversal at the Supreme Court if they stuck with interpretations of child-porn laws followed by the Reagan and Bush administrations.

**IN TOWN:** Dr. Sheila McGuire of Boone was here last week, talking to folks around town about her plans to seek the Democratic nomination for the 5th District seat left open by Congressman Fred Grandy. Although she hasn't yet made a formal announcement, McGuire appears ready to roll — she's hired JoDee Winterhof, a longtime aide to Senator Tom Harkin, and consultants,

and formed a campaign committee.

**FIRING LINE:** In a particularly blistering column sent out to papers in his district recently, Congressman Jim Ross Lightfoot took out after President Clinton and company for being "major players in promoting the gun control mania." You could say Lightfoot remains unimpressed with the Brady bill.

Wrote Lightfoot: "The president and others are well-schooled in the art of taking a tiny, fractional bit of fact, mixing it with a great deal of emotion, stirring the brew until the national press believes it to be the undeniable truth, and then serving the resulting concoction to the general public as a simple cure for a complex problem."

As was observed above, it is an election year.

JANE NORMAN is a reporter in The Register's Washington, D.C., bureau.

# Search Begins for Special Prosecutor on Land Deal

By DAVID JOHNSTON

Special to The New York Times

WASHINGTON, Jan. 13 — Attorney General Janet Reno began a search for an independent prosecutor today, sorting through names of what aides described as a "handful" of candidates for the politically perilous job of investigating President Clinton's role in a failed Arkansas land deal.

Justice Department officials said Ms. Reno and several top advisers have weighed the names of several well-known lawyers as potential candidates and have telephoned some to determine whether they were interested. The officials would not identify the prospective choices but said they did not expect to have difficulty finding a prosecutor.

A spokesman for the Justice Department, Carl Stern, said Ms. Reno "wants to do it quickly, to minimize any disruption to the investigation."

One official said tonight that Ms. Reno had made progress today in narrowing the list of potential candidates and might name a prosecutor within days.

## Legal Obstacles

But there were legal obstacles that could delay the decision. One was that an independent prosecutor must comply with Federal ethics rules that bar such a lawyer from representing clients on matters before the Justice Department for at least a year after completing a term as prosecutor. Department officials could seek a waiver of the restrictions, but preparing such an action could take several days.

Ms. Reno had made no preparations for selecting a special prosecutor, the officials said, and she had started with a "blank slate," though it appeared likely she was focusing her search on nationally known lawyers with prosecutorial experience.

The officials said Ms. Reno was meeting with aides like Philip B. Heymann, the Deputy Attorney General, and Jo Ann Harris, head of the criminal division, who has been supervising the Justice Department's investigation. The inquiry centers on the Madison Guaranty Savings and Loan Association, a failed Arkansas thrift.

Madison Guaranty was owned by James B. McDougal, the Clintons' partner in the Whitewater Development Corporation, a vacation-home development in northern Arkansas. The Justice Department is investigating whether Madison Guaranty improperly funneled money into Whitewater or into Mr. Clinton's 1984 re-election campaign.

Madison Guaranty was owned by James B. McDougal, the Clintons' partner in the Whitewater Development Corporation, a vacation-home development in northern Arkansas. The Justice Department is investigating whether Madison Guaranty improperly funneled money into Whitewater or into Mr. Clinton's 1984 re-election campaign.

## Quick action is sought for an inquiry on Clinton.

sign when he was governor of Arkansas.

Webster L. Hubbell, the Associate Attorney General and No. 3 official at the Justice Department, who is often involved in personnel matters, has refused himself from the inquiry and is not included in the deliberations concerning an independent prosecutor. Mr. Hubbell is a friend of Mr. Clinton and a former law partner of Hillary Rodham Clinton in the Rose law firm of Little Rock. In addition, Mr. Hubbell's father-in-law defaulted on loans from Madison Guaranty.

Ms. Harris was a Federal prosecutor in New York, and her role in the selection process has aroused speculation that Ms. Reno might consider well-known lawyers from the New York area, like Robert Fiske, a former United States Attorney in Manhattan, or Al L. who was a top lawyer in

the Congressional inquiry into the Iran-contra affair.

No one at the White House was being consulted on the decision, the officials said.

Some Justice Department officials, stung by news accounts suggesting that Federal prosecutors had responded slowly to the case, expressed concern that a lengthy search for a special prosecutor could slow the investigation or raise questions about the Government's tactics.

## Grand Jury Subpoena

In recent days, agents from the Federal Bureau of Investigation delivered a grand jury subpoena to the president of First Bank of Arkansas, a small bank in Wynne, Ark., that had financial dealings with Mr. Clinton and Whitewater in the past. Leon Foust, the bank's president, said he was served with the subpoena on Wednesday by F.B.I. agents.

Mr. Foust's bank, once called the Bank of Cherry Valley, lent money to Mr. Clinton and to Whitewater during the 1980's, according to public records. The bank also served as a repository for Mr. Clinton's 1984 gubernatorial re-election campaign funds. In 1985, Federal regulators traced money from Madison to Mr. Clinton's campaign account at the Bank of Cherry Valley, Federal officials said.

Mr. Foust declined to discuss the contents of the subpoena, and it is not clear whether the bank still had the relevant records requested by the grand jury. Mr. Foust said that the bank retained paper records for five years and that some additional records might still be available on microfilm.

Last week, the Senate Republican leader, Bob Dole of Kansas, gave Ms. Reno a list of seven people he said would be credible candidates for special prosecutor. Ms. Reno said she would consider Mr. Dole's candidates.

On Mr. Dole's list were two Carter Administration attorneys general, Griffin Bell and Benjamin Civiletti; Robert Bennett, formerly a special counsel to the Senate Ethics Committee; former United States Attorneys Michael Baylson, Anton Valukas and Dan Webb; and A. B. Culvahouse, a counsel in the Ronald Reagan White House.

## Bowing to Pressure

Ms. Reno's search began after Mr. Clinton bowed on Wednesday to heavy pressure from lawmakers in both parties to request a special prosecutor. Ms. Reno, who opposed bringing in a prosecutor from outside the Government, acceded to the President's request, saying it was necessary to maintain public confidence in the criminal justice system.

Early today, the White House press secretary, Dee Dee Myers, said in Moscow that Mr. Clinton had made his decision after conferring on Tuesday with his Mrs. Clinton, who was in Washington, as well as with aides. "The President slept on it overnight and decided to go forward," she said.

Ms. Myers said there were no communications between the President and the Attorney General in the days preceding the White House decision to ask for an independent review of the issue. Mr. Clinton has not spoken to Ms. Reno during his overseas trip and did not plan to discuss the matter with her, Ms. Myers said. "I just don't think we have a lot to say about it."

Other officials said the Justice Department did not know that Mr. Clinton was going to seek an independent prosecutor until a few minutes before the White House disclosed a letter from Bernard W. Nussbaum, the White House counsel, to Ms. Reno asking for the inquiry.

## Related Development

In a related development, Federal banking regulators are reviewing whether Mrs. Clinton's former law firm in Little Rock misled them about the firm's past dealings with Madison Guaranty.

The inquiry, which is separate from the Justice Department investigation, stemmed from a lawsuit originally brought by Madison Guaranty against its accountants. When the savings and loan was taken over by bank regulators in 1989, the Government inherited the suit.

# Special Counsel: A Risky Tactic?

Success of Clinton Move Depends on What He Has to Hide

By DAVID E. ROSENBAUM  
Special to The New York Times

WASHINGTON, Jan. 13 — Most recent Presidents have faced the quandary of how to respond to potentially damaging questions about their conduct, and their inclination has been to trim, hedge and dissemble.

The tactic has had mixed results. For Richard M. Nixon, it was a disaster that cost him his Presidency. For Ronald Reagan, it succeeded in preserving his reputation and getting George Bush elected to succeed him.

Nothing that is known about President Clinton's financial dealings indicates that they should be compared to Watergate or the Iran-contra case. But Mr. Clinton's initial instinct was the same as his predecessors': to keep the full truth from becoming public. Now, he has agreed to the appointment of a special counsel. Whether that was a wise choice politically depends on whether he has anything to hide.

Former President Jimmy Carter put the matter in some perspective this week when he was asked in a National Public Radio interview why he thought President Clinton was being so close-mouthed about his investment many years ago in the Whitewater Development Corporation, a real estate venture.

## 'Stonewalling' by Presidents

"I think one reason," Mr. Carter replied, "is that Presidents Bush and Reagan got away with the Iran-contra embarrassment. They stonewalled and are still doing so, and the information about Iran-contra has never been made fully public. So I think it may be that some of President Clinton's advisers thought that he could do the same thing."

"But I don't believe it's possible in the case of this issue. I think that it's going to all come out, and it would be much better to let it come out voluntarily and not have it forced out."

Mr. Nixon had little to hide about the Watergate burglary, but that did not cause him to be candid. On March 22, 1973, with details of the break-in pouring out and the White House under fire, he told his aides, "I want you to stonewall it."

Less than 17 months later, he was forced to resign, not because of the burglary — no credible evidence was ever produced that he knew about it in advance — but primarily because of the illegal steps he and his staff took to cover it up.

More than a decade later when the Iran-contra case broke, Mr. Reagan adopted a similar strategy. He insisted, in the face of considerable evidence to the contrary, that he had never authorized trading arms for hostages or supporting the rebel forces in Nicaragua when it was against the law to do so.

In that case, the tactic succeeded. The Iran-contra affair, which involved a private foreign policy run outside normal channels without the scrutiny of the State Department, Congress and the public, was fixed in the public mind as a political squabble of little consequence.

## The Best Strategy

So Mr. Nixon would have benefited from baring everything. But if Mr. Reagan had told the whole truth, the

Baring all could have costly political consequences.

political consequences could have been significant.

Public relations specialists generally hold that the best response to a damaging disclosure is to get all the truth out as quickly as possible. The textbook examples are from the 1980's when Tylenol quickly recovered its market share after news that consumers had died after taking cyanide-laced capsules. The reason, public relations experts hold, is that the drug's manufacturer, Johnson & Johnson, never pretended that nothing was wrong and made every effort to appear candid and contrite.

But if the lesson is that such a strategy is good politics as well as good public relations, Mr. Clinton does not seem to have learned it. On questions involving his personal conduct, Mr. Clinton's instinct has been to circle the wagons.

During his election campaign, when he was questioned about reports of marital infidelity, his draft record and his marijuana smoking, his initial answers were lawyerly at best and deceiving at worst. On marijuana, for example, when he was first asked if he had ever smoked it, he replied that he

had never broken the laws of the United States. The truth was that he had used marijuana when he was a student in England.

In the White House, he did not answer completely at first when he was asked about the dismissal of the travel office staff and the suicide of his friend and deputy counsel, Vincent W. Foster Jr. So the matters never seemed to be put to rest. New information is still coming out about Mr. Foster, most recently just before Christmas when it turned out that a file on Whitewater was removed from his office the day of his death before it could be examined by Federal investigators — a fact Mr. Clinton and his wife, Hillary, surely knew.

## Public's Suspicions

All this enhances Mr. Clinton's "Slick Willie" image, and some on his staff view it as a political problem. A CBS News Poll taken last week showed that only 12 percent of the public thought Mr. Clinton had told the whole truth about his personal life. Another 51 percent said he mostly told the truth but was hiding something.

But in the Whitewater matter, staff members are handicapped. They cannot really argue that the Clintons should be more candid because they do not know the facts.

It is difficult to know what kind of disclosure would be more damaging to Mr. Clinton politically than the public perception that he is hiding something.

For instance, James B. McDougal and his wife, Susan, the Clintons' partners in the Whitewater venture, invested substantially more money in the company than the Clintons did, even though the Clintons were to share equally in the profits. What if it turns out that Mr. McDougal agreed to such an arrangement simply because he thought the project would benefit from the prestige of the Clintons' name in the partnership? Is that a particularly damaging disclosure?

Probably not. But what if, as Governor, Mr. Clinton appointed a savings and loan regulator he thought would be sympathetic to Mr. McDougal? What if Mrs. Clinton was paid for legal work she did not perform? What if there are tax discrepancies? What if Mr. Clinton, who earned only \$35,000 a year as Governor, had secret funds stashed away? Nothing that is known publicly indicates that any of those situations is the case.

But if the answer to any of those or similar questions is "yes," it might explain why Mr. Clinton wants to keep the information under wraps.



# Reno Begins Hunt For Special Counsel, Seeks Probe's Limits

By Michael Isikoff  
Washington Post Staff Writer

As Attorney General Janet Reno began reviewing possible candidates to serve as special counsel yesterday, Justice Department officials were grappling with an equally significant issue: Defining the scope of an investigation that could become an open-ended inquiry into Arkansas business affairs and hang over President Clinton for much of his first term.

In requesting that Reno name an outside prosecutor, White House counsel Bernard Nussbaum asked only that the prosecutor investigate "the Whitewater matter"—a reference to the real estate development firm half owned by the president and Hillary Rodham Clinton that bought and sold Ozark property during the 1980s.

But Whitewater is only a slice of a much broader, existing Justice Department investigation underway for months. It touches on a host of related matters: the failed Madison Guaranty Savings & Loan Association owned by the Clintons' partner in Whitewater, the alleged diversion of Madison money into a Clinton campaign account, questionable loans to other state political figures and the thrift's possible lenient treatment by Arkansas regulators during Clinton's tenure as governor.

The initial assumption of Justice Department officials yesterday was that the new special counsel would immediately take over all these matters, now being handled by three career prosecutors in Little Rock. But some former independent counsels warned yesterday that such a broad charter was essentially opening a Pandora's box.

"You've got an investigation that is starting on an island, that is Whitewater, that is going to find a causeway to a continent known as Arkansas politics," said Jacob Stein, who served as independent counsel during

the 1980s investigating alleged improprieties involving then-Attorney General Edwin Meese III.

"My prediction is that this person [the special counsel] is going to feel compelled to be thorough. And to be thorough where an investigation is nourished by political considerations, it could go on for quite a long time."

Justice Department sources said that Reno and her top aides, including Deputy Attorney General Philip B. Heymann and Jo Ann Harris, chief of the criminal division, spent much of yesterday working on selection of a special counsel. Sources said a number of possible candidates were contacted and an announcement could come in the next few days.

Under the expired independent counsel law, which governed how Stein and others operated, a three judge federal panel set forth a mandate based on a specific allegation of a federal crime committed by a high-level government official.

No such allegation has been made in the case of Whitewater. Instead, there is a grab bag of suggested improprieties by a wide assortment of people, most prominently, James McDougal, the owner of Madison who had close ties to many Arkansas political and business leaders.

"It can go in every conceivable different direction," said Washington lawyer James Mackay, the former independent counsel who prosecuted former Reagan administration official Lyn Nofziger. "There's all sorts of ramifications that are involved."

At her news conference minutes after receiving Nussbaum's letter, Reno avoided all questions about the new prosecutor's mandate, saying she first wanted to consult with whomever she selected. But Reno also said she wants the issues resolved "thoroughly" and "promptly"—an objective that has proven difficult in the past, as demonstrated by the more than six-year investigation into the Iran-contra

affair by independent counsel Lawrence Walsh.

"In the history of these special counsels, once they have an inch they take yards and miles," said Terry Eastland, a former top aide to Meese and now a fellow of the Ethics and Public Policy Center. "The central issue is going to be the scope of the investigation."

On its face, the investigation into Whitewater would appear to be fairly simple: The Justice Department has already subpoenaed all documents relating to Whitewater in the Clintons' possession.

One possible charter for the new outside counsel would be a review of those records to determine whether the Clintons were aware of any financial improprieties relating to hundreds of thousands of dollars that appear to have passed through Whitewater's accounts.

But the problem gets much stickier when matters branch out to Madison. The thrift at one point was represented by the Rose Law Firm whose partners included Hillary Clinton, Associate Attorney General Webster Hubbell, and Vincent W. Foster, Jr., the deputy White House counsel who committed suicide July 20. Foster, as personal attorney for the Clintons, had handled matters relating to Whitewater before his death.

An even more pressing problem is the case of David Hale, the for-

mer Arkansas municipal judge who is scheduled to go on trial March 28 on charges that he defrauded the Small Business Administration in the management of his federally backed small business investment firm. Hale has publicly alleged that Clinton and McDougal pressured him to make a \$300,000 SBA-backed loan that ended up in Whitewater accounts. He also has charged that similar potentially improper loans benefited among others, Jim Guy Tucker, now governor of Arkansas—allegations that Tucker has denied.

The issues in Hale's upcoming trial are wholly unrelated to Whitewater; one former federal prosecutor suggested yesterday that a special counsel who was only interested in getting to the bottom of Whitewater would quickly seek a plea agreement with Hale and bring him before a grand jury to hear what he has to say about the president.

Department officials said the imminent appointment of a special counsel who would take over the Hale case creates a host of problems that could delay matters. "There are various complications that the attorney general had in mind" when she initially opposed appointment of an independent counsel, said Carl Stern, the Justice Department spokesman. "But obviously, we'll do whatever we can to get over what hurdles there are."

# White House Redirects Focus From Land Deal To Rest of Its Agenda

By Dan Bels  
Washington Post Staff Writer

After a frenzied week of Whitewater damage control, the Clinton White House on two continents tried to affect an air of normalcy yesterday.

In Moscow, White House officials attempted to redirect interest to President Clinton's foreign policy and his meetings with Russian President Boris Yeltsin. In Washington, senior advisers who had spent the week grappling with whether to ask for a special counsel to investigate Whitewater happily took a renewed vow of silence on the issue.

"I'm not going to answer any more questions about it," one adviser said yesterday. Why not? "Special counsel," he replied.

Even as the Justice Department searched for someone to head the new investigation, the word "Whitewater" was virtually banned from the lexicon of White House aides. "Everything is in the Justice Department's court," one official said.

The decision to seek a special counsel, however, did nothing to answer the substantive questions surrounding the Clintons' partnership in the Whitewater Development Corp. or the relationship between the land development firm and the failed Madison Guaranty Savings & Loan, which was owned by James McDougal, the Clintons' business partner.

It will take more than White House talking points to put the issue to rest, but Wednesday's decision by Clinton to ask Attorney General Janet Reno to appoint a special counsel provided the circuit breaker the White House was looking for to shift the focus of the story and prevent it from overwhelming everything else Clinton is doing.

The official word yesterday was that the White House was back working at full speed on things like health care, welfare reform, crime and the president's upcoming State of the Union Address.

"Things were getting done, but probably not at the pace anyone would have liked," said one aide.

The growing clamor for a special counsel, which came not just from Republicans or the media but from Democratic senators this week, pinned down top White House aides and created a sense of inevitability—even if it was slow in coming. Officials described Tuesday as tense, Wednesday as simply chaotic.

Senior adviser George Stephanopoulos, new White House Deputy Chief of Staff Harold Ickes, senior adviser Bruce Lindsey and others who were left here to deal with the mess while Clinton and the bulk of the staff headed for Europe had time for little other than Whitewater.

The process of decision-making was complicated by time zone differences, Clinton's frenetic schedule of meetings, speeches and photo opportunities abroad—and by the reluctance of the president and Hillary Rodham Clinton to accept the need for a special counsel to examine their past financial affairs.

By Tuesday there was a consensus in Washington that the president had to change his opinion and ask Reno to appoint a special counsel, not because they believed it was justified, but in the words of one adviser, because "the distraction factor became sufficient that you say the heck with it." But Clinton was not ready to yield until Wednesday.

Clinton's irritation with Whitewater's intrusion on his first trip to Europe was evident Wednesday, first when he upbraided an NBC reporter for asking only about Whitewater, and later when he got a question about the special counsel during a news conference in Kiev.

The questions won't go away, but White House officials believe for now, at least, they can point to someone else to answer them.

*Staff writer Ann Devroy, traveling with Clinton in Moscow, contributed to this report.*

**Friday, January 14, 1994**

In fact, there is a strong argument that congressional hearings might be counterproductive. Legislators need only recall the history of the Iran-contra probe to see the pitfalls involved when a case is handled in two forums at the same time. Problems arise because Congress and prosecutors have different objectives and they often conflict. Committee hearings are designed to provide a public forum for the gathering of information, while prosecutors strive to accumulate admissible evidence leading to a conviction. All this, it should be remembered, remains wholly in the realm of the hypothetical because neither the president nor anyone else associated with the White House has been accused of any crime. But if a special investigation is to take place, it is prudent to let it play out its course without this particular conflict. This investigation, it is also wise to remember, does not concern only the president but involves many

In reviewing these cases, the U.S. Court of Appeals here set a standard that will make it very difficult to use congressional immunity and still preserve a prosecutor's case. The court ruled that all the witnesses who testify before a grand jury or at trial must be examined "line-by-line and item-by-item" to determine whether they used immunized testimony "to refresh their memories or otherwise focus their thoughts, organize their testimony or alter their prior or contemporaneous statements" before giving testimony in the criminal proceedings. People who watched congressional hearings on television would find it hard to swear they had no such impact.

The court has rightly made it difficult for Congress to circumvent the Fifth Amendment by compelling testimony through immunity. If it turns out that the Whitewater matter involves criminal conduct, prosecutions could be jeopardized by aggressive congressional probers who want the whole story notwithstanding the risk to the criminal proceedings. For now, at least, the investigation should be left in the hands of the independent special counsel.

**THE WASHINGTON POST**

# Probe of first lady expected to write new chapters in law

By Nancy E. Roman  
THE WASHINGTON TIMES

The unprecedented investigation of a first lady for possible civil or criminal wrongdoing in the Whitewater-Madison affair unleashes a host of legal questions and strategies, top defense lawyers said yesterday.

The lawyers interviewed by The Washington Times also said the powerful Rose Law Firm in Little Rock, Ark., for which Hillary Rodham Clinton worked, may be vulnerable to lawsuits as the result of the demise of Madison Guaranty Savings and Loan Association, which cost taxpayers \$50 million.

The relationships between Madison, the Rose Law Firm, bank regulators, and friends and family of President Clinton raise so many ethical questions that Harvard law professor Alan Dershowitz will begin this semester's legal ethics course with an assignment to scrutinize their activities.

"My nose as a legal professor

smells something suspicious in the activities of the Rose firm," Mr. Dershowitz said. "It is the kind of elite insensitivity that Harvard and Yale and other elite law school students should be particularly sensitive about."

Mrs. Clinton, a partner at the Rose

Law Firm, represented Madison before state banking regulators in the 1980s while her husband was governor of Arkansas.

see HILLARY, page A8

## HILLARY

From page A1

Questions have been raised about Madison's ties to Whitewater, a northern Arkansas real estate venture jointly owned by the Clintons and James B. McDougal, owner of Madison, and his wife, Susan.

The lawyers who discussed with The Times the first lady's potential case noted several murky legal areas:

• Will executive privilege apply to Mrs. Clinton?

• Because Mrs. Clinton represented Mr. Clinton in the Whitewater investment, is attorney-client privilege applicable?

• Will marital privileges, such as one that prevents one spouse from testifying against another, apply?

"There are a whole range of privileges... spousal and executive privilege," said Gerald Lefcourt, a defense lawyer in New York. "It's almost a joke, but their conversations are protected by more privileges than any other couple in the country's."

Executive privilege originated to protect the president and his staff from releasing information that could jeopardize national security.

Lawyers agreed that executive privilege would not apply to any of the Whitewater dealings because they occurred long before Mr. Clinton assumed the presidency. But Mr. Dershowitz said executive privilege might apply to the allegations of a Whitewater-Madison cover-up.

Paul Rothstein, a law professor at Georgetown University, said executive privilege does not apply to personal information but it does apply to information that might include military secrets, for example.

"But it is conceivable to use executive privilege by promoting an illusion that there is a danger in revealing secret things," he said.

Invoking any of the special privileges will make the investigation more difficult, Mr. Rothstein said.

"But there will be available unprivileged material and witnesses who will be able to provide a picture of what happened," he said. "The public's need to know will be satisfied, but it will take some time and some digging."

Mr. Lefcourt said that as the case progresses David Kendall, the Clintons' personal attorney, may invoke special privileges such as the attorney-client privilege, which would protect certain documents drafted by Mrs. Clinton as her husband's attorney.

"As a defense attorney it would be my goal to preserve any privileged material. I would certainly look into it," he said. "You carefully screen all documents and information to see whether any privilege applies. I'm sure that's what would be done here."

The Clintons also might attempt to use marital privilege, Mr. Lefcourt said. "Spousal testimonial privilege prevents a spouse from testifying against another spouse to preserve the sanctity of a marriage," he said.

Mr. Dershowitz, however, said it would be outrageous to claim that privilege.

"I cannot imagine the nation being willing to accept the spousal privilege from the president or the first lady," he said. "The only real privilege the president has is executive privilege, and that comes at a great political cost."

Mr. Dershowitz said he will ask his students to examine the role of the spouses of public officials.

"Since so many of my students — men and women — will be married to important public officials, I want them to look at the relationship between practicing law and being an advocate," he said.

So many powerful people are married to each other that potential ethical violations are bound to come up more frequently, Mr. Dershowitz said. "The purpose of my course is preventative, to make sure that no student of mine gets himself or herself into this Hillary mess," he said.

Mr. Rothstein urged some leniency in this area.

"Unless you want to say the wife of an important man can never apply her trade, you've got to be lenient on that," he said. "You don't want to disabie professional wives from practicing their trade."

As for the legal vulnerability of the Rose Law Firm, Mr. Rothstein said the lawyers there would have to have known of the shaky financial conditions of Madison and then to have actively helped the client cover them up.

"I don't know if there was that kind of involvement," he said. "But his is a new, forefront area of the law — to hold the lawyers and the accountants responsible of the wrongdoing of the managers of an &L."

For example, the accounting firm Ernst and Whinney spent \$5 million on a legal battle before it agreed to a \$2.5 million settlement of the Federal Deposit Insurance Corp.'s \$100-million-plus lawsuit against it after the collapse of Franklin National Bank.

In the case of the Rose Law Firm, Mrs. Clinton and another partner, Richard N. Massey, represented Madison before state regulators in 1985, using an audit by Frost & Co. to show that it was solvent. Four years later, the firm — in a case handled by another partner, Webster L. Hubbell, now associate attorney general — sued Madison for the Federal Deposit Insurance Corp., saying the Frost audit was bogus.



By Jerry Seper  
THE WASHINGTON TIMES

Internal Revenue Service officials, tax lawyers and others familiar with federal tax laws say

This analysis contradicts Paul Begala, a senior presidential adviser, who said the Clintons could have taken a deduction only in 1992, when they sold their 14-year

**see TAXES, page A8**

The Clintons said during the 1992 presidential campaign that they lost \$68,900 in the venture, but questions have arisen about the validity of that figure.

The Wall Street Journal reported yesterday that Patten, McCarthy & Associates in a March 1992 letter to the Clintons said that "due to the nature of the engagements and incomplete or unavailable records" the

"Sometimes a loss is a freebie in exchange for other considerations, such as regulatory help through a government agency," one of the lawyers said.



# Your guide to Whitewater

**W**hat is Whitewater? The Whitewater Development Corp. was a real estate partnership formed in 1978 by Bill and Hillary Clinton and James and Susan McDougal. The venture was conceived to build vacation homes on 42 lots on a 203-acre property along the White River in northern Arkansas.

The partnership bought the land in 1978 for \$203,000 with two loans — one acquired, without collateral, from a Little Rock bank and another using the land itself as collateral. It is not clear from the records who paid the \$20,000 each year in combined principal and interest. Mrs. Clinton borrowed \$30,000 from a McDougal-owned bank to pay for a model home in the development. Twenty-four Whitewater lots were sold in 1985 in ex-

change for \$35,000 and a twin-engine Piper Seminole airplane, which was valued at about \$30,000. The transaction was not reported on the Clintons' 1985 tax returns, and it is not clear what happened to the plane.

The Clintons, who claim they lost as much as \$68,900 in the venture, sold their half-share in Whitewater to Mr. McDougal for \$1,000 in 1992. It is not clear how much, if anything, the Clintons invested in Whitewater.

## THE STORY SO FAR

**1978** — Bill and Hillary Rodham Clinton, along with James B. McDougal and his wife, Susan, purchase 203 acres in the Arkansas Ozarks in a plan to build vacation homes on 42 lots. They form a joint partnership known as Whitewater Development Corp.

**1984 and 1985** — The Clintons' improperly deduct \$5,133 on their federal tax returns for interest paid on \$30,000 in bank loans made through Whitewater. The deductions save them about \$1,000 in taxes.

**1984** — Arkansas Securities Department targets Madison Guaranty Savings and Loan Association, owned by McDougal, as being insolvent.

**March 1984** — Mrs. Clinton receives first payment of a \$2,000-a-month fee for helping Madison fight efforts by the Arkansas Securities Department to close the S&L. The fee was paid by Mr. McDougal in a deal he said was arranged by Mr. Clinton.

**July 1985** — Madison's accounting firm, Frost and Co., says the S&L is solvent. The Frost report is used by Mrs. Clinton to help keep Madison in business.

**October 1986** — Federal Home Loan Bank Board report faults thrift for risky investments in real estate deals, low cash reserves and shoddy record-keeping.

**December 1987** — Mrs. McDougal personally delivers Whitewater records to the governor's mansion at the request of Mrs. Clinton.

**November 1988** — Mrs. Clinton signs letter to Mr. McDougal requesting power of attorney so she can extricate herself and her husband from the Whitewater venture.

**March 1989** — Madison fails and is shut down by the federal government at cost of \$50 million.

**July 1989** — Mr. McDougal is indicted on fraud charges in connection with Madison. He later is acquitted.

**March 1992** — The New York Times reports ties between Mr. McDougal and the Clintons, their connections to Whitewater and their illegal tax deductions.

**March 1992** — Clinton campaign issues a report by Denver lawyer James M. Lyons saying the Clintons lost \$68,900 in Whitewater. The report also says missing records makes a complete study impossible.

**March 1992** — Clinton campaign denies report in The Washington Times saying Mrs. Clinton received a \$2,000-a-month retainer to help Madison fight state regulators. In November 1993, the White House confirms the retainer was paid to Mrs. Clinton.

**December 1992** — The Clintons sell their half of Whitewater to Mr. McDougal, and claim a \$1,000 capital gain on their taxes. The sale was arranged by Vincent W. Foster Jr., the Clintons' personal lawyer.

**July 20, 1993** — Foster commits suicide. Documents related to Whitewater-Madison are among those secretly taken from his office by administration officials and turned over to the Clintons' new lawyer, David Kendall.

**July 22** — White House Counsel Bernard Nussbaum prevents U.S. Park Police and FBI investigators from looking through Foster's personal papers during search of his office.

**Oct. 31** — Whitewater controversy is renewed when The Washington Post reports federal regulators recommended to Justice Department that a criminal investigation be conducted into Madison's failure.

**Nov. 4** — The Washington Times reports the Clintons, who said they were "passive shareholders" in Whitewater, were active in the venture's management and that Mrs. Clinton had sought power of attorney over it.

**Nov. 9** — Paula J. Casey, U.S. attorney in Little Rock, recuses herself from probe of Whitewater's ties to Madison and is replaced by Justice Department prosecutor Donald Mackay. Republicans call on Attorney General Janet Reno to nominate a special counsel to investigate the Whitewater-Madison affair.

**Dec. 20** — The Washington Times reports White House officials removed records on Whitewater from Foster's office after the deputy counsel's suicide.

**Dec. 21** — White House admits that records were taken, but denies any wrongdoing.

**Dec. 23** — Mr. Clinton says he and his wife will turn Whitewater records over to the Justice Department, but warn that process might take several weeks.

**Jan. 5** — White House reveals that subpoena has been issued for Whitewater records under terms negotiated on Dec. 23 between prosecutors and Kendall.

**Sunday** — Sen. Daniel Patrick Moynihan of New York is first Democrat to join Republicans in call for a special prosecutor or independent counsel, making the issue bipartisan. Seven other Democratic lawmakers issue the same demand within the next 48 hours.

**Wednesday** — Bowing to pressure, Clinton asks a special counsel be appointed to investigate the role he and his wife played in the Whitewater-Madison affair. Reno says she will appoint a special counsel.

Source: The Washington Times, Associated Press, House Republican Policy Committee, New York Times

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# Reno might seek two-for-one deal on special counsel

By Frank J. Murray  
THE WASHINGTON TIMES

Attorney General Janet Reno is considering asking Congress to allow the special counsel she names in the Whitewater-Madison investigation to become a statutory independent counsel, if lawmakers pass a new counsel law next month.

"This may be a stopgap that she was urged to employ. It depends on how the new law is worded," a senior Justice Department official said yesterday, indicating that Miss Reno wants Congress to waive the ban on appointing a "public officer" since that would eliminate whomever she names to investigate President Clinton and first lady Hillary Rodham Clinton.

Aides to Miss Reno said she began contacting the "first tier" of candidates Wednesday night and expects to name someone next week after a check for possible conflicts of interest. Her decision is final.

Questions abounded yesterday about whether the Whitewater-Madison special counsel will have power to seek criminal indictments if wrongdoing is found by the Clintons, or even to clear them with relevant documents, which are under grand jury seal.

Rep. Jim Leach, the Iowa Republican who was among the first to call for both committee action and a special counsel, termed the quest "an episode of embarrassment" that is

unlikely to reveal criminal behavior.

It is clear that whomever is chosen will have access to all the documents in the case, but premature disclosure could affect the ongoing grand jury probe in Little Rock, Ark.

"That would be up to the counsel. I certainly wouldn't comment on it so as to indicate any preference," Miss Reno said in announcing Wednesday night she would honor the president's grudging request.

Such questions are deemed premature until Miss Reno negotiates the limits of the probe with her choice for the sensitive post.

Meanwhile, it is clear the White House is optimistic the public will accept an outcome they expect to be favorable, implying that opposing lawmakers and major newspapers painted themselves into a corner by advocating a special counsel.

Senior presidential adviser George Stephanopoulos mentioned only The Washington Post and the Wall Street Journal, but other papers recommending the step include The Washington Times, the New York Times and USA Today.

Some staff advisers emphatically argued that the public does not care about the issues raised in the Whitewater-Madison controversy, and Mr. Stephanopoulos cited steadiness of polls despite the issue's dominance of the news.

Whitewater-Madison has become a catchall tag for apparent ethical conflicts in the Clintons' links to

Whitewater Development Corp., a failed real estate deal in which they had invested, and Madison Guarantee Savings and Loan Association, whose principal owner helped them repay a \$50,000 personal loan.

A spokesman for the Federal Deposit Insurance Corp. said yesterday that Mrs. Clinton's prior representation of Madison in a state regulatory matter would not have been considered a conflict of interest if the FDIC had been told about it.

In a nine-page letter soliciting FDIC business that eventually produced a \$400,000 fee for negotiating a \$1 million insurance settlement, Vincent W. Foster Jr. spelled out the Rose Law Firm's experience in a number of thrifts but neglected to mention that Madison had been one of them.

Mr. Foster killed himself July 20 when he was deputy White House counsel.

• J. Jennings Moss contributed to this report.

President Clinton: With his wife, Hillary, he owned half of Whitewater Development Corp. He reportedly received \$12,000 in campaign donations from co-owner James B. McDougal in the form of cashier's checks from Madison Guaranty Savings and Loan Association. Reports also say he obtained a \$50,000 unsecured personal loan from the Bank of Cherry Valley and contributed to his gubernatorial campaign.

Hillary Rodham Clinton: A part-owner of Whitewater, she was a senior partner in the Rose Law Firm and a partner with Webster Hubbell and Vincent W. Foster Jr. in Middle Investors. While her husband was governor in the mid-1980s, she received \$2,000 a month to help Madison fight efforts by the Arkansas Securities Department to close the S&L for insolvency. She sought power of attorney from the McDougals to act on behalf of Whitewater.

Vincent W. Foster Jr.: He was White House deputy counsel when he killed himself July 20. He was a partner with Mrs. Clinton in the Rose Law Firm and Middle Investors. He was the Clintons' attorney in their later Whitewater dealings.

James B. McDougal: He owned Madison Guaranty and, with ex-wife Susan, half of Whitewater. He has been accused of diverting money from Madison to repay Clinton's 1984 gubernatorial campaign debts. He says the governor pressured him to hire Mrs. Clinton to represent Madison. He says he turned over Whitewater's records to the Clintons in 1987.

Susan H. McDougal: She was McDougal's partner in Whitewater while they were married. She has been accused of using part of a \$300,000 loan from the Small Business Administration for her Little Rock, Ark., advertising firm to purchase land for Whitewater. She

deflated on the SBA loan. She faces charges in California that she embezzled \$200,000 from conductor Zubin Mehta.

Webster L. Hubbell: The associate attorney general and a close Clinton friend, he was a partner in the Rose Law Firm and Middle Investors with Mrs. Clinton and Foster. He refused himself from the Justice Department.

David L. Hale: Once a municipal judge in Little Rock, he has been indicted on fraud charges as president of Capital Management Services Inc.

## KEY PLAYERS



He says Clinton and McDougal pressured him to approve a \$300,000 SBA guaranteed loan to Mr. McDougal.

David Kendall: The Clintons' personal attorney, he is handling their Whitewater dealings.

James M. Lyons: A Denver lawyer and Clinton friend, he reviewed Whitewater after it became a campaign issue. He concluded that the McDougals controlled the venture and that the Clintons lost \$69,000. He called Foster on the morning of the deputy counsel's suicide.

Paula J. Casey: She was named U.S. attorney in Little Rock by Clinton. After refusing to do so, she recused herself from the Justice Department's Whitewater investigation because of her familiarity with some of the parties involved.

Bernard Nussbaum: The White House counsel was reportedly the first person to search Foster's office after

his suicide.

Kenneth Pasco: An Arkansas businessman who says he never contributed to the 1984 Clinton campaign, his name is on a \$3,000 cashier's check in the hands of the Justice Department.

Beverly Bassett Schaffer: A Clinton-appointed regulator of Arkansas savings and loans, she approved Madison's stock sale.

Patry L. Thomason: A White House aide who helped Nussbaum in the post-suicide search of Foster's office.

Jim Guy Tucker: The current Arkansas governor. He received \$1 million in loans from Madison while the law firm represented it.

Chris Wade: A real estate agent who represented the Clintons and McDougals in Whitewater, he counters claims that it was a money-loser.

Margaret Williams: Mrs. Clinton's chief of staff, she accompanied Nussbaum and Thomason in the search of Foster's office.

# What might Clintons have done wrong?

THE WASHINGTON TIMES

Federal investigators are probing several angles in the tangled Whitewater-Madison case.

## • How much money was lost?

President Clinton and his wife, Hillary, said they lost \$68,000 on the Whitewater Development Corp., a real estate venture with James B. and Susan McDougal, but they failed to take legal tax deductions for capital losses that would have saved them thousands of dollars. Mr. McDougal was owner of the now-defunct Madison Guaranty Savings and Loan Association.

When Whitewater first surfaced as a 1992 presidential campaign issue, Mr. Clinton said the couple had lost \$25,000.

## • Was there an illegal loan?

David L. Hale, a former municipal judge in Little Rock now under indictment for misdirecting Small Business Administration loans, said Mr. Clinton pressured him during a face-to-face meeting in 1986 to give a questionable \$300,000 loan to Susan McDougal. Mr. Clinton said he did not recall the meeting.

• Was money diverted from federal funds to Whitewater or the Clinton campaign?

Mr. McDougal used \$110,000 of the SBA loan to his wife to buy property for the Whitewater project. It is not clear if other money was diverted from Madison to Whitewater or to Mr. Clinton's 1984 gubernatorial campaign.

• Were the Clintons more than "passive shareholders"?

The Clintons described themselves as "passive shareholders" in the Whitewater development, but Mrs. Clinton wrote a letter to Mr. McDougal in November 1988 de-

manding power of attorney for full control of the venture.

• Why was Mrs. Clinton paid a monthly retainer by Madison?

In 1985, Mrs. Clinton was paid \$2,000 a month for convincing state regulators appointed by her husband that Madison was solvent — despite federal bank reports to the contrary — at a time when Mr. McDougal was her business partner in Whitewater. The payments were made by Mr. McDougal in a deal arranged by Mr. Clinton.

• Were there illegal money diversions to pay off campaign debts?

Shortly after his election as governor in 1984, Mr. Clinton asked Mr. McDougal to "knock out a deficit" of \$50,000 for a personal loan Mr. Clinton took out to fund his campaign.

Mr. McDougal held a fund-raiser for his business partner and retired at least \$35,000 of that debt. At least one of the checks from the fund-raiser used to pay off Mr. Clinton's loan was signed by Kenneth Peacock, who now denies ever donating money to the Clinton campaign.

• Where are the Whitewater-Madison records?

Mrs. McDougal said she delivered Whitewater records to the Arkansas governor's mansion in December 1987, at Mrs. Clinton's request. The Clintons said the records were lost before The Washington Times' Dec. 20 report that Whitewater records were secretly removed July 20 from the office of White House Deputy Counsel Vincent W. Foster Jr. shortly after he killed himself.

Now, the White House has turned over at least five boxes of Whitewater records to investigators under terms of a subpoena worked out by the Clintons' lawyer and the Justice Department to keep them secret.

## Next step: Naming special counsel

THE WASHINGTON TIMES

Attorney General Janet Reno will select within about a week a non-governmental attorney with recognized credentials of integrity and skill to be special counsel in the Whitewater-Madison affair.

Miss Reno will negotiate with her selection the boundaries of the mandate. The White House wants to include a report to the American public, but the counsel also may be authorized to seek indictments. When Congress returns Jan. 25, Republicans will seek appointment of select investigating committees in both houses to look into the overall Whitewater case.

Congress also is expected to swiftly finish enactment of a separate law providing for appointment of an independent counsel by three federal judges.

A federal grand jury in Little Rock, Ark., under direction of three career lawyers who specialize in fraud, continues its investigation of Madison-Whitewater, on which at least five cartons of documents have been subpoenaed from the Clintons.

## Madison story dates to 1982

THE WASHINGTON TIMES

James B. McDougal, a friend and business partner of Bill Clinton, took over a tiny operation known as Madison Guaranty Savings and Loan Association, about 75 miles north of Little Rock, Ark., in 1982. Within three years, Madison's assets grew from \$500,000 to more than \$17 million.

Mr. McDougal, from his new base of operations in Little Rock, prospered through a web of connections and friendships that included Mr. Clinton and his wife, Hillary. But the Federal Home Loan Bank Board in a 1984 report already had noted Madison's "unsafe and unsound lending practices."

The Arkansas Securities Department was asked to determine whether the S&L should be closed. Mrs. Clinton, a lawyer on a \$2,000-a-month retainer from Mr. McDougal, argued successfully before state regulators appointed by her hus-



band that Madison should remain in business. By 1989, the institution had a paper worth of \$125 million. But that year it finally was closed by regulators, and taxpayers got a \$50 million bill for its defaulted loans.

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# Papers from Foster's office draw missing media into Whitewater

By Joyce Price  
THE WASHINGTON TIMES

The Whitewater-Madison controversy, ignored by most of the media until recently, has become the hottest story around.

It's on the front pages of daily newspapers, a staple on the nightly network news shows, and the subject of lengthy articles in this week's issues of Time and Newsweek.

But a month ago, a person would have been hard pressed to find any reports about the Whitewater Development Corp., a failed Arkansas land deal in which the Clintons invested, or Madison Guaranty Savings and Loan Association, a failed thrift owned by Whitewater partner James B. McDougal.

Before last month, only The Washington Times and The Washington Post had reported regularly on the growing controversy.

The Washington newspapers exposed details in the matter after the disclosure in October that the Resolution Trust Corp., the federal agency that disposes of failed S&Ls, had asked the Justice Department to investigate Madison Guaranty.

As Time writer George Church says this week in "Searching for the Missing Pieces," the magazine's four-page report: "The press and television paid almost no attention until recently and then largely be-

cause it developed that a file relating to Whitewater had been removed from the office of White House counsel Vincent Foster after he committed suicide last July."

The Washington Times' Jerry Seper broke the story Dec. 20 about the removal of the Whitewater files from Mr. Foster's office. Media scrutiny of Whitewater and Madison has since intensified.

"A story isn't really big until television picks it up, and television discovered this story around Christmas time," said Robert Lichter, founder and co-director of the Center for Media and Public Affairs.

He said most news organizations ignored the story because "it's complicated and esoteric and it didn't seem to lead anywhere."

"What killed the story for many news organizations was that they [the Clintons] said they lost money and nobody gained," he said.

"So if nobody gained, why don't they want to talk about it? A cover-up of higher-ups is suggested. ... When it became a White House cover-up story, television latched onto it."

Like Time's Mr. Church, Mr. Lichter said the report that files were removed from Mr. Foster's office was the catalyst for wide coverage of Whitewater and Madison.

Tim Graham, the associate editor of MediaWatch, a conservative media watchdog newsletter, said the

Clinton's can thank the "Troopergate" scandal for "getting Whitewater on television."

Network reporters played down two Arkansas state troopers' accusations of womanizing by President Clinton and pointed to the Whitewater-Madison controversy as an issue that warranted closer scrutiny, he said.

Mr. Graham dismissed arguments that the controversy's complexity was a major reason the media ignored it. "Iran-Contra was complicated, but that didn't stop anybody," he said.

Katherine McQuay, spokeswoman for NBC-TV, said her network aired reports on Whitewater and Madison "going back to September ... but nobody was paying attention."

But Mr. Graham said he has tracked media coverage of Whitewater and Madison and that NBC "did its first story on Whitewater November 11. That was 12 days after The Washington Post" reported the RTC request for a probe of Madison.

It was also seven days after The Times reported that the Clintons were active partners in Whitewater's management and that Hillary Rodham Clinton had sought power of attorney over the venture. The Clintons had said they were only passive partners in the deal.



## Pruden on Politics

By Wesley Pruden



### The looming payday for Miss Hillary

There's enough grief in the Whitewater for both of them, but Hillary Rodham is the Clinton with the problem.

She came to Washington as the role model for a lot of feminists, particularly in the media, who were looking for the good mommies they thought they never had. Republicans, eager as always to roll her to have their bellies scratched by Democrats, flattered and gushed with an excess of gallantry at the very sound of the nanny's voice.

Actually, Mrs. Clinton is an old-fashioned kind of woman. She learned early in her marriage to throw her husband's weight around with maximum effectiveness, like the wife of the boss who arrives at the office or factory and demands that everyone stop work to accommodate her whims and pouts.

A lot of people know the type. Some of them live in Little Rock, Ark., where the fine mess the Clintons at last find themselves in is regarded with considerable *deja vu*. (That's the way we talk down there.) The president himself may regard the fine mess much in the way of the man in that well-known example of domestic bliss, watching his mother-in-law drive over the cliff in his new car.

Betsey Wright, who as the governor's chief of staff conducted what she calls "the bimbo patrol" and who may know him as well as any of his loyalists, insists this view, propounded by several old Arkansas hands in the White House, as "fundamental sexism." She calls it disloyal because it "makes Bill Clinton look like a wimp."

Well, yes, it does. But this is how, while Mrs. Clinton was back at the ranch trying to arrange the Whitewater files so they fall with minimum damage once they get into the hands of someone who may try to find out what actually happened, the president himself was talking in Prague:

"Basically," he told NBC News, "the press has editorialized and pressured the politicians into saying, 'Here's a guy that, as far as we know, hasn't done anything wrong, nobody's ever accused him of doing anything wrong, there's no evidence that he's done anything wrong, but we think the presumption of guilt almost should be on him. He should somehow prove his innocence.'"

Then, this to CBS News: "I can't recall anything like it in American history where everybody says, 'Well, there's no evidence this guy's done anything wrong, but we think he should invite another investigation of himself.'"

And, finally, this to NBC: "You got your two questions, Jim."

Jim Miklaszewski of NBC: "OK."

"You had your two questions. I'm sorry you're not interested in the truth." With that, the president took off his microphone and walked away. For reasons of its own, NBC chose not to broadcast the president's tantrum. This is the kind of break that few other politicians ever got, not even Teddy Kennedy, and the kind that Mr. Clinton may be seeing the last of. The tantrum, by the way, looked a lot like the tantrum he threw when Jerry Brown tried to bring up Whitewater during the '92 campaign. He accused Mr. Brown of "attacking" the missus. (The press went back to sleep until Jerry Seper of The



Jerry Brown

Washington Times

the no-nonsense, hard-boiled, then with the publication of Mrs. Clinton's letter demanding the power of attorney to run the Whitewater investment, and then with the disclosure that files were looted from Vince Foster's office by Clinton aides before investigators could see them.

But if anyone has been treated with more care than Bill, it's Hillary, and if David Green is doing his job this morning, he's telling her that in Washington there's always a payday someday.

"We women seek the glory," says Harriett Woods, president of the National Women's Political Caucus, "but we also have to take the consequences when we make mistakes. I don't know if she has made mistakes, but if she has I hope she would be equally accountable."

Anna Quindlen, among the most blindly devoted of the media princesses, is rattled, too. "While looking down your nose may work with sexual innuendo, it does not adequately address conflict of interest," she writes in the New York Times. "The Clintons have not controlled Whitewater. They have inflated it with the gases of temporizing. A big bang looms."

Mrs. Clinton earned the reputation in Little Rock as the Clinton who keeps her cool in the face of enemy fire when the other Clinton panics. Now we may see how much, if at all, our young president has grown.

FRIDAY, JANUARY 14, 1994

The Washington Times



## PAUL CRAIG ROBERTS

**“W**hat’s the charge?” asks White House Press Secretary Dee Myers. By asking this question, Miss Myers is inviting us to guess what a special prosecutor might find in the files of the Whitewater Development Corp., an Arkansas real estate partnership between the Clintons and the McDougals.

These files have had a curious existence. They were first said to be “missing.” Then they were purloined from White House Deputy Counsel Vincent Foster’s office, which should have been sealed. They have been unavailable to investigators of Mr. Foster’s death and to investigators of savings and loan irregularities in Little Rock. They next turned up in the safe of a white collar crime lawyer at Williams and Connolly, a noted criminal defense firm. Today they are being “catalogued,” and possibly culled, before being turned over to the Justice Department under a negotiated subpoena that protects the confidentiality of the files.

The White House maintains that the files are innocuous and merely document a legitimate \$69,000 business loss that was never claimed on tax returns. By stonewalling on the release of the files, the White House built up demands for a special prosecutor to which it has finally acceded.

According to newspaper reports, federal thrift investigators have found evidence that money from Madison S&L and Whitewater and other McDougal companies and listed the Clintons among the possible beneficiaries. Newspapers have also reported that a possibly fraudulent Small Business Administration loan was diverted, in part, to the Whitewater partnership. Newspapers have also reported that there appear to be significant flows of money in and out of Whitewater’s accounts that do not relate to real estate transactions. Madison S&L and Whitewater monies appear at times to have been commingled, and Whitewater did not file income tax returns for a number of years.

All of this has raised suspicions that, however it began, Whitewater became a slush fund for its partners. It is the unspoken charge of experienced tax, campaign, and criminal lawyers that the Clintons benefited from money flows that violated campaign, tax, and banking statutes.

These charges, should they be brought by the special prosecutor, would be over and above any conflicts of interest the Clintons may have experienced in obtaining favorable regulatory treatment for McDougal’s Madison S&L and any improprieties

from personal use of state employees.

It is possible that a discombobulated White House has been engaging in a state-of-the-art coverup when there is no crime. But if Whitewater is merely a political embarrassment for the first couple, it could hardly be worse than the disingenuous denials that are flowing from the White House. “Where is the evidence?” asks Clinton spokesman Stephanopoulos, thus underlining the White House’s prolonged withholding of it.

In a misstatement of tax law and fact, Vice President Gore claimed in front of a national TV audience that the Clintons could not take their \$69,000 tax loss because they had no capital gains to set it against. The law permits a \$3,000 per year deduction of a capital loss against ordinary income and a carry forward of the remainder. Moreover, Lisa Schiffren reports in the August 1993 American Spectator that in 1988 the Clintons realized a \$42,000 profit from an investment in Arkansas Cellular Communications. A lawyer familiar with the deal says it was structured as a capital gain. A couple that itemizes deductions for used underwear is unlikely to let pass a legitimate deduction for capital losses.

It is a good thing for the Clintons, as well as the country, that they apparently have reassessed the risk of stonewalling.

The problem with coverups is that they can become obstruction of justice, a federal crime. Numerous federal courts have ruled that proceedings do not have to be pending for obstruction of justice to occur if evidence is concealed, altered or

destroyed in anticipation of possible proceedings. Moreover, the 1989 FIRREA Act in response to the S&L crisis specifies that investigations by the Resolution Trust Corp. are considered “pending proceedings” under the obstruction of justice statute. The RTC is looking into Madison S&L, and inappropriate handling of the Whitewater files could constitute obstruction of justice.

Sen. Pat Moynihan, New York Democrat, was right. The Clintons’ spin doctors got them deeper in trouble without sparing them the scrutiny of a special prosecutor.

Paul Craig Roberts, a columnist for The Washington Times and the Scripps Howard News Service, is a distinguished fellow at the Cato Institute.

# Prosecutor pirouette

Fandango  
of the files

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## TONY SNOW

Gimmicks  
that failed

The bluff didn't work. The White House spent a week besmirching Republicans who wanted a special prosecutor to look into what has come to be known as "Whitewatergate," but public pressure finally forced the president to ask for one, anyway.

The question now is whether the Clinton team will come clean or try to manage the flow of information to investigators. So far, it has employed every trick in the book to foil inquisitors, including the cheesy use of the president's late mother, Virginia Kelley, as a political human shield. Al Gore thumped the poor woman's coffin four times on CBS's "Face the Nation" last week, hoping her beloved memory would hold the curious at bay.

These gimmicks haven't worked

because the facts available to the public raise the possibility that the president and/or his friends bent the law during his tenure as governor of Arkansas. Here's a small, incomplete list of allegations.

•Illegal gratuity: Just before becoming governor of Arkansas, Bill Clinton and his wife joined a real-estate partnership with old friend James McDougal and McDougal's then-wife, Susan. The Clintons put up less than 9 percent of the start-up money for the Whitewater Development Corp. and got 50 percent of the stock.

The arrangement is public record. Does the discounted price of the partnership constitute an illegal gratuity?

•Illegal campaign contributions: James McDougal threw a fund-raiser on April 4, 1985, to help rescue Mr. Clinton from a \$50,000 personal loan. The party raised \$35,000.

Federal investigators suspect that at least \$12,000 of the donations were siphoned from a savings and loan owned by McDougal. If so, the Clintons received money taken from depositors of the Madison Guaranty Savings and Loan — an institution that failed in 1989 at a cost to taxpayers of \$47 million to \$60 million.

•Conflicts of interest: When federal regulators were recommending that Madison Guaranty mend its ways or close its doors, McDougal concocted a plan to sell preferred stock to the public. He hired Hillary Rodham Clinton as his lawyer in response to Bill Clinton's personal request for "help."

Mrs. Clinton asked a securities commissioner appointed by her husband to approve a stock-sales plan proposed by his (and her) business partner, James McDougal — without telling the Arkansas official about her ties to the thrift operator.

•Conspiracy: Former Arkansas Judge David Hale made a \$300,000 Small Business Administration loan to a real-estate company owned by Susan McDougal. Half that money found its way into the Whitewater Development Corp.

Government investigators question the propriety of the SBA loan, which was intended to help minority-owned small businesses. Hale claims Bill Clinton and James McDougal pressured him into giving the money to Mrs. McDougal and says he has records to prove it. If so, the president and his friend may have engaged in a conspiracy to defraud the federal gov-

ernment.

•Violation of attorney-client privilege: Vincent Foster Jr. solicited federal contracts to sue Madison Guaranty on behalf of the Rose Law Firm of Little Rock. He failed to disclose the fact that Rose partner Hillary Rodham Clinton had represented the savings and loan. The solicitation at a bare minimum threatened Madison's attorney-client privilege with Rose.

•Obstruction of justice: White House counsel Bernard Nussbaum took several boxes of files from Vincent Foster's office after Mr. Foster's suicide. He shipped the deceased aide's personal diary and papers to the Foster family lawyer, James Hamilton, and records regarding the Whitewater Development Corp. and other dealings to David Kendall, the Clinton family lawyer. He prevented investigators from looking at the documents. These acts could have violated several federal statutes, including laws that require the preservation of White House documents and prohibit the removal of records relevant to an ongoing criminal investigation.

*Administration  
stonewalling and  
name-calling have  
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political nuisance into  
a potential disaster,  
and that is amazing.*

The public deserves a full look at all the weird strands of Whitewater-Madison, which means that Attorney General Janet Reno must suspend the statute of limitations for all related civil and criminal infractions. (The statute on fraud and other civil violations expires in March.) The attorney general also needs to avoid placing undue restrictions on the prosecutor's investigation. Otherwise, Congress will impale Watergate-style committees, which will make even the smallest Clinton peccadillo look like a crime against humanity.

Administration stonewalling and name-calling have transformed a political nuisance into a potential disaster, and that is amazing. As political scandals go, Whitewatergate should have been small potatoes.

Rep. Jim Leach, Iowa Republican, put it best in an interview the other day. "It's my own view that they should lay everything on the table, take responsibility, perhaps have a civil penalty or two (against people other than Clinton).

"Then this thing would be over," he said, snapping his fingers, "just like that."

Tony Snow is a Washington-based editorial page columnist for the Detroit News and is nationally syndicated.

2/2

It is an amazing spectacle! One of the most liberating writers in American journalism continues to be vilified, mainly by journalists, for writing bold and accurate journalism.

Admittedly, his vilifiers are the bought journalists of the social-climbing variety whose party-line prudence has made American journalism dubious to millions of Americans.

Yet they continue to tut-tut at David Brock and to utter dark threats. Mr. Brock is the journalist who revealed Anita Hill's testimony for the salad of falsehoods and contractions that it is. He is now the journalist who broke the story of the Clintons' repeated abuse of power, their continued lies to the electorate and to the press, their dissimulations regarding the suicide of the highest level federal official, since James Horrestal, and Bill Clinton's satyrism. Mr. Brock's report is about the same story that two line reporters at the Los Angeles Times, finally published two days after CNN and Mr. Brock broke it. Nonetheless, the bought journalists target Mr. Brock.

## Attack of the media marauders

They are wasting their spit balls. What makes Mr. Brock a marvel among journalists is that he does not care what others think, and he does not have to. Rather than work in one of the gigantic bureaucracies of our media where advancement comes with flattering some highly politicized and otherwise craven editor, Mr. Brock writes for small independent journals. He is free to do what investigative journalists are supposed to do, namely, establish the truth of a news story by corroboration and verification of the evidence at hand. Later, when more evidence is available, historians can affirm journalists' accuracy, as they surely will with Mr. Brock's work on Miss Hill and the Clintons.

Why are the vilifiers of David Brock not hissing at CNN and the Los Angeles Times? I suppose they think that by reviling Mr. Brock they will scare all other American journalists away from their patrons. They are going to fail. The Clintons are singularly corrupt. As the multiplying headlines about Whitewatergate and the Madison bank bust make clear, increasing numbers of inquisitive journalists are unearthing vast financial and political corruption in their wake. After Mr. Brock's boldness it is going to be ever more difficult for editors and publishers to muzzle diligent reporters.

As for Mr. Brock's writing, it is alive with vivid detail and careful analysis that leaves his detractors looking like naifs or simple propagandists. TV commentator Paul Duke calls David Brock one of the year's "losers," who "wrote that slimy magazine article that revived all those old charges about Bill Clinton's personal behavior." New York Times

columnist Frank Rich says of the troopers' testimony regarding Mr. Clinton's serial sex, "If true, [the charges] would make the president seem all too pathetically ordinary." Newsweek columnist Joel Klein says, "the story is trash," and innocently asks, "Where are all the women?" You know how many women eagerly step forward and admit to adultery. You know how "ordinary" it is to maintain half a dozen sexual partners and to arrange yet more one-night stands. And are the charges of Mr. Clinton's security detail "old stories"? Does Paul Duke know something about these troopers that other Americans do not, or has the TV commentator again failed to read that which he jabs about?

Actually Mr. Brock's 11,000-word piece is argued on a very high intellectual plane. It is based on troopers' testimony that had yet to be refuted by the Clintons (who have carefully avoided denying the charges) or by other troopers — one of whom bowed to Clinton adviser Bruce Wright's importunities to depose but not sign an affidavit deny-

ing a charge that Mr. Brock never raised. Mr. Brock never said President Clinton offered this trooper a job "for silence" as the affidavit states, but rather for information on the other troopers. Mr. Brock's charge remains unrefuted.

Mr. Brock's piece begins by describing past presidents' sexual misbehavior and the attendant political coercion that always follows such promiscuity, making it a serious threat to the commonweal. Next he introduces the troopers, acknowledges their possible motives — noble and ignoble — and details their responsibilities and access to the Clintons even after the election. His next section profiles Mr. Clinton: a quick study, hard-working, once-radical now eager to please — all very interesting and not all unflattering. Next Mr. Brock discusses the new morality that sank other public figures, some deserving, some not — for instance, John Tower, Robert Packwood and Gary Hart. Then Mr. Brock demonstrates how Mr. Clinton has manipulated the media, for instance, his deceptions on "Sixty Minutes." He then

describes abuses of power, and the heavy handed threats of Clinton henchman Buddy Young, the troopers' former boss, who claimed to Mr. Brock not to be in contact with the White House and then was recorded by ABC conferring with White House aide Bruce Lindsey. Only then do we get into steamy testimony regarding the sex lives of the Clintons, and charges of Hillary Clinton ordering the destruction of records. It is a charge that re-echoes through the Whitewatergate reports.

Does this sound like "tabloid fare" to you? Actually, it is probably the most devastating revelation of a sitting president's past corruptions ever published. Journalists and citizens concerned by the corruption of American life can thank David Brock for its liberating effect. My fellow journalists, continue your work. The bought journalists may soon be out of work.

R Emmett Tyrrell Jr. is editor in chief of *The American Spectator*.

## Speculation swirls over high-profile position



By Joe Marquette, AP

**TOUGH SELECTION:** Attorney General Janet Reno is considering numerous candidates for special counsel to probe the Whitewater affair. A selection is unlikely before next week.

By Sam Vincent Meddis  
USA TODAY

The Justice Department isn't expected to pick a special counsel in the Whitewater case until at least next week.

But inquiries are already being made to several lawyers to see if they might be interested in the high-profile job, Justice officials said Thursday.

Attorney General Janet Reno would do well not to rush a selection, says lawyer Jacob Stein. He was appointed independent counsel in 1984 to investigate then-attorney general nominee Edwin Meese on allegations of favoritism when he was White House counselor.

Whoever is chosen should be someone with "a sense of dispatch" who will not try to make a long-term legal practice out

of the probe, says Stein, "someone who is busy and has another job to return to."

Otherwise, he says, the investigation could become "interminable."

At issue are the roles played by President Clinton and wife Hillary Rodham Clinton in the land deal and failure of an Arkansas savings and loan. The busted S&L cost taxpayers at least \$47 million.

The matter is already being investigated by Justice Department lawyer Donald MacKay, a political appointee in the Nixon and Bush Justice Departments and now a career member of the department.

Justice officials declined to say who might be approached for the special counsel job.

But Reno began considering people almost immediately an-

nouncing the counsel Wednesday evening, officials said.

Justice Department officials also want to make sure the person they select does not have any possible conflict-of-interest problems — any personal or professional links, for example, to some controversial savings-and-loan case.

Among the possible candidates are those suggested by Sen. Robert Dole, R-Kan.

They include two former attorneys general in the Jimmy Carter administration, Griffin Bell and Benjamin Civiletti; and two former U.S. attorneys, Anton Valukas and Dan Webb.

Others mentioned include retired Supreme court justice Byron White and former American Bar Association presidents Talbot D'Alemberte and John Curtin.

## Says some of her actions were his idea

By Judy Keen  
and Dennis Cauchon  
USA TODAY

FLIPPIN, Ark. — The man who sold Whitewater lots says he, not Hillary Rodham Clinton, was responsible for her role in two of several areas likely to be part of a special counsel's probe of the deal.

Chris Wade, who handled all sales at the Whitewater Development Co. Inc. property, says he initiated her active involvement, which critics have used to undermine the claim of President Clinton and Hillary Clinton that their participation in the investment was minimal.

Most of the 42 lots have been sold in the 230-acre development along the White River. Only a handful of homes have been built.

Interviewed at his realty office here, Wade says, to his knowledge, the Clintons never visited the property.

"They were really passive investors," he says. That changed when he urged Hillary Clinton to become more actively involved:

► He suggested that Hillary Clinton seek power of attorney over Whitewater in November 1988. That would have effectively given her control.

Wade says the Clintons' partner in the deal, James McDougal, was too busy with his failing Madison Guaranty Savings and Loan to make routine business decisions.

"That was my idea," Wade says of the letter in which Hillary Clinton requested power of attorney. "I couldn't get ahold of Jim because of the Madison problems. Hillary and I were talking on the phone and I told her she should get power of attorney so we could deal with some decisions on Whitewater. I don't know that she ever did get it."

Bruce Lindsey, a senior Clinton adviser at the White House, says Hillary Clinton never acquired power of attorney.

► Wade suggested that Hillary Clinton pay for a model home on the property in 1981 to try to spur sales. To build the three-bedroom, ranch-style modular home on the 2.66-acre lot, Hillary Clinton borrowed \$30,000 from the Bank of Kingston, Ark., in which McDougal had an interest.

In 1988, Wade says, it was also his idea that she buy back the home from the estate of an owner who went bankrupt before dying. "Here we had a loan on the house, nobody making payments," says Wade. "We had a problem. ... (Her repurchase of the house) was the only way."

She bought it in September 1988 for \$8,000 and sold it two months later for \$28,000.

Hillary Clinton's involvement in Whitewater's management, as described by Wade, runs counter to the Clintons' efforts to downplay their role.

Still, says Wade, "Hillary Clinton didn't do anything wrong — nothing. Absolutely, and that's not a guess. That's a fact. I know it."

Wade has turned over documents relating to Whitewater to the FBI and says he expects to be subpoenaed by the special counsel who will investigate Whitewater.

Meanwhile, Beverly Bassett Schaffer, then the state supervisor of savings and loans, says a letter she received from Hillary Clinton's law firm requesting permission for Madison Guaranty to raise money from investors was routine and did not imply pressure from then-governor Clinton.

On April 30, 1985, the Rose Law Firm wrote to Schaffer's agency seeking the go-ahead to sell preferred stock to shore up Madison's net worth. The letter asked state regulators to contact Hillary Clinton or her colleague at Rose, Richard Massey, if they had questions.

Two weeks later, Schaffer wrote a "Dear Hillary" letter saying the plan "is not inconsistent with Arkansas law." The appropriateness of Hillary Clinton's representation of Madison in the request — made to an official appointed by her husband — also has been questioned.

Madison was owned by

McDougal, the Clintons' partner in the Whitewater investment. The thrift failed in 1989 and cost taxpayers \$47 million to \$60 million.

"Nobody in my office would have any problem saying 'no' (to the Rose Law Firm request) just because her name was on it," Schaffer says. "Nobody was going to get fired over that. Bill Clinton was my boss, not Hillary Clinton."

Wade says McDougal handled all of Whitewater's finances while Wade handled the marketing of the vacation-home lots, surveying of the property and the construction of access roads.

# Salesman details Hillary's role

## Tours, ballet for first lady

First lady Hillary Rodham Clinton and daughter Chelsea are in Moscow today for the first stage of President Clinton's trip to Europe and Russia since he took office.

On her agenda today are a Moscow hospital, the Kremlin and nearby sites, and another hospital tour in Minsk, Belarus, Saturday.

She'll be in St. Petersburg when President Clinton delivers a speech from a Russian TV station and then will join him for an official dinner at the Kremlin Sunday.

The Clintons are the first U.S. president and first lady to visit Russia since leaving office.

Earlier, Hillary Clinton had been in St. Petersburg followed by her son, Bill Clinton, and daughter, Chelsea, by Nina Tikhonova.

Later, she went to St. Basil's Cathedral in Red Square before joining President Clinton for his speech and other events.

In addition to the hospital tour in Minsk, Hillary Clinton will attend a ballet performance.



bc whitewater-times - a1810

(ATTN: National editors) (Includes optional trims)

Reno Starts Search for Special Counsel to Probe Whitewater (Washn)

By Ronald J. Ostrow and Ronald Brownstein= (c) 1994, Los Angeles Times=

WASHINGTON Attorney General Janet Reno Thursday launched what aides described as a highly personal search for a special counsel to investigate the role of President Clinton and his wife in the tangled Whitewater real estate and banking affair, asking Justice Department colleagues about possible candidates for the job.

While some officials want a counsel to be selected by the end of the week, Justice Department sources cited the time-consuming inquiries that would have to be conducted for any potential conflicts in a prospect's legal practice.

"You don't want to pick the special counsel and then have the individual forced to withdraw because you find out he represented savings and loans in Arkansas," one source said.

Among candidates said to be under "serious consideration" are Dan K. Webb, a former Reagan administration U.S. attorney. Webb caught attention with his dogged questioning of the ex-president in videotaped testimony during the Iran-Contra investigation.

"There's also the retired judge category," said a department official familiar with the search. "But there's concern about picking a person who can really hit the ground running and a retired judge may not fit that."

"They'll probably pick a white male Republican over the age of 55, probably some retired judge," said Victoria Toensing, a former deputy assistant attorney general. "That seems to be the image of what they're looking for."

The Clintons invested in the Whitewater Development Corp., an Ozarks mountain vacation resort, with a friend, James B. McDougal, and his wife, Susan, in 1978.

McDougal owned Madison Guaranty Savings & Loan, an Arkansas thrift that was seized by federal regulators in 1989 at a cost to taxpayers of at least \$47.6 million. The real estate deal went sour as well and the Clintons, by their account, lost \$68,900.

Critics have questioned whether the Clintons may have benefited improperly from the relationship or whether the savings and loan was permitted to operate longer than it should have because of friendship between the Clintons and McDougal.

Justice Department officials insisted Thursday that Reno had no advance knowledge that the White House would ask her to reverse her oft-stated position and name a special counsel, saying that she learned of the decision officially only 10 minutes before it was announced on television. Thus, she had no list of prospects at hand, one official said.

In Moscow, White House Press Secretary Dee Dee Myers said early Thursday that Clinton made the decision to seek a special counsel after conferring Tuesday night with his wife, Hillary Rodham Clinton, and with senior aides in Washington.

"The president slept on it overnight and decided to go forward," Myers said.

(Optional add end)

Lawyers interested in the job, including a former assistant attorney general during the Ford administration, sent resumes to Justice Department acquaintances with the expectation that they would be sent on to the attorney general. Those who could, cited their Republican credentials on the theory that Reno is unlikely to choose a Democrat.

One prominent Republican proposed the name of a well-known Florida attorney to a department official. But the name was not passed on because the individual was a longtime associate and a onetime employer of Reno.

While the search progressed, congressional Republicans Thursday continued

their calls for legislative investigations into the Whitewater affair. But Democrats remained cautiously optimistic that they could maintain enough party unity to quash those demands.

\*\*\*\* filed by:LAWP(-- ) on 01/14/94 at 02:26EST \*\*\*\*  
\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:07EST \*\*\*\*

bc whitewater-ndy - a1842

(ndy) (ATTN: National editors) (Includes optional trims)

Whitewater Flood Should Subside, but Damage Has Been Done (Washn)

By Susan Page= (c) 1994, Newsday=

WASHINGTON The daily flood of disclosure and attack from the Whitewater case is expected to subside now with the administration's decision to appoint a special counsel, White House aides and others said Thursday, but it has left behind stains on the ceiling and loose floorboards underfoot.

The controversy over the Clintons' investment in an Arkansas real estate deal has damaged President Clinton's reputation for honesty among the public, angered him again about news coverage of his administration, distracted his top aides from other issues and done nothing to help his relations with Congress, where top Democrats were noticeably silent while he was under fire.

Some analysts say the furor and the impression that the White House was stonewalling had begun to threaten Clinton's ability to focus on other issues, including the soon-to-start debate in Congress over health care. That was the factor that finally persuaded a reluctant president and first lady to accede to growing demands for an independent investigation, aides said.

"We still don't think that the evidence is there to require a special counsel, (but) it appears that this could end up interfering with the president's agenda," senior adviser George Stephanopoulos told reporters Wednesday night. "We don't want to let that happen, so we'll go to the special counsel."

"If he had not moved when he had to accept an independent counsel, I think this could have become a politically serious situation," Democratic pollster Geoffrey Garin said. "But I think he did it before it was too late."

Whitewater already had distracted aides who are preparing the Jan. 25 State of the Union address and marred coverage of the president's European trip. Even Harold Ickes, newly on board as deputy chief of staff with the assignment of shepherding health care through Congress, found himself heading a damage-control team that spent hours strategizing about Whitewater.

"We only have a finite number of days in office," said political strategist Paul Begala, a member of the damage-control team, said. "Every day we talk about something besides fixing the economy, reforming health care, fighting crime, reforming welfare, is a day we'll never have back."

Of course, the decision to appoint a special counsel may end up giving the Clintons a respite rather than a reprieve, depending on what the inquiry covers and what it finds.

The letter from White House Counsel Bernard Nussbaum to Attorney General Janet Reno asked for "an appropriate independent investigation of the Whitewater matter." But Reno, at a news conference afterward, said she would appoint a counsel to "pursue all matters concerning the Madison Bank investigation," a failed Arkansas savings and loan with links to Whitewater Development Corp., the real estate partnership.

And the history of independent counsels indicates that the inquiry is more likely to broaden further than to narrow. It could look into the suicide in July of deputy White House counsel Vincent Foster, who was handling Whitewater matters for the Clintons; allegations by a former Arkansas judge who is scheduled to go on trial for fraud in March; and the law practice of Hillary Rodham Clinton and the Rose Law Firm.

For the moment, at least, the White House has managed to squelch one line of media questions on the appearance of stonewalling and can decline to discuss allegations by noting that a special counsel is at work. They also have made it more difficult for Republicans to press the issue without seeming partisan; Democratic congressional leaders, meanwhile, are blocking their demands for Capitol Hill hearings.

(Optional add end)

Working on other issues may have been made a bit harder, however. While Clinton's job-approval ratings haven't been affected, a CNN-USA Today Gallup Poll conducted last week showed a decline in the number of Americans who said he was honest and trustworthy. In November, the poll found Americans by 56 percent to 39 percent calling Clinton honest; now they are almost evenly split on the question, at 49 percent to 46 percent.

Some analysts said questions about the integrity of Clinton and Hillary Clinton could especially affect their ability to push for the health care package that is expected to be the centerpiece of the White House legislative agenda this year.

"You can only guess that there's a kind of erosion of moral authority that makes everything a little more difficult," said Suzanne Garment, a fellow at the American Enterprise Institute and author of "Scandal: The Culture of Mistrust in American Politics." "The health-care plan is very technical, but it's also being sold on moral grounds, that we as citizens have a moral right to health care and there are providers insurance companies and doctors and drug companies who are behaving immorally in taking more than their fair share of this money. ...

"It's harder to make an argument like that if you're under a cloud and suspected of being a profiteer yourself," she said.

Distributed by the Los Angeles Times-Washington Post News Service=

\*\*\*\* filed by:LAWP(--) on 01/14/94 at 02:30EST \*\*\*\*  
\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:06EST \*\*\*\*



bc whitewater-names - a1824

(ndy) (ATTN: National editors)

Reno Sounding Out Candidates for Special Counsel (Washn)

By Martin Kasindorf= (c) 1994, Newsday=

WASHINGTON Aides to Attorney General Janet Reno Thursday began sounding out potential candidates for special counsel in the investigation of President Clinton's involvement with an Arkansas real estate company and a failed savings and loan.

Justice Department spokesman Carl Stern said ``a handful'' of individuals were to be questioned on their availability for the politically sensitive job.

In searching for the ``ruggedly independent'' counsel she has said she will insist upon, Reno was speedily acceding to a White House request Wednesday to appoint someone to take over the investigation of the Whitewater Development Co. and Madison Guaranty Savings and Loan from career Justice Department prosecutors.

Asked about reports that Reno would name her choice in the middle of next week, Stern said, ``That would be consistent with her stated desire to get it done as rapidly as possible.'' She would make the appointment sooner if she could, Stern said, but ``if it's a practicing lawyer, we would want to look at past and present clients for potential conflicts of interest or ethical problems.''

The scope of the special counsel's mandate has not been decided and will be discussed first with the appointee, Stern said. Presumably, it would include investigating whether the 1984 Clinton gubernatorial campaign or the Whitewater vacation development, in which the Clintons were partners with banker James McDougal, improperly received Madison Guaranty depositors' funds. It could also extend to possible connections with the July 20 suicide of White House deputy counsel Vincent Foster, who handled Whitewater matters for the Clintons as their personal lawyer.

Stern would not list those under consideration for the counsel's job. Among names publicly speculated about have been those of former Attorneys General Griffin Bell and Benjamin Civiletti, three former United States attorneys, former Supreme Court Associate Justice Byron White and Washington lawyer Robert S. Bennett.

Distributed by the Los Angeles Times-Washington Post News Service=

\*\*\*\* filed by:LAWP(-- ) on 01/14/94 at 02:27EST \*\*\*\*

\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:06EST \*\*\*\*



BC-PROBE national editors:GL

Clinton request for special counsel may lessen chance for congressional probe

By Michael Kranish

Boston Globe

WASHINGTON As Attorney General Janet Reno intensified her search Wednesday for a special counsel in the Whitewater development case, there were signs that President Clinton's reluctant decision to authorize an independent probe would preclude the possibility of a congressional one.

Clinton continued to be dogged by questions about the controversy as he attended a summit in Moscow with Russian President Boris Yeltsin. In a television interview aired Wednesday night, Clinton angrily unclipped his microphone when he was asked about Whitewater, telling an NBC-TV reporter, "You had your two questions. I'm sorry you're not interested in the truth."

The Whitewater investigation focuses on the investment by the president and his wife, Hillary Rodham Clinton, in an Arkansas real estate deal in which they say they lost money. Questions have been raised about whether Hillary Clinton had a conflict of interest in representing a savings and loan controlled by a Whitewater partner, and whether then-Gov. Clinton received favors from the partner.

At the White House, officials said they were confident that President Clinton's decision to ask for a special counsel would cool the immediate controversy. Deputy press secretary Ginny Terzano said the inundation of telephone calls about the matter had subsided. But a lawyer familiar with the process said the probe could last at least six months, and possibly much longer, meaning the story is likely to continue to dog the president.

At the very least, the president's decision appeared to lessen dramatically the possibility that Republicans would succeed in their effort to create a special committee to investigate the matter. Senate Minority Leader Robert Dole, R-Kan., called for such a panel Wednesday after being rebuffed in his efforts to persuade the Banking Committee to hold a hearing.

But with the Senate controlled by Democrats by a 54-46 margin, and with most Democrats apparently satisfied by the president's agreement to appoint a special counsel, it appeared Dole's effort would not succeed.

"Who knows, there might be some Democrats who would go along with it," said Dole's spokeswoman, Kristin Hyde. But she said that so far, none had done so.

Dole Wednesday released a list of proposed candidates for the position of special counsel, including former Attorneys General Griffin Bell and Benjamin Civiletti; former counsel to President Reagan A.B. Culvahouse; former U.S. Attorneys Michael Baylson, Anton Valukas and Dan Webb; and Washington lawyer Robert S. Bennett.

Speculation also included New York City attorney Robert Fisk, former Supreme Court Justice Byron White and former American Bar Association president Sandy D'Alemberte. A decision is likely next week, officials said.

Rep. Jim Leach, the Iowa Republican who has led the call for an investigation of the Whitewater affair, said Wednesday that he would have preferred that a congressional hearing be held.

"The awkward aspect of a special counsel from a historical perspective is that it probes possible criminal misdoings, and my sense here is what we have is some conflict of interest and some remedies that might be applied in kind of a civil dimension," Leach said on CBS-TV.

Some administration officials, meanwhile, expressed concern that President Clinton had been too vague in his letter to Reno seeking a special counsel. The person appointed to that post might interpret that mandate as being so broad that he or she could take months to examine anything remotely related to Whitewater, the officials said. Some special counsels have written scathing reports even if no indictments are forthcoming.

(Staff writer John W. Mashek contributed to this report.)

BC WHITEWATER national editors:WA

First lady's involvement in Whitewater poses tricky political dilemmas  
(HAS TRIMS)

By Angie Cannon

Knight-Ridder Newspapers

WASHINGTON President Clinton has a lot at stake in the Whitewater controversy, but another high-profile Washington figure Hillary Rodham Clinton also has much to lose.

At almost every turn, the first lady is centrally involved in the ruckus and her entanglement poses tricky political dilemmas for both Democrats and Republicans.

Republicans have tiptoed around criticizing the popular Hillary Clinton, who has redefined the role of first ladies and who serves as a model for millions of women.

"Whether Mrs. Clinton did or did not do anything wrong ... people would be nuts to focus on Mrs. Clinton's role. She is not the president," said GOP consultant Bill McInturff.

On the other hand, Democrats are worried that if Hillary Clinton is embarrassed or distracted by the Whitewater mess, it could hurt the health care reform effort she has championed.

"She is in the middle of the problem, and she is in the middle of the policy," said GOP strategist Eddie Mahe. "She cannot separate herself. She wants to make a statement on health care, and the first question someone will ask is: 'Did you do this or what about that?'"

By some accounts, Hillary Clinton's involvement in the controversy has caused difficulties for those attempting to manage the crisis for the president.

She reportedly resisted an independent investigation of the Clintons' private business dealings, while some senior aides argued that it was a political necessity. That dispute may have delayed the decision announced Wednesday to seek a special counsel. The delay created the impression that the administration was in disarray and maybe even stonewalling.

(EDITORS: NEXT 2 GRAFS OPTIONAL)

Clinton aide George Stephanopoulos insisted this week there was "general reluctance throughout the White House" to seek the special counsel because it "sets a bad precedent" and "has the potential to interfere with the president's agenda."

The Clintons have denied knowledge of any wrongdoing, with Hillary Clinton saying last month she was "bewildered" that Whitewater "remains a topic of inquiry."

(END OPTIONAL TRIM)

At the heart of the problem for the Clintons is a real estate partnership with James and Susan McDougal in Whitewater Development Corp. James McDougal also owned Madison Guaranty Savings and Loan, which failed in 1989.

A Justice Department investigation has been probing whether Madison Guaranty improperly diverted money into Whitewater and into Bill Clinton's 1984 gubernatorial re-election campaign.

The Federal Deposit Insurance Corp. also is investigating whether Hillary Clinton's former Little Rock law firm misled the agency about the firm's dealings with Madison Guaranty.

Among the questions that could be raised about Hillary Clinton's role in Whitewater-Madison affair:

Did it create the appearance of a conflict for Hillary Clinton to legally represent a savings and loan before state regulators when her husband was governor?

In 1985, then-Gov. Clinton stopped by Madison while jogging through Little Rock and complained to McDougal about family finances, the Washington Post has reported. The newspaper quoted McDougal as saying that he promptly awarded a \$2,000-a-month retainer to the Rose law firm, where Hillary Clinton was a

partner.

A few months later, Hillary Clinton represented the thrift before state regulators, presenting a plan for selling preferred stock to raise capital. State officials approved the plan but it was never carried out.

Was it a conflict for Hillary Clinton's law firm to represent federal regulators trying to recover money lost in the thrift's collapse after the firm previously had represented Madison Guaranty?

In 1989, the federal government shut down Madison Guaranty, and the FDIC paid the Rose law firm \$400,000 to sue the auditors of Madison Guaranty, which earlier had been represented by Hillary Clinton and another lawyer.

"There are different things that could pop up and create some real issues," said Lawrence Dubin, a law professor at the University of Detroit-Mercy specializing in legal ethics. "A lawyer is supposed to represent clients without conflicting interests unless there is appropriate consent and disclosure."

Dubin said the first scenario representing a client before state regulators when a relative is governor is more a political problem than an ethical one.

The other issue representing both sides of the street, first Madison, then government regulators could pose ethical difficulties.

"When Hillary Clinton was representing the thrift, she would have been privy to information that a lawyer is obliged to keep confidential and not use in any way adversely to that client's interests," Dubin said.

If a second client, such as the FDIC, uses some of that confidential information to the detriment of the first client, then it could be an "ethical violation," he said.

At the same time, if the FDIC wasn't told of the law firm's prior representation of Madison Guaranty and the firm held back to protect the thrift, that creates a conflict of interest, Dubin said.

(EDITORS: STORY CAN TRIM HERE)

Whatever the legal or ethical judgments, Hillary Clinton may end up holding the hot potato.

Democratic strategist Bob Beckel said: "This is the first time you have a first lady being dragged into something like this. You will have some Democrats who will want to put all this on her. After all, he'll be the one on the ticket in '96."

\*\*\*\* filed by:KR-F(--) on 01/13/94 at 19:35EST \*\*\*\*

\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:08EST \*\*\*\*



bc-nj-bradley

BRADLEY SAYS CLINTON RIGHT

IN AGREEING TO SPECIAL COUNSEL

By DAVID BAUMAN=

Gannett News Service=

WASHINGTON Sen. Bill Bradley, D-N.J., said Thursday the White House "took the right step" in calling for the appointment of a special counsel to look into President Clinton's financial dealings with the Whitewater Development Corp.

But Bradley rejected the call by Senate Minority Leader Bob Dole, R-Kan., for a Senate investigation.

"We don't need a special select committee," Bradley said. "A special prosecutor is the appropriate step to take."

Bradley said despite denials by Clinton and first lady Hillary Rodham Clinton of any financial wrongdoing in the Whitewater case, the mounting political pressure over the issue forced the White House to request the appointment.

"The Whitewater issue was building, and anytime an issue builds like that, the easiest way to deal with it is get the facts out," Bradley said. "The president has done the right thing. It's the best way for him to get beyond all this."

Bradley was among a group of 10 Democratic senators who called last week for a special council to investigate whether Clinton improperly benefited from his business partnership with James McDougal, operator of both Whitewater and the now-defunct Madison Guaranty Savings and Loan.

Bradley dismissed suggestions that pressure by Democratic senators for the special prosecutor had embarrassed the president.

"There are questions about Whitewater that the facts can answer," Bradley argued. "Another issue at stake here is the trust between the people and government, which is enormously important."

Speaking to reporters in his Capitol Hill office, Bradley outlined his legislative priorities for 1994, which include health care reform, cutting federal spending, and helping advance a national policy debate on violence.

Bradley called "enormously important" President Clinton's proposed sweeping changes to the country's health-care system to guarantee coverage to every American.

He predicted Congress would pass some form of health-care reform before the November elections, but acknowledged that most lawmakers, himself included, consider the president's proposal a working draft.

"At the moment I don't support any specific approach," said Bradley. He added that ultimately "Congress will adopt a hybrid" between the Clinton plan that seeks to keep health costs down through a series of cost controls and alternative proposals such as the single-payer, Canadian style health-care system.

Major issues in the health delivery system that Bradley said must be resolved are the administration of state-run health insurance alliances where most consumers would buy coverage, mandates upon businesses, and a patient's right to choose their own doctor.

"This will be an enormously complicated debate," he predicted.

Another top-shelf issue for the senator is cutting federal spending.

Bradley, who voted to cut spending more often than any other Democratic senator last year, said he intends to introduce "a budget reform bill that will make it easier for us to cut spending."

He noted that although spending cuts are approved, the money saved, rather than being removed from the budget, is returned to the appropriations committees to be earmarked for some other project.

On the issue of violence, Bradley said that he wanted to "help frame the issue more broadly in terms of what it means for society and what we all will have to do to solve this problem."

The senator said he would be giving "major speeches" on violence before

this summer, and planned to hold congressional hearings that would explore ways to deal with the problem.

\*\*\*\* filed by:GN-F(-- ) on 01/13/94 at 17:53EST \*\*\*\*  
\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:08EST \*\*\*\*



bc-voice

WHITEWATER: A FISHING  
EXPEDITION IN THE MAKING

Eds: Another Voice column; for spot or weekend use

By DeWAYNE WICKHAM=  
Gannett News Service=

WASHINGTON There's something madly insane about this.

Pressured by a pack of political wolves and journalists who themselves would never peacefully submit to such an outrage President Clinton has agreed to the naming of a special counsel to investigate whether there is any reason he should be investigated at all.

This great fishing expedition has come about because 15 years ago the president and his wife became investors in a land deal with James McDougal, a man who later bought a savings and loan, which over time loaned money to Clinton and his wife.

Eventually, the land deal went sour; the savings and loan bellied up and was taken over by federal regulators; and McDougal was tried and acquitted of bank fraud. End of story, right?

Wrong.

The Clintons' dealings with the Whitewater Development Corporation and McDougal's savings and loan were dredged up during the 1992 presidential campaign, but nothing came of it. No accusations of criminal wrongdoing. No investigation by the then Republican-led Justice Department. No indictments. Nothing.

End of story, right?

Wrong.

When Vincent Foster Jr., the deputy White House counsel, committed suicide last July, FBI investigators discovered months later that a file he'd maintained on the Clintons' involvement in the Whitewater project had been removed from his office. News of this action loosed howls of protests from Republicans on Capitol Hill who demanded that a special counsel be named to figure out why this happened and to investigate the Clintons' involvement with McDougal and Whitewater.

Why? What evidence does anyone have that a crime has been committed by the president or his wife? So far, none. But then that's why the president's political enemies want a special counsel, to troll through his private papers in search of something anything even mildly incriminating that would justify this witch hunt.

Recently, several Democrats joined the call for the appointment of a special counsel. By doing so, it was said, they de-politicized this issue.

So, end of story, right?

Wrong.

Moments after it was announced that Clinton capitulated under the weight of this pressure from members of his own party and asked the Attorney General to name a special counsel, Bob Dole, the Senate Republican leader, went before television cameras to complain that this was not enough. Now, he wants Congress to get into the act and launch its own investigation to determine if the president did anything that could possibly justify any of this.

Politically, I don't like Bill Clinton. In his first year of office, the president has shown little loyalty to the causes he's embraced or the people he befriends.

But personally, I chafe at what he is being made to suffer not because there is a shred of evidence of wrongdoing by him, but mostly because he looms as Washington's biggest target of political opportunity.

Republicans pressed for a special counsel in retaliation for what their party and presidents were put through during the Iran-contra investigations which, should you need reminding, resulted from specific allegations of criminal misdeeds by people in the White House.

And the faint-of-heart Democrats who joined Republicans in calling for the appointment of a special counsel surrendered to the political mob, not good

sense.

In the past, the job of the special counsel has been to investigate charges of wrongdoing. Now, in the case of Bill Clinton, it is actually to go looking for them.

Unfair? You bet it is.

Such an investigation has to begin with the presumption of guilt because no charges of wrongdoing have been levied against the president. Otherwise, why would this investigation be necessary?

To clear his name? Of what?

Dole and others say the public has a right to know what's in the personal files the Clintons kept of their involvement in the Whitewater case.

They're wrong.

The voyeur in us begs for a peek at these records, but the rational thinker in us must demand an end to this witch hunt.

\*\*\*\* filed by:GN-F(-- ) on 01/13/94 at 17:02EST \*\*\*\*  
\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:11EST \*\*\*\*

bc-firstlady  
FIRST LADY HAS WORK CUT  
OUT IN WHITEWATER SNAFU  
By ANDREA STONE=  
USA TODAY=

Mary Todd Lincoln's loyalty was questioned because of her Confederate kinfolk.

Nancy Reagan was denounced for her expensive taste in china and gowns. But those were minor embarrassments compared to the potential damage Hillary Rodham Clinton's role in Whitewater poses to her husband's presidency and to his goal of reforming the nation's health-care system.

The Clintons say they've done nothing wrong. Still, this week President Clinton reluctantly bowed to pressure and asked for a special counsel to investigate.

Regardless of the outcome, Whitewater raises unprecedented questions about a first lady who, unlike her more traditional predecessors, has been both breadwinner and policy advisor to her husband:

Critics say Hillary Clinton, shaper and shepherd of the White House's health care reform package, should be held to the same standards as other senior policy advisors a potentially impossible standard to apply to the president's wife.

Others argue that as the nation's first lady, Hillary Clinton is entitled to the same deference afforded to first ladies of years past.

"We're ... into uncharted territory," says University of Texas historian Lewis Gould. "There is no precedent."

Republicans already know that. Early criticism of Hillary Clinton viewed as insensitive, personal attacks on the president's wife backfired. This time the GOP, though hungry for details, is treading carefully around her.

Although the problems confronting the Clintons are new, there are plenty of examples of women whose political careers were threatened by revelations about their husbands.

Geraldine Ferraro's historic 1984 race for vice president was sullied by reports linking husband John Zaccaro to organized crime. More recently, Sen. Diane Feinstein, D-Calif., was dogged by questions on her husband's finances.

It's "a whole new world," says University of Southern California political scientist Larry Berg. "The conventional way of looking at a spouse is no longer valid."

Says Harriett Woods, president of the National Women's Political Caucus: Whitewater makes "clear that she is her own person and that she as a professional must be responsible for her own actions.

"I don't think at this point she becomes the president's wife who can't be questioned."

Hillary Clinton isn't the first to try to reshape the role of first lady by custom the nation's model wife.

Eleanor Roosevelt wrote a newspaper column. Betty Ford lobbied for the Equal Rights Amendment. Rosalynn Carter attended cabinet meetings. Yet, each maintained distinct identities from their husbands.

If Roosevelt caught flak for her strong views, says Stephen Hess of the Brookings Institute, it was understood "they were uniquely her opinions."

That fine line is blurred at best with the Clintons. He ran on a "two for one" platform, promising to use her expertise as a top lawyer to mold policy. Hillary's county-by-county sales job on education reform in Arkansas was pointed to as a model during the campaign.

"The difference here is the degree to which (she) is really a co-political partner," says Hess. "Right from the very beginning ... there's been no doubt that she is an official person in her own right."

Though she put aside her career when she moved to Washington, Hillary Clinton worked full-time as a private lawyer in Little Rock. Her six-figure income was the main family support while Clinton earned \$35,000-a-year as governor.

Her work then as a lawyer for the failed Madison S&L and possible conflicts of interest as governor's wife and lobbyist now are key questions in the investigation.

New York Times columnist William Safire Thursday accused Hillary Clinton of wanting to hide Whitewater documents ``because they may show her to be not merely an inept wheeler dealer, but an occasionally less than competent attorney.''

In addition, Whitewater may prove hurtful to the Clintons health plan.

Says former congressman and GOP commentator Vin Weber: ``If she's weakened by Whitewater, that shifts substantially the center of gravity in that debate and makes it much less likely the Clinton administration will hold on to their proposals.''

Until now, ``Hillary Clinton has gotten almost a free ride,''' says Republican consultant David Keene, noting the fawning reception she received on Capitol Hill. ``If she goes up there again, the bloom is off the rose.''

At best, critics say media questions about Whitewater will divert her attention and energies away from health reform. At worst, she could be found guilty of ethics or criminal violations.

Then, ``She clearly can't continue to serve in a policy-forming role,''' says Weber. ``On the other hand, do we insist the president remove her? And what does that do to the president's state of mind? I don't think there is a good answer.''

\*\*\*\* filed by:GN-F(--) on 01/13/94 at 20:07EST \*\*\*\*  
\*\*\*\* printed by:WHPR(PMEY) on 01/14/94 at 09:14EST \*\*\*\*



## The Whitewater Case: Finding the Connections

On Wednesday, President Clinton asked Attorney General Janet Reno to appoint a special counsel to review his role as an investor in Whitewater Development Company, an Arkansas real estate development company, and Whitewater's links to a failed savings and loan, Madison Guaranty.

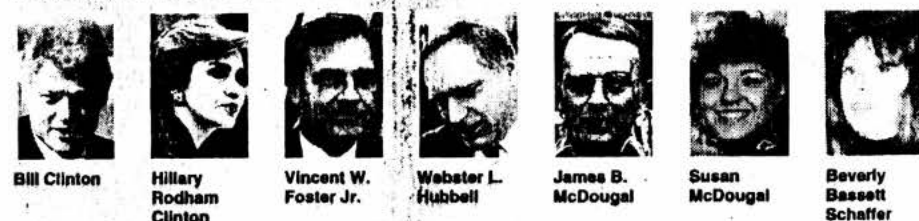
Mr. Clinton has maintained that he and his wife did nothing except lose almost \$70,000 in a real estate venture; nothing that is known publicly about the investment indicates that the Clintons or anyone else in the Administration did anything illegal.

These are the people and institutions who figure prominently in the inquiry and their connections to one another.

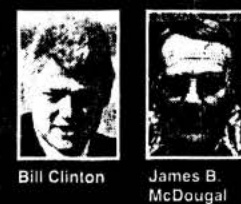
Direct and indirect connections are shown. For example, Mr. McDougal owned both Madison institutions while Mrs. Clinton did legal work for Madison Guaranty.



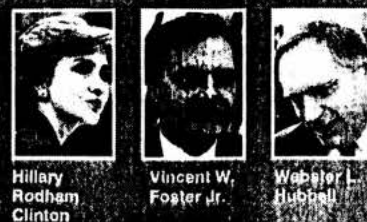
### MADISON BANK AND TRUST, MADISON GUARANTY



### CLINTON'S CAMPAIGNS FOR GOVERNOR



### ROSE LAW FIRM



### ARKANSAS STATE GOVERNMENT



## The Players

### BILL CLINTON

Governor of Arkansas from 1979 to 1981 and from 1983 to 1992, when he resigned after being elected President.

Major shareholder in Whitewater Development Company from 1979 to 1992, an investment that represented the largest of his life. Maintained close personal, political and business relationships with James B. McDougal, the owner of the two banks, for about 20 years. After Mr. McDougal suffered financial setbacks in 1986, the two men drifted apart; their last known conversation took place in 1990.

Appointed the state regulators who oversaw Mr. McDougal's savings and loan.

### HILLARY RODHAM CLINTON

A partner in the Rose law firm, which she joined in 1977 and left in 1992.

Major shareholder in Whitewater Development Company from 1979 to 1992.

Borrowed \$30,000 from Madison Bank and Trust as part of Whitewater's land dealings. Represented Madison Guaranty when it sought approval from state regulators for a plan to raise capital by issuing preferred stock.

### VINCENT W. FOSTER JR.

Childhood friend of Mr. Clinton. Appointed deputy White House Counsel by Mr. Clinton. Was a law partner of Mrs. Clinton at the Rose law firm. He committed suicide in July.

In 1992, Mr. Foster was the Clintons' lawyer when they sold their share of Whitewater back to Mr. McDougal. A Whitewater file was taken from his office after his death, a fact that was not publicly disclosed until December.

Before joining the Administration, he represented Madison Bank and Trust. Federal regulators also frequently hired Mr. Foster and the Rose law firm to represent the Government in cleaning up failed Arkansas savings and loan

associations in the 1980's.

A Justice Department inquiry is reviewing the circumstances surrounding Mr. Foster's death, including the removal of the Whitewater file.

### DAVID HALE

A former municipal judge and owner of Capital-Management Services Inc., which received Federal assistance for lending to disadvantaged entrepreneurs. Records show that in 1986, he made several loans to borrowers with ties to the Democratic Party, and Mr. Hale is under indictment on charges involving transactions that he says grew out of the earlier loans.

His company lent \$300,000 to Susan McDougal in 1986. Some of this money was eventually used in a land purchase by Whitewater. Mr. Hale says he only made the loan because Mr. Clinton and Mr. McDougal asked him to do so; Mr. Clinton and Mr. McDougal have denied that.

### WEBSTER L. HUBBELL

A law partner of Mrs. Clinton and Mr. Foster, and their partner in a business venture, now defunct. Mr. Clinton named him Associate Attorney General.

Mr. Hubbell's father-in-law, Seth Ward, borrowed hundreds of thousands of dollars from Madison Guaranty, and, according to court records, failed to repay more than \$500,000.

### JAMES B. MCDUGAL

Arkansas businessman; a friend, political associate and business partner of the Clintons for many years.

President of Whitewater Development Company. Whitewater maintained a checking account at Madison Guaranty, Mr. McDougal's savings and loan, and was permitted overdrafts.

Owned Madison Bank and Trust and Madison Guaranty, a savings and loan. Both were criticized by regulators, and in 1986 Mr. McDougal was removed from control of Madison Guaranty by Federal regulators.

Was indicted for bank fraud in 1989 and acquitted in 1990.

### SUSAN MCDUGAL

Former wife of James McDougal.

Officer of Whitewater Development Company. In 1986, received a loan from a company backed by the Small Business Administration, of money meant to help struggling entrepreneurs. Some of this money was used by Whitewater in its land deals.

Ran marketing company in 1980's that earned all of its income from her husband's savings and loan.

### BEVERLY BASSETT SCHAFER

A lawyer; appointed Arkansas' chief savings and loan and securities regulator by Mr. Clinton.

Briefly represented Madison Guaranty before becoming a state regulator.

Although as a lawyer she had written a memorandum saying Madison Guaranty had engaged in "willful" violation of Federal laws, she took no action against the savings and loan for 18 months. She concurred when Federal regulators removed Mr. McDougal from control in 1986. Ethics experts say state ethics guidelines suggest she should have recused herself from any decisions concerning Madison, but Mrs. Schaffer denies giving the organization preferential treatment.

## The Institutions

### ARKANSAS STATE GOVERNMENT

Several people linked to Whitewater or the McDougals were elected or appointed officials in Arkansas.

### CLINTON CAMPAIGNS FOR GOVERNOR

In 1985, Mr. McDougal raised money to help retire a Clinton campaign debt. Investigators now suspect that money was improperly diverted from Madison Guaranty.

### MADISON GUARANTY, MADISON BANK AND TRUST

A savings and loan and a bank, both owned by Mr. McDougal.

Madison Guaranty's assets rose from \$3 million in 1982, when Mr. McDougal bought it, to more than \$120 million in 1985. It invested in real estate developments in Arkansas and Canada that ultimately failed, and courted politicians and held political fundraising events.

Federal examiners criticized the savings and loan in 1984 for "unsafe and unsound lending practices" and numerous violations; the next examination, in 1986, found so many possible violations that Mr. McDougal was removed from control.

The Justice Department is investigating whether Madison Guaranty improperly funneled money into Whitewater or into Mr. Clinton's 1984 campaign for governor.

### ROSE LAW FIRM

A prestigious Arkansas law firm at which Mrs. Clinton, Mr. Foster and Mr. Hubbell were partners. It represented Madison Guaranty, as well as Federal regulators trying to clean up failed savings and loans that included Madison Guaranty.

Federal bank regulators are reviewing whether the firm misled them about its past dealings with Madison Guaranty.

### WHITESTER DEVELOPMENT COMPANY

A real estate development company incorporated by the Clintons and the McDougals in 1979.

The four partners borrowed more than \$200,000 to buy 230 acres in the Ozarks, hoping to re-sell the land for retirement homes, but the venture was not successful.

A 1992 report supervised by a Denver lawyer says the Clintons lost \$68,800 on the deal, mostly resulting from loan payments they made, and the McDougals lost \$92,000. Mr. McDougal claims this report vastly overstates the Clintons' losses.

STEPHEN ENGELBERG AND JEFF GERTH

# All Admit, Whitewater Overtook Handlers

By GWEN IFILL

Special to The New York Times

WASHINGTON, Jan. 15 — Even by its own accounting, the White House handling of questions about President Clinton's Arkansas real estate dealings has been a near fiasco.

For now, Clinton aides say they have stemmed the flood of publicity about the role of Bill and Hillary Rodham Clinton in the Whitewater Development Company, a real estate investment company they formed with the owner of a failed Arkansas savings and loan. But first the aides had to persuade the Clintons, and their legal advisers — as well as themselves — that the only way out was to go along with the rising cry for an independent investigation into the matter.

That took some time, and before the drama played out, it featured bouts of Presidential temper, battles with Congress and, finally, abrupt capitulation.

All along, the issue was complicated by the involvement of Mrs. Clinton, who as a Little Rock lawyer had represented Madison Guaranty Savings and Loan, the failed institution owned by James B. McDougal, the Clinton's partner in Whitewater.

## 'Political Reality'

As a matter of principle and legality, the Clintons had insisted that their private financial dealings before Mr. Clinton assumed the Presidency were not the public's business.

But some of the President's political advisers watched with dread this week as news reports about Whitewater followed him abroad, threatening to drown out the themes of international stability and strength they had worked so carefully to project during his 10-day trip to Europe and Russia.

As one White House official said: "At some point, the principle of the issue got caught up in the political reality. So we called the President and talked about how he saw it."

By announcing the decision to have the Attorney General appoint a special counsel, aides believe the White House — at least for the moment — short-circuited the debate and perhaps cut off the controversy before it began to drag Mr. Clinton down in opinion polls.

"Every innocent little slip or lack of complete information was pounced on," moaned one White House official. "And when you get to that point, you have to face reality, look for a circuit breaker."

## Hillary Clinton's Role

Mrs. Clinton, who left Washington to join her husband in Moscow on Thursday — the day after the White House announced the decision to seek a special counsel — represented her family's interest in determining what the circuit breaker would be, aides said.

But when Mrs. Clinton is involved in any issue, most White House officials stand clear. While they acknowledged that her chief of staff, Margaret Williams, sat in on damage-control meetings on the Whitewater affair, Mr. Clinton's aides were loath to discuss his wife's role in the discussions.

Aides who traveled with the President on Air Force One this week said Mr. Clinton discussed the Whitewater situation with his wife by telephone, but they refused to provide any details.

While the two were ultimately convinced that they had to appoint a special counsel, everyone else at the White House thought it was bad idea. The President despised the idea of appointing someone to investigate behavior that not even his worst enemies would claim as criminal, aides said. Mrs. Clinton resisted the idea for similar reasons, and Bernard W. Nussbaum, the White House counsel, supported their contention.

But aides who had studied President Jimmy Carter's handling of a Federal investigation into his family's peanut business concluded that a special counsel was the best tactic for putting the affair to rest. The Carter inquiry, which took seven months, found "no evidence whatsoever" that bank loans were diverted to Mr. Carter's 1976 Presidential campaign.

The stubborn and unpleasant Whitewater venture has plagued the Clintons for nearly two years. Questions about their investment in what was to have been a 200-acre retirement community in the Ozarks first arose during the 1992 Presidential campaign, dogged them for a short while and then faded. New questions arose late last year when it was disclosed, months after the fact, that White House officials had

removed Whitewater files from the offices of Vincent W. Foster Jr., the White House deputy counsel and former law partner of Mrs. Clinton, shortly after he killed himself in July.

White House officials began to realize they had lost their grip over the latest twists practically at the stroke of the New Year.

George Stephanopoulos, the President's senior adviser, returned to Washington fresh from a ski holiday and declared on television that all of the pertinent papers in the matter had been turned over to the Justice Department, which was investigating Madison Guaranty and its dealings with Whitewater.

But Mr. Stephanopoulos's remarks were premature at best and misleading at worst; no papers had been delivered. Dee Dee Myers, the White House press secretary, spent the bulk of her first news briefing of the New Year correcting Mr. Stephanopoulos's misimpression. Mark D. Gearan, the communications director, later devoted even more time to explaining why the White House had failed to note that the papers were being turned over to the Justice Department just in time to avoid a subpoena.

Still later, it emerged that the Clintons had taken steps to make sure that

the information would be subpoenaed, and thus shielded from the public and the news media.

## Fears of Paralysis

When Mr. Clinton's mother died unexpectedly just before his European trip, and the President traveled to Arkansas for the funeral, White House aides expected that the Whitewater drumbeat would stop. They were wrong.

Once the White House had begun to dissemble on the details of the Whitewater deal, Republicans immediately raised questions. White House efforts to label the attack as a partisan assault

were undercut when important Democrats, along with leading newspaper editorials, joined the call for an independent investigation.

For the White House, the major concern was that the issue would paralyze its staff first, then preoccupy members of Congress and move on to distract the President and the electorate from the important issues Mr. Clinton hoped to focus on, providing universal health care coverage and curbing crime.

"I mean, I guess the media's been obsessed with this," Mr. Clinton said last week in an interview on ABC News' "Nightline." "But it never crosses my mind."

It all boiled over in Europe, as was evidenced by Mr. Clinton himself, when he snatched off his microphone and stalked out of an interview with Jim Miklaszewski, an NBC reporter, who had asked him two Whitewater questions in a row.

Asked about the encounter the next day in another television interview, Mr. Clinton said he had been misled about the topic of the interview and said he was tired as well as preoccupied with the tasks at hand.

"There's no point in going into it now," he added. "I don't have to talk about it any more."

THE NEW YORK TIMES, SUNDAY, JANUARY 16, 1994

Time Magazine: Whitewater yields more problems for Clinton

NEW YORK (UPI) Despite President Clinton's claims, losses from a real estate deal involved in the Whitewater investigation may have been exaggerated, Time Magazine reported Sunday.

The magazine's issue to be distributed Monday reported that Arkansas records show there was a profit of \$47,000 made in the real estate deal Clinton says cost him nearly all of the \$69,000 he and Hillary Clinton invested.

Time says that because the sale was made from one partnership involving the Clintons to another partnership they formed, the profit may have been entirely on paper. The Sept. 30, 1979, sale, however, generated profits which the magazine said should have been subject to federal capital gains taxes and should have been reported on Clinton's tax returns.

No such profit is reported on returns filed from 1980 through 1987, the newsweekly says, although 1979 returns were not available.

Time claims other new developments suggest ethical problems in how Clinton conducted himself concerning his dual role as governor and investor in the real estate industry.

When Clinton's Whitewater Development Corp. partner needed the approval of a state board to overcome a rival's objections and open a Salinas County branch, Clinton filled a temporary vacancy on the board with his own appointment ``to specifically hear'' the case.

Clinton's appointee, and the board, voted for Clinton's partner. Time said some lawyers interviewed for the story said it was unethical for Clinton to put his appointment in for the decision affecting his business partner.

Attorney General Janet Reno said she will name a special prosecutor to investigate the Clintons' Arkansas real estate deals. Questions that have been raised include whether any money was channeled illegally to Clinton's presidential campaign.

Using values estimated by Arkansas stamp taxes on real estate deeds, Time reports odd escalations in value of property the Clintons bought and sold. Some property was sold by Clinton partnerships to other companies in which the Clintons also were partners.

Such maneuvers are not illegal, but Time questions what it called ``quick'' upswings in value between the transactions.

Time says a local bank president involved in the deals gave ``a not fully satisfying'' explanation, that the properties were more desirable than others in the area and included riverfront parcels.

Vice President Al Gore, on ABC's ``This Week with David Brinkley'' program, stoutly defended Clinton Sunday in the Whitewater matter, saying the president's reaction has been, ``A normal reflex of outrage when you've done absolutely nothing wrong and somebody kind of vaguely accuses you of doing something wrong.''

``I think that's kind of a normal human trait,''' Gore said. ``A special counsel is going to be appointed,''' Gore said. ``All of the information has been turned over, so let it run its course.''

\*\*\*\* filed by:UPI-(us) on 01/16/94 at 18:06EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:55EST \*\*\*\*



AM-Whitewater, 1st Ld-Writethru,530  
Need for Congressional Probe on Clinton Financial Dealings Disputed  
Eds: Inserts 1 graf after 7th graf pvs. ``McDougal's attorney'' etc. to  
UPDATE with McDougal subpoenaed; transitional change in 8th graf pvs.  
By LAURAN NEERGAARD= Associated Press Writer=

WASHINGTON (AP) A Republican congressman pressed again Sunday for congressional hearings into President Clinton's ties to a failed S&L, calling the Arkansas venture a small issue but one of public trust.

The administration, meanwhile, stressed that Clinton is cooperating fully with a probe, and a Senate Democrat accused the GOP of rehashing the issue for partisan gain even after Clinton agreed that a special counsel should investigate.

``All the information has been turned over, every scrap of it. A special counsel (is being) appointed. What do you want?'' Vice President Al Gore asked Sunday on ABC's ``This Week with David Brinkley.''

Attorney General Janet Reno is expected soon to announce the name of a counsel to investigate the ties between Clinton, first lady Hillary Rodham Clinton and James McDougal, owner of the Madison Guaranty Savings and Loan that failed in 1989 at a cost to taxpayers of \$47 million.

McDougal and the Clintons also co-owned the Whitewater Development Corp., an Arkansas real estate venture. Investigators are trying to determine whether Madison S&L funds were illegally diverted to Whitewater or to help Clinton repay a \$50,000 loan for his 1984 gubernatorial campaign.

Clinton denies any wrongdoing, saying he lost \$68,900 in the Whitewater venture.

McDougal's attorney, Sam Heuer, agreed Sunday. ``I would suspect if there were some secrets, we would have known them long before now,''' he said. ``Jim McDougal was a savings and loan executive, which is akin to being a communist in the McCarthy era.''

Heuer also said Sunday that McDougal has been subpoenaed to appear before a federal grand jury in Little Rock on Thursday.

Rep. Jim Leach, R-Iowa, the ranking Republican on the House Banking Committee, repeated his call for bipartisan congressional hearings, saying the special counsel would look into illegal activities while Congress needed to air an issue of ``public trust.''

``This isn't the largest issue. It's somewhere between much ado about nothing and something might be a little rotten in part of the Ozarks,''' he told CBS' ``Face the Nation. ``There are possible breaches of law, but more importantly there's a public ethic here that's at issue.''

Sen. Bob Dole, R-Kan., who also has pushed for hearings, on Sunday criticized the vice president for opposing them when, as a senator, Gore called on Congress to investigate controversies plaguing the Reagan and Bush administrations.

Gore responded that Dole last week said the appointment of a special counsel would satisfy him. ``Let's let the special counsel ... do his or her job,''' Gore said.

``What we are looking at here is not an issue of national security,''' agreed Sen. David Pryor, D-Ark. ``Sen. Dole and his Republican colleagues want to keep this issue alive until 1996 and beyond so it can be a campaign issue.''

Leach pledged to proceed on his own if the Democrats refuse to create a bipartisan committee to investigate Whitewater.

But he said he did not envision questioning Mrs. Clinton, who was Madison's attorney at the time. ``Nothing would be more inappropriate than a congressional effort to embarrass Mrs. Clinton,''' he said. ``We are looking at a prior elected official, a current elected official.''

\*\*\*\* filed by:APW-(AR) on 01/16/94 at 20:09EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:55EST \*\*\*\*

## More Whitewater questions surface

President Clinton and Hillary Rodham Clinton may face new questions about their role in the Whitewater land deal.

The Clintons bought the property at questionably high prices in a quick turnaround land sale, records show.

The significance of the transaction is unclear, but could be as simple as a bad investment or as complicated as a plan to run up the value of the land.

The Clintons and partners Jim and Susan McDougal bought the 230-acre property on Aug. 3, 1978, for \$883 an acre from a group of local investors called 101 River Development, according to Marion County, Ark., land records.

101 River Development had bought the land just one day earlier as part of a purchase of 3,600 acres for \$1.4 million from Arkla Land Co. 101 River Development — formed just two weeks earlier — immediately turned around and sold 2,700 of the acres for \$1.4 million to 15 investors. All 15 investors were local — except the Clinton-McDougal partnership, who had not yet created the Whitewater Development Co. Inc.



By Rick Wilking, Reuters  
**GERGEN: Files not for public**

In buying the undeveloped parcel, the Clintons and McDougals paid far more than any local investors. A similar property on the White River was sold to a local investor for \$308 an acre. The highest amount paid by local investors was about \$650 an acre — but that was for more valuable land located on a main highway.

Rep. Jim Leach, R-Iowa, dissatisfied with the White House's call for a special counsel to probe Clinton's ties to a failed Arkansas savings and loan and the Whitewater deal, said Sunday he still wants

congressional hearings. Leach, top Republican on the banking committee, said on CBS's *Face the Nation* Congress should explore whether Clinton violated the "public trust."

Investigators are trying to determine whether funds from McDougal's Madison Guaranty Savings & Loan were diverted to Whitewater or to help Clinton repay a \$50,000 loan for his 1984 gubernatorial campaign.

The White House on Friday turned over the last five boxes of Whitewater-related documents to the Justice Department but won't reconsider its decision not to make them public. "There are no current plans by the White House to release documents," said David Gergen, counselor to Clinton, on NBC's *Meet the Press*.

"All the information has been turned over, every scrap of it. A special counsel (is being) appointed. What do you want?" said Vice President Gore on ABC's *This Week* with David Brinkley.

Sam Heuer, McDougal's lawyer, said Sunday on the *Brinkley* show he doesn't believe there's anything "sinister" in the documents. "I would suspect if there were some secrets, we would have known them long before now," he said. — *Judy Keen and Dennis Cauchon in Yellville, Ark.*

**JOB HUNTING:** Outgoing Defense Secretary Les Aspin is trying for a seat on a Pentagon commission to study how to reduce duplication in the armed forces. *The New York Times* reported. Aspin has asked his designated successor, Bobby Inman, for the appointment. Aspin could earn up to \$108,000 on the commission, the *Times* said. His annual salary is \$148,400. His departure date remains open.

**CHINA WARNED:** House Majority Leader Richard Gephardt, D-Mo., warned China Saturday that its preferential trade status may be canceled as punishment for human rights abuses. Washington is threatening deep cuts in China's textile import quotas starting today.

**NIXON CENTER:** The Richard Nixon Library & Birthplace is adding a think tank that will focus on the United States' new role in world affairs, library board member Ken Khachigian said. The Center for Peace and Freedom in Yorba Linda, Calif., is to open Thursday, the 25th anniversary of Nixon's first presidential inauguration.

## Yeltsin's economic architect quits

By Jack Kelley  
USA TODAY

MOSCOW — President Boris Yeltsin's economic guru, Yegor Gaidar, resigned Sunday, saying he feared that his reforms are about to be gutted.

"I cannot serve in the government and at the same time be in opposition to it," said Gaidar, 37, who will retain his parliament seat as head of the pro-Yeltsin Russia Choice party.

Gaidar's departure is the

first fallout from Communist and nationalist gains in last month's parliament elections.

The resignation, demanded by parliament's hard-liners opposed to radical reform, could shake international confidence in Russia's economic future. It comes on the heels of Yeltsin's assurances to President Clinton last week that reforms would continue.

Both Yeltsin and prime minister Viktor Chernomyrdin have spoken of the need to

"correct" and soften Russia's reforms, avoiding the painful "shock therapy" associated with Gaidar's free-market reforms, launched in January 1992. The reforms led to 900% inflation last year.

More cabinet changes are expected this week. Finance minister Boris Fyodorov, another key reform figure, also is expected to resign.

Secretary of State Warren Christopher said he wasn't surprised by Gaidar's departure,

suggesting the elections had produced a "new sensitivity" toward reforms' effect on Russians. "I'm not sure it's a bad thing that there are one or two changes," Christopher said on NBC's *Meet the Press*.

Gaidar said he opposed Yeltsin's recent decisions to expand use of the Russian ruble into the former Soviet republic of Belarus, which would require a heavy Russian expenditure, and a new \$500 million parliament building.

MARY McGRORY

## Whitewater Runs Shallow

**O**F ALL the bad ideas that came out this past week, the worst was Sen. Bob Dole's request for a joint congressional inquiry on Whitewater.

The answer should be no.

First off, we can't afford it, either the time or the money. The joint congressional inquiry into the Iran-contra affair cost \$36 million and took seven years. And we still do not have the whole story. The stonewalling that began when the story of arms-for-hostages broke in a Beirut newspaper on Nov. 4, 1986—Ronald Reagan called it "without foundation"—continues to this day. Reagan's present lawyer, Theodore Olson, has been fighting to protect his client from the consequences of his foolish actions. The final report, which Special Prosecutor Lawrence E. Walsh submitted last Aug. 7, is still to be released. Perhaps we should wait for this last bit of business before we embark again.

Certainly we can understand how tempted Dole must be. It is a chance to discredit a popular Democratic president. Not only that, he could bring down Hillary Rodham Clinton from her high perch. Hillary Clinton drives Republicans crazy. She is no end an uppity feminist. On organizing a program like health care, she can lick any man in the house—or the Senate.

Dole, it should be understood, was adamantly opposed to renewing the special counsel law. Walsh was for

See McGrory, C5, Col. 4

Mary McGrory is a Washington Post columnist.

MARY McGRORY

## Whitewater Runs Shallow

McGRORY, From C1

years a favorite Republican whipping-boy, useful in direct-mail fundraising. But now special counsel is not enough for the Kansas Republican. He would repeat the appalling fiasco of the select committee that revealed so little about the Iran-contra scandal and so much about Congress's ability to be fat-headed, faint-hearted and redundant.

Everything the committee did was wrong, but most wrong was its pre-hearing decision to avoid impeachment of Ronald Reagan, no matter where the evidence led. Thus hobbled, and pressured by its self-imposed deadlines, it lurched into its fatal indulgence of Oliver North. Spooked by his uniform, the members allowed North to quaver and blink his way into celebrity. Sen. Orrin Hatch (R-Utah), an unfailing source of bad ideas, kept asking the president to pardon him. Rep. Jack Brooks (D-Tex.) suggested North be subpoenaed. If he resisted, a year in jail might focus his mind. Brooks was ignored. North testified on his own terms, making prosecution all but impossible. Because of congressional stupidity, he went on to become a millionaire and a candidate for the U.S. Senate.

Let's say no to Sen. Dole. Does Dole have dreams of impeaching Bill Clinton? Do any of the Whitewater accusations reach the level of "high crimes and misdemeanors" charged against Richard Nixon in office or the

constitutional mayhem of Ronald Reagan?

That is not to say that public hearings might not be diverting. Maybe not so riveting as the Bobbitt saga, but Lorena's famous bob-job has perhaps been sufficiently noted. We do not need any more embarrassing lessons about the national tabloid mentality. Some kind of a low was reached last week

*Imagine if Zubin Mehta were called to introduce a little majesty into the proceedings and could be persuaded to conduct his magnificent "Harold In Italy."*

when we saw NBC anchorman Tom Brokaw, all bundled up in Red Square and pretending to be at the epicenter of world news, bringing on a long Lorena segment from Manassas. What happened when CNN paused in its coverage of the Bobbitts to bring to viewers a historic moment in Kiev where Clinton and Ukrainian leaders were

bringing about nuclear disarmament? Scores of incensed listeners called to protest the interruption of Lorena's lament.

Whitewater hearings would, it is true, offer interesting possibilities. The president might volunteer to be a witness. He is much at home in the confessional mode. Hillary Clinton, who does not suffer fools gladly, perhaps had better not appear. But the supporting cast is promising. James McDougal, owner of the failed Madison Guaranty S&L, sounds like a genial good ol' boy, a reliable source of Arkie charm. His estranged wife, Susan, is even more intriguing. She is being sued by a former employer, the wife of symphony conductor Zubin Mehta, whose personal bookkeeper she was. Imagine if Zubin Mehta were called to introduce a little majesty into the proceedings. Imagine, further, if he had the inspiration to bring his orchestra with him and could be persuaded to conduct his magnificent "Harold In Italy." It is an intoxicating prospect, and hearing that music would justify the bother of the hearings and its perspective to the Caucus Room.

But we all have better things to do. Things like health care reform and welfare reform and improving and extending Head Start and learning to live together. A special prosecutor will be quite sufficient. On a congressional inquiry, Congress should take its cue from Nancy Reagan, wife of the subject of the expensive and eternal attempt to find out what Ronald Reagan did and when he did it: Just say no.

AM-Whitewater, 530

Needed for Congressional Probe on Clinton Financial Dealings Disputed

By LAURAN NEERGAARD= Associated Press Writer=

WASHINGTON (AP) A Republican congressman pressed again Sunday for congressional hearings into President Clinton's ties to a failed S&L, calling the Arkansas venture a small issue but one of public trust.

The administration, meanwhile, stressed that Clinton is cooperating fully with a probe, and a Senate Democrat accused the GOP of rehashing the issue for partisan gain even after Clinton agreed that a special counsel should investigate.

"All the information has been turned over, every scrap of it. A special counsel (is being) appointed. What do you want?" Vice President Al Gore asked Sunday on ABC's "This Week with David Brinkley."

Attorney General Janet Reno is expected soon to announce the name of a counsel to investigate the ties between Clinton, first lady Hillary Rodham Clinton and James McDougal, owner of the Madison Guaranty Savings and Loan that failed in 1989 at a cost to taxpayers of \$47 million.

McDougal and the Clintons also co-owned the Whitewater Development Corp., an Arkansas real estate venture. Investigators are trying to determine whether Madison S&L funds were illegally diverted to Whitewater or to help Clinton repay a \$50,000 loan for his 1984 gubernatorial campaign.

Clinton denies any wrongdoing, saying he lost \$68,900 in the Whitewater venture.

McDougal's attorney, Sam Heuer, agreed Sunday. "I would suspect if there were some secrets, we would have known them long before now," he said. "Jim McDougal was a savings and loan executive, which is akin to being a communist in the McCarthy era."

But Rep. Jim Leach, R-Iowa, the ranking Republican on the House Banking Committee, repeated his call for bipartisan congressional hearings, saying the special counsel would look into illegal activities while Congress needed to air an issue of "public trust."

"This isn't the largest issue. It's somewhere between much ado about nothing and something might be a little rotten in part of the Ozarks," he told CBS' "Face the Nation." "There are possible breaches of law, but more importantly there's a public ethic here that's at issue."

Sen. Bob Dole, R-Kan., who also has pushed for hearings, on Sunday criticized the vice president for opposing them when, as a senator, Gore called on Congress to investigate controversies plaguing the Reagan and Bush administrations.

Gore responded that Dole last week said the appointment of a special counsel would satisfy him. "Let's let the special counsel ... do his or her job," Gore said.

"What we are looking at here is not an issue of national security," agreed Sen. David Pryor, D-Ark. "Sen. Dole and his Republican colleagues want to keep this issue alive until 1996 and beyond so it can be a campaign issue."

Leach pledged to proceed on his own if the Democrats refuse to create a bipartisan committee to investigate Whitewater.

But he said he did not envision questioning Mrs. Clinton, who was Madison's attorney at the time. "Nothing would be more inappropriate than a congressional effort to embarrass Mrs. Clinton," he said. "We are looking at a prior elected official, a current elected official."

\*\*\*\* filed by:APE(--) on 01/16/94 at 15:14EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:54EST \*\*\*\*



(refiling, fixing coding)

UPI Spotlight

Time: Whitewater yields more problems for Clinton

NEW YORK (UPI) Time Magazine is reporting President and Hillary Clinton made money, at least on paper, from Whitewater real estate investments. President Clinton has said he lost money but Time says records show profits from a land sale that went unreported in available Clinton tax returns.

\*\*\*\* filed by:UPI-(us) on 01/16/94 at 16:21EST \*\*\*\*

\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:55EST \*\*\*\*

b:-whitewater-hillary - a1743

(ATTN: National editors) (Includes optional trims)

Whitewater Raises Questions of Hillary Clinton Involvement (Washn)

By John M. Broder and James Risen= (c) 1994, Los Angeles Times=

WASHINGTON As the White House struggles to contain the controversy surrounding the Clintons' involvement in the tangled Whitewater real estate and banking affair, first lady Hillary Rodham Clinton's role has begun to raise as many questions as her husband's.

Indeed, the Whitewater matter now seems to be a controversy befitting the Clintons' modern, two-career political marriage: Just as the first lady has played a critical role in major policy decisions on health care and other issues, she now finds herself a central figure with her husband in this politically threatening affair.

It is Hillary Clinton's independent career as a top attorney in Little Rock, Ark., while her husband served as governor, and her reputation for being the financial brains of the household, that have prompted questions about her role in the Whitewater matter.

Even friends in Arkansas are wondering why she has not come forward with a fuller account of what she did and what she knew at the time the events in Arkansas were unfolding.

"I don't know why she hasn't been more open about explaining" her work as a lawyer for the defunct savings and loan at the center of the affair, said Beverly Bassett Schaffer, a former Arkansas state regulator and longtime acquaintance. "I don't understand why they (the Clintons) were in business with someone like McDougal," the thrift's owner.

James B. McDougal, a friend of Clinton, owned Madison Guaranty Savings & Loan and was half-owner with the Clintons in an Ozark Mountains real estate venture called Whitewater Development Corp.

The president and Hillary Clinton have said they were innocent bystanders as McDougal drove his lending institution into the ground with a binge of bad loans and frittered away nearly \$70,000 of their assets on the bankrupt Whitewater project.

Unresolved, though, is the mystery of how to reconcile this image of naivete in the world of high finance with Hillary Clinton's reputation as a top corporate lawyer and board member of some of the nation's biggest corporations.

The question being asked more openly in Washington and Arkansas is: How could Hillary Clinton, who one legal journal called one of the 100 most influential lawyers in the United States, be unaware of gross mismanagement at a savings institution she represented as an attorney and neglect her family's only substantial financial asset?

Those questions intertwine with a web of others as federal investigators continue their inquiry.

Specifically, they are trying to determine whether, amid the careening disorder in the runaway S&L and Whitewater, money from a federally guaranteed thrift was diverted into Clinton's 1984 campaign coffers. Also, there is the matter of whether the institution got favorable treatment from Arkansas authorities that helped keep it in business before federal regulators finally shut it down in 1989.

It is Hillary Clinton's role as a former attorney for the savings and loan that has raised basic concerns about her actions.

When Madison Guaranty ran into financial trouble, McDougal decided to sell stock to raise money. But that was not normal practice for savings and loans in Arkansas and the proposal needed approval from the Arkansas Securities Commission. So McDougal had Little Rock's Rose Law Firm and specifically Hillary Clinton make his case for the stock sale to state regulators.

The White House acknowledges that Hillary Clinton, then on a \$2,000 a month retainer with Madison Guaranty, worked on the proposal in 1985. However, senior presidential adviser Bruce Lindsey said her involvement was minimal and

that most of the legal work was done by a junior associate, Richard N. Massey, then a 28-year-old first-year lawyer at the firm.

Schaffer, who had just been appointed securities commissioner by then-Gov. Clinton when the case arose, said Massey handled meetings with her staff and that Hillary Clinton was the only senior attorney at the Rose firm with whom she or her staff communicated.

Repeatedly, Hillary Clinton has insisted that questions arising from private matters a decade or more ago are not a fit subject for public scrutiny. She has refused to respond to any detailed inquiries, including the central one: whether it was proper to represent a business partner before a state regulatory board run by a personal friend and appointee of her husband.

Jack Pitney, a political scientist at Claremont McKenna College in Claremont, Calif., said the first lady's response creates a credibility problem. It is difficult, he said, to believe she would ignore a major family investment and overlook a potential conflict of interest.

"She can't just throw her hands in the air and say she doesn't understand all this legal stuff. She can't claim ignorance of legal details," he said. "It is not a credible defense. Her involvement is a fix of her own making."

Friends and associates said the two images of Hillary Clinton: meticulous lawyer and absent-minded investor are not mutually exclusive. While she was a keen professional at work, she had little interest in acquiring wealth or closely monitoring her family's finances, according to her defenders.

Another family friend's assessment is that neither of the Clintons was interested in getting rich, concentrating through the 1980s on Clinton's political career and his wife's policy crusades.

"They don't know beans about business," said this Arkansas friend who asked to remain nameless.

(Optional Add End)

Nevertheless, in 1988, when Madison Guaranty clearly was on the verge of failure and McDougal was suffering personal problems, records show that Hillary Clinton wrote to McDougal to seek power of attorney over all Whitewater-related business. She received that power but apparently did not use it until 1992, when she authorized Rose firm law partner Vincent Foster to work on Whitewater's delinquent tax returns.

And in an unrelated case, she took a distinctly active role in a family investment involving much less money.

In 1983, she, Foster and Webster L. Hubbell, another law firm partner formed an investment partnership called Mid-life Investors, with each contributing an initial \$15,000.

Roy P. Drew, a stockbroker who helped them set up the venture, said neither Foster nor Hubbell later expressed much interest in the performance of the partnership but that Hillary Clinton called frequently to inquire about her investment, at times phoning him daily with questions and instructions.

The partnership eventually foundered, paying annual dividends of between \$2 and \$20 from 1986 to 1992, according to the Clintons' income tax returns.

\*\*\*\* filed by:LAWP(-- ) on 01/16/94 at 02:39EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:53EST \*\*\*\*

hc-whitewater-hillary - a1743

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\*\*\*\* filed by:LAWP(--) on 01/16/94 at 02:39EST \*\*\*\*  
\*\*\*\* printed by:WHPR(NLAT) on 01/16/94 at 10:30EST \*\*\*\*

# A Truly Independent Counsel ✓

By Randy M. Mastro  
and Eric B. Schnurer

**P**resident Clinton has finally responded to calls for an independent investigation of his real estate dealings. On Wednesday, he asked Attorney General Janet Reno to appoint a special prosecutor to investigate the matter and report back to her. Therein lies the problem.

A prosecutor who reports to the Attorney General, a member of the President's Cabinet, is hardly an "independent" investigator. No matter how qualified the counsel is, some people may still wonder whether the Whitewater investigation is a whitewash.

There used to be an alternative: the office of the independent counsel. Since 1978, independent counsels have served a vital, if sporadic, function: investigating and prosecuting high-level executive branch officials. The Attorney General shouldn't directly oversee these inquiries because of political conflict of interest (or at least the appearance of conflict). Nevertheless, few cries of alarm were heard when the statute that created the office expired in December 1992.

A proposal to revive the independent counsel passed the Senate last month and another is pending in the

Randy M. Mastro, a former Federal prosecutor, is chief of staff to Mayor Rudolph W. Giuliani. Eric B. Schnurer is a constitutional lawyer in Philadelphia.

House. The President and the Attorney General favor the bill, but Speaker of the House Thomas Foley has yet to put it to a vote.

Even reinstating this well-intended law, however, would fall short of creating the best weapon against executive branch misdeeds. Congress and the President should restructure the office in several important ways to insure an effective and truly independent counsel.

Instead of the appointment of a different investigator for each new scandal, there should be a single independent counsel in charge of a permanent office of experienced prosecutors to handle all investigations. The counsel should be appointed for a four-year term (like a United States attorney) and the office should consist of full-time, skilled prosecutors and have a fixed budget and staff. This would insure continuity and professionalism.

By holding the office to strict budgetary and manpower constraints, it would avoid the excesses of some past investigations, with their ever-expanding expenses and "scorched earth" mentality. Sure, there might be slow periods, but we don't have to have a fire every day to know that we need firefighters.

Most important, a permanent independent counsel's office would take the Attorney General out of the process. In the past, the decision to appoint an independent counsel was solely that of the Attorney General, who was rarely eager to exercise that authority. With a permanent office in place, the independent counsel would decide whether or not to investigate an executive branch figure, and the public would be assured of a truly independent assessment.

Several safeguards are required to prevent the White House from derailing independent investigations through Presidential prerogative. By law (or, if necessary, by constitutional amendment), the President should not be allowed to grant pardons in such prosecutions before the counsel completes an investigation. It would also help if courts would more nar-

## A full-time office, always there when we need it.

rowly construe the scope of executive privilege. Otherwise, the executive branch will continue to put roadblocks in the path of proper inquiry and then, if all else fails, grant 11th-hour pardons, as George Bush did for several Iran-contra figures.

The counsel's appointment process should conform closely to that of other executive branch appointments. Critics of the past law complain, with some justification, that having Federal judges select the independent counsels offended the separation of powers. There is a reasonable middle ground. The President could nominate the independent counsel from a list of candidates selected on merit by the Supreme Court or another neutral body.

The nominee would then be subject to Senate confirmation, like other Presidential nominees. Of course, independent counsels, like most ethics

investigators, are not very popular on Capitol Hill. Republican lawmakers complained that Lawrence Walsh went too far in investigating the scandals of the Reagan and Bush Administrations. Since regaining the White House, Democrats have shown no desire to subject their President to that same independent scrutiny. Still, we cannot leave the legislative branch out of the process and can only hope to sway Congress to see the benefits of a permanent counsel.

The cast of characters at the White House may have changed, but a sitting Attorney General still cannot credibly investigate the President he or she serves. Under such circumstances, the public simply could not be expected to believe uncritically what it was told.

Unfortunately, neither Republicans nor Democrats appear to want scrutiny from a truly independent investigator. That alone should be reason enough to preserve and strengthen the independent counsel. □

### Note to Readers

The Op-Ed page welcomes unsolicited manuscripts. Because of the volume of submissions, however, we regret that we cannot acknowledge an article or return it unless it is accompanied by a self-addressed, stamped envelope. If manuscripts are accepted for publication, authors will be notified within two weeks.

# White House Sends Five More Boxes On Whitewater to Attorney General

By Dan Balz and Susan Schmidt  
Washington Post Staff Writers

Five more boxes of President Clinton's and Hillary Rodham Clinton's records detailing their investment in an Arkansas land development firm were turned over to the Justice Department yesterday. Clinton pledged on Dec. 23 to give the department all of the couple's files on the matter.

The documents arrived at the Justice Department before Attorney General Janet Reno had a chance to appoint a special counsel to investigate the Clintons' involvement in the Whitewater Development Corp. Reno, who was traveling out of town yesterday, was said by a department spokesman to be reviewing possible candidates.

In a related development, the president of a small Arkansas bank that loaned money to Clinton's gubernatorial campaigns and to the land development company confirmed that he had received a subpoena Wednesday from the FBI for bank records. And Betsey Wright, who was Clinton's chief of staff when he was Arkansas governor, told the Los Angeles Times that the FBI had notified her that she would be subpoenaed.

Wright told the newspaper that in anticipation of the subpoena she had moved several boxes of documents from her office to her home so she could sort through the material this weekend.

The Clintons' personal records were turned over to the Justice Department several days ahead of schedule by David E. Kendall, the Clintons' personal attorney, according to a statement issued by White House senior adviser Bruce Lindsey.

Five other boxes of documents were sent to Justice Department officials last week. They were submitted under terms of a subpoena negotiated between the Justice Department and the White House designed to prevent the records from being released publicly.

Lindsey said the records include duplicates or triplicates of relevant documents, work sheets, records from an inquiry conducted during the 1992 campaign by a Denver lawyer hired by the Clintons and other campaign documents and news media inquiries about Whitewater from the campaign.

Lindsey estimated that of the 10 boxes delivered, actual financial records on Whitewater account for



BRUCE LINDSEY

... "box or less" of financial records

"probably a box or less," although he said they were not sequestered in one carton.

Clinton agreed Wednesday to call for a special counsel in the matter, and a Justice Department spokesman said yesterday the special counsel could be appointed soon. The counsel's investigation will cover Whitewater and possibly its links to a failed institution, Madison Guaranty Savings & Loan, that was owned by James McDougal, who with his ex-wife was the Clintons' business partner in Whitewater.

Among the questions about Madison is whether it funneled money improperly to a Clinton gubernatorial campaign.

Leon Foust, president of First Bank of Arkansas, formerly the Bank of Cherry Valley, confirmed yesterday that he has received three subpoenas from the FBI since December. Foust, who joined the bank last year, said he has not been able to provide everything sought in the first two subpoenas. Some mid-1980s records are available on microfilm, he said, but others have been discarded.

Clinton took out a personal loan for \$50,000 from the Bank of Cherry Valley to put into his 1984 gubernatorial reelection campaign. At the time, the bank was owned by Maurice Smith, a Clinton campaign finance official. About \$30,000 of that debt was repaid from money raised by McDougal at an April 1985 fund-raiser held at the Madison S&L.

Sources said investigators have

been trying to determine whether money contributed to the campaign at that event was improperly diverted from real estate and other loans made to Madison borrowers, or was drawn on overdrawn accounts with the approval of bank officials. Federal officials have a handful of \$3,000 cashier's checks contributed to Clinton at the fund-raiser, amounts that may have exceeded the \$1,500 per election limit.

At least one of the known \$3,000 contributors, the son of a Madison director, said he made no such contribution and knew nothing about a fund-raiser.

Clinton campaign aides said they are dismayed if illegal contributions were made but that the candidate would have had no way of knowing the source of the money given him. The list of contributors has disappeared, and Wright has said she does not know what became of it.

Investigators also are interested in seeing records at the former Cherry Valley bank to see who benefited from a number of checks written on the Whitewater account at Madison. Those checks were sent to the Bank of Cherry Valley—to pay on at least two separate loans, sources said. In the latter half of 1984 and the first part of 1985, for example, three checks totaling more than \$15,000 went from the Whitewater account to pay off loans at Cherry Valley.

Clinton aides and McDougal say there was one loan at the Cherry Valley bank related to their purchase of Whitewater land. Smith also said there was just one Whitewater loan at his former bank and that it and Clinton's campaign loan were repaid.

Also yesterday, an official of the Federal Deposit Insurance Corp. told Reuters news service that the agency expects to conclude its examination soon of whether Hillary Clinton's former law firm misled the agency about its ties to Madison.

The Rose law firm was hired by the FDIC after the government took over Madison to help in a suit involving the institution. Hillary Clinton had previously represented Madison before Arkansas bank regulators.

Meanwhile, House Banking Committee Chairman Henry B. Gonzalez (D-Tex.) grudgingly approved additional money for a Republican staff study of the Madison matter. The money was requested by Rep. Jim Leach (R-Iowa), who has called for a congressional investigation.

B2-CLINTON-WHTEWATER-POLL

THIRD OF AMERICANS THINK WHITEWATER MINOR OFFENSE

NEW YORK, Jan 15 (Reuter) - Nearly a third of Americans think President Clinton and First Lady Hillary Rodham Clinton are guilty of a minor offence related to a failed land development project in Arkansas, a Newsweek poll said Saturday.

The poll of 505 adults conducted Friday said another 14 percent think the president and his wife are guilty of a serious offence related to the venture, in which they were partners with the head of a savings bank that failed at a cost of over \$60 million to U.S. taxpayers.

Nearly one in five of the respondents, 19 percent, believe the Clintons are not guilty of any wrongdoing in the affair.

The poll also found that 69 percent of Americans think the White House would be in a better position in connection with the controversy if it had been more open with information and files about the case.

The controversy revolves around the relationship of the Clintons with Arkansas businessman James McDougal, former head of the failed Madison Guaranty Savings and Loan Association.

They were partners in Whitewater Development, a vacation real estate venture that the Clintons say lost them \$69,000.

The White House Friday turned over to the Justice Department the rest of the subpoenaed documents on Whitewater, and department officials said Attorney General Janet Reno may be close to deciding on her selection of a special counsel in the case.

Clinton on Wednesday yielded to mounting political pressure and asked Reno to name a special counsel to take over the investigation.

The poll's margin of sampling error was plus or minus five percentage points.

REUTER

\*\*\*\* filed by:RB--(--) on 01/15/94 at 14:26EST \*\*\*\*  
\*\*\*\* printed by:WHPR(JEL) on 01/17/94 at 09:52EST \*\*\*\*



## PAUL CRAIG ROBERTS

**“W**hat’s the charge?” asks White House Press Secretary Dee Myers. By asking this question, Miss Myers is inviting us to guess what a special prosecutor might find in the files of the Whitewater Development Corp., an Arkansas real estate partnership between the Clintons and the McDougals.

These files have had a curious existence. They were first said to be “missing.” Then they were purloined from White House Deputy Counsel Vincent Foster’s office, which should have been sealed. They have been unavailable to investigators of Mr. Foster’s death and to investigators of savings and loan irregularities in Little Rock. They next turned up in the safe of a white collar crime lawyer at Williams and Connolly, a noted criminal defense firm. Today they are being “catalogued,” and possibly culled, before being turned over to the Justice Department under a negotiated subpoena that protects the confidentiality of the files.

The White House maintains that the files are innocuous and merely document a legitimate \$69,000 business loss that was never claimed on tax returns. By stonewalling on the release of the files, the White House built up demands for a special prosecutor to which it has finally acceded.

According to newspaper reports, federal thrift investigators have found evidence that money from Madison Savings and Loan was diverted to Whitewater and other McDougal companies and listed the Clintons among the possible beneficiaries. Newspapers have also reported that a possibly fraudulent Small Business Administration loan was diverted, in part, to the Whitewater partnership. Newspapers have also reported that there appear to be significant flows of money in and out of Whitewater’s accounts that do not relate to real estate transactions. Madison S&L and Whitewater monies appear at times to have been commingled, and Whitewater did not file income tax returns for a number of years.

All of this has raised suspicions that, however it began, Whitewater became a slush fund for its partners. It is the unspoken charge of experienced tax, campaign, and criminal lawyers that the Clintons benefited from money flows that violated campaign, tax, and banking statutes.

These charges, should they be brought by the special prosecutor, would be over and above any conflicts of interest the Clintons may have experienced in obtaining favorable regulatory treatment for McDougals’ Madison S&L and any improprieties

from personal use of state employees.

It is possible that a discombobulated White House has been engaging in a state-of-the-art coverup when there is no crime. But if Whitewater is merely a political embarrassment for the first couple, it could hardly be worse than the disingenuous denials that are flowing from the White House. “Where is the evidence?” asks Clinton spokesman Stephanopoulos, thus underlining the White House’s prolonged withholding of it.

In a misstatement of tax law and fact, Vice President Gore claimed in front of a national TV audience that the Clintons could not take their \$69,000 tax loss because they had no capital gains to set it against. The law permits a \$3,000 per year deduction of a capital loss against ordinary income and a carry forward of the remainder. Moreover, Lisa Schiffren reports in the August 1993 American Spectator that in 1988 the Clintons realized a \$42,000 profit from an investment in Arkansas Cellular Communications. A lawyer familiar with the deal says it was structured as a capital gain. A couple that itemizes deductions for used underwear is unlikely to let pass a legitimate deduction for capital losses.

It is a good thing for the Clintons, as well as the country, that they apparently have reassessed the risk of stonewalling.

The problem with coverups is that they can become obstruction of justice, a federal crime. Numerous federal courts have ruled that proceedings do not have to be pending for obstruction of justice to occur if evidence is concealed, altered or

destroyed in anticipation of possible proceedings. Moreover, the 1989 FIRREA Act in response to the S&L crisis specifies that investigations by the Resolution Trust Corp. are considered “pending proceedings” under the obstruction of justice statute. The RTC is looking into Madison S&L, and inappropriate handling of the Whitewater files could constitute obstruction of justice.

Sen. Pat Moynihan, New York Democrat, was right. The Clintons’ spin doctors got them deeper in trouble without sparing them the scrutiny of a special prosecutor.

*Paul Craig Roberts, a columnist for The Washington Times and the Scripps Howard News Service, is a distinguished fellow at the Cato Institute.*

# Prosecutor pirouette

Fandango  
of the files

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# Your guide to Whitewater

**W**hat is Whitewater? The Whitewater Development Corp. was a real estate partnership formed in 1978 by Bill and Hillary Clinton and James and Susan McDougal. The venture was conceived to build vacation homes on 42 lots on a 203-acre property along the White River in northern Arkansas.

The partnership bought the land in 1978 for \$203,000 with two loans — one acquired, without collateral, from a Little Rock bank and another using the land itself as collateral. It is not clear from the records who paid the \$20,000 each year in combined principal and interest. Mrs. Clinton borrowed \$30,000 from a McDougal-owned bank to pay for a model home in the development. Twenty-four Whitewater lots were sold in 1985 in ex-

change for \$35,000 and a win-engine Piper Seminole airplane, which was valued at about \$30,000. The transaction was not reported on the Clintons' 1985 tax returns, and it is not clear what happened to the plane. The Clintons, who claim they lost as much as \$68,900 in the venture, sold their half-share in Whitewater to Mr. McDougal for \$1,000 in 1992. It is not clear how much, if anything, the Clintons invested in Whitewater.

## THE STORY SO FAR

**1978** — Bill and Hillary Rodham Clinton, along with James B. McDougal and his wife, Susan, purchase 203 acres in the Arkansas Ozarks in a plan to build vacation homes on 42 lots. They form a joint partnership known as Whitewater Development Corp.

**1984 and 1985** — The Clintons improperly deduct \$5,133 on their federal tax returns for interest paid on \$30,000 in bank loans made through Whitewater. The deductions save them about \$1,000 in taxes.

**1984** — Arkansas Securities Department targets Madison Guaranty Savings and Loan Association, owned by McDougal, as being insolvent.

**March 1984** — Mrs. Clinton receives first payment of a \$2,000-a-month fee for helping Madison fight efforts by the Arkansas Securities Department to close the S&L. The fee was paid by Mr. McDougal in a deal he said was arranged by Mr. Clinton.

**July 1985** — Madison's accounting firm, Frost and Co., says the S&L is solvent. The Frost report is used by Mrs. Clinton to help keep Madison in business.

**October 1986** — Federal Home Loan Bank Board report faults thrift for risky investments in real estate deals, low cash reserves and shoddy record-keeping.

**December 1987** — Mrs. McDougal personally delivers Whitewater records to the governor's mansion at the request of Mrs. Clinton.

**November 1988** — Mrs. Clinton signs letter to Mr. McDougal requesting power of attorney so she can extricate herself and her husband from the Whitewater venture.

**March 1989** — Madison fails and is shut down by the federal government at cost of \$50 million.

**July 1989** — Mr. McDougal is indicted on fraud charges in connection with Madison. He later is acquitted.

**March 1992** — The New York Times reports ties between Mr. McDougal and the Clintons, their connections to Whitewater and their illegal tax deductions.

**March 1992** — Clinton campaign issues a report by Denver lawyer James M. Lyons saying the Clintons lost \$68,900 in Whitewater. The report also says missing records makes a complete study impossible.

**March 1992** — Clinton campaign denies report in The Washington Times saying Mrs. Clinton received a \$2,000-a-month retainer to help Madison fight state regulators. In November 1993, the White House confirms the retainer was paid to Mrs. Clinton.

**December 1992** — The Clintons sell their half of Whitewater to Mr. McDougal, and claim a \$1,000 capital gain on their taxes. The sale was arranged by Vincent W. Foster Jr., the Clintons' personal lawyer.

**July 20, 1993** — Foster commits suicide. Documents related to Whitewater-Madison are among those secretly taken from his office by administration officials and turned over to the Clintons' new lawyer, David Kendall.

**July 22** — White House Counsel Bernard Nussbaum prevents U.S. Park Police and FBI investigators from looking through Foster's personal papers during search of his office.

**Oct. 31** — Whitewater controversy is renewed when The Washington Post reports federal regulators recommended to Justice Department that a criminal investigation be conducted into Madison's failure.

**Nov. 4** — The Washington Times reports the Clintons, who said they were "passive shareholders" in Whitewater, were active in the venture's management and that Mrs. Clinton had sought power of attorney over it.

**Nov. 9** — Paula J. Casey, U.S. attorney in Little Rock, recuses herself from probe of Whitewater's ties to Madison and is replaced by Justice Department prosecutor Donald Mackay. Republicans call on Attorney General Janet Reno to nominate a special counsel to investigate the Whitewater-Madison affair.

**Dec. 20** — The Washington Times reports White House officials removed records on Whitewater from Foster's office after the deputy counsel's suicide.

**Dec. 21** — White House admits that records were taken, but denies any wrongdoing.

**Dec. 23** — Mr. Clinton says he and his wife will turn Whitewater records over to the Justice Department, but warn that process might take several weeks.

**Jan. 5** — White House reveals that subpoena has been issued for Whitewater records under terms negotiated on Dec. 23 between prosecutors and Kendall.

**Sunday** — Sen. Daniel Patrick Moynihan of New York is first Democrat to join Republicans in call for a special prosecutor or independent counsel, making the issue bipartisan. Seven other Democratic lawmakers issue the same demand within the next 48 hours.

**Wednesday** — Bowing to pressure, Clinton asks a special counsel be appointed to investigate the role he and his wife played in the Whitewater-Madison affair. Reno says she will appoint a special counsel.

Sources: The Washington Times; Associated Press; House Republican Policy Committee; New York Times

# What might Clintons have done wrong?

THE WASHINGTON TIMES

Federal investigators are probing several angles in the tangled Whitewater-Madison case.

## • How much money was lost?

President Clinton and his wife, Hillary, said they lost \$68,900 on the Whitewater Development Corp., a real estate venture with James B. and Susan McDougal, but they failed to take legal tax deductions for capital losses that would have saved them thousands of dollars. Mr. McDougal was owner of the now-defunct Madison Guaranty Savings and Loan Association.

When Whitewater first surfaced as a 1992 presidential campaign issue, Mr. Clinton said the couple had lost \$25,000.

## • Was there an illegal loan?

David L. Hale, a former municipal judge in Little Rock now under indictment for misdirecting Small Business Administration loans, said Mr. Clinton pressured him during a face-to-face meeting in 1986 to give a questionable \$300,000 loan to Susan McDougal. Mr. Clinton said he did not recall the meeting.

• Was money diverted from federal funds to Whitewater or the Clinton campaign?

Mr. McDougal used \$110,000 of the SBA loan to his wife to buy property for the Whitewater project. It is not clear if other money was diverted from Madison to Whitewater or to Mr. Clinton's 1984 gubernatorial campaign.

• Were the Clintons more than "passive shareholders"?

The Clintons described themselves as "passive shareholders" in the Whitewater development, but Mrs. Clinton wrote a letter to Mr. McDougal in November 1988 de-

manding power of attorney for full control of the venture.

• Why was Mrs. Clinton paid a monthly retainer by Madison?

In 1985, Mrs. Clinton was paid \$2,000 a month for convincing state regulators appointed by her husband that Madison was solvent — despite federal bank reports to the contrary — at a time when Mr. McDougal was her business partner in Whitewater. The payments were made by Mr. McDougal in a deal arranged by Mr. Clinton.

• Were there illegal money diversions to pay off campaign debts?

Shortly after his election as governor in 1984, Mr. Clinton asked Mr. McDougal to "knock out a deficit" of \$50,000 for a personal loan Mr. Clinton took out to fund his campaign.

Mr. McDougal held a fund-raiser for his business partner and retired at least \$35,000 of that debt. At least one of the checks from the fund-raiser used to pay off Mr. Clinton's loan was signed by Kenneth Peacock, who now denies ever donating money to the Clinton campaign.

• Where are the Whitewater-Madison records?

Mrs. McDougal said she delivered Whitewater records to the Arkansas governor's mansion in December 1987, at Mrs. Clinton's request. The Clintons said the records were lost before The Washington Times' Dec. 20 report that Whitewater records were secretly removed July 20 from the office of White House Deputy Counsel Vincent W. Foster Jr. shortly after he killed himself.

Now, the White House has turned over at least five boxes of Whitewater records to investigators under terms of a subpoena worked out by the Clintons' lawyer and the Justice Department to keep them secret.

## Next step: Naming special counsel

THE WASHINGTON TIMES

Attorney General Janet Reno will select within about a week a non-governmental attorney with recognized credentials of integrity and skill to be special counsel in the Whitewater-Madison affair. Miss Reno will negotiate with her selection the boundaries of the mandate. The White House wants to include a report to the American public, but the counsel also may be authorized to seek indictments. When Congress returns Jan. 25, Republicans will seek appointment

of select investigating committees in both houses to look into the overall Whitewater case. Congress also is expected to swiftly finish enactment of a separate law providing for appointment of an independent counsel by three federal judges. A federal grand jury in Little Rock, Ark., under direction of three career lawyers who specialize in fraud, continues its investigation of Madison-Whitewater, on which at least five cartons of documents have been subpoenaed from the Clintons.

## Madison story dates to 1982

THE WASHINGTON TIMES

James B. McDougal, a friend and business partner of Bill Clinton, took over a tiny operation known as Madison Guaranty Savings and Loan Association, about 75 miles north of Little Rock, Ark., in 1982. Within three years, Madison's assets grew from \$500,000 to more than \$17 mil-

lion. Mr. McDougal, from his new base of operations in Little Rock, prospered through a web of connections and friendships that included Mr. Clinton and his wife, Hillary. But the Federal Home Loan Bank Board in a 1984 report already had noted Madison's "unsafe and unsound lending practices."

The Arkansas Securities Department was asked to determine whether the S&L should be closed. Mrs. Clinton, a lawyer on a \$2,000-a-month retainer from Mr. McDougal, argued successfully before state regulators appointed by her hus-



The Washington Times

band that Madison should remain in business. By 1989, the institution had a paper worth of \$125 million. But that year it finally was closed by regulators, and taxpayers got a \$50 million bill for its defaulted loans.

# Reno Begins Hunt For Special Counsel, Seeks Probe's Limits

By Michael Isikoff  
Washington Post Staff Writer

As Attorney General Janet Reno began reviewing possible candidates to serve as special counsel yesterday, Justice Department officials were grappling with an equally significant issue: Defining the scope of an investigation that could become an open-ended inquiry into Arkansas business affairs and hang over President Clinton for much of his first term.

In requesting that Reno name an outside prosecutor, White House counsel Bernard Nussbaum asked only that the prosecutor investigate "the Whitewater matter"—a reference to the real estate development firm half owned by the president and Hillary Rodham Clinton that bought and sold Ozark property during the 1980s.

But Whitewater is only a slice of a much broader, existing Justice Department investigation underway for months. It touches on a host of related matters: the failed Madison Guaranty Savings & Loan Association owned by the Clintons' partner in Whitewater, the alleged diversion of Madison money into a Clinton campaign account, questionable loans to other state political figures and the thrift's possible lenient treatment by Arkansas regulators during Clinton's tenure as governor.

The initial assumption of Justice Department officials yesterday was that the new special counsel would immediately take over all these matters, now being handled by three career prosecutors in Little Rock. But some former independent counsels warned yesterday that such a broad charter was essentially opening a Pandora's box.

"You've got an investigation that is starting on an island, that is Whitewater, that is going to find a causeway to a continent known as Arkansas politics," said Jacob Stein, who served as independent counsel during

the 1980s investigating alleged improprieties involving then-Attorney General Edwin Meese III.

"My prediction is that this person [the special counsel] is going to feel compelled to be thorough. And to be thorough where an investigation is nourished by political considerations, it could go on for quite a long time."

Justice Department sources said that Reno and her top aides, including Deputy Attorney General Philip B. Heymann and Jo Ann Harris, chief of the criminal division, spent much of yesterday working on selection of a special counsel. Sources said a number of possible candidates were contacted and an announcement could come in the next few days.

Under the expired independent counsel law, which governed how Stein and others operated, a three judge federal panel set forth a mandate based on a specific allegation of a federal crime committed by a high-level government official.

No such allegation has been made in the case of Whitewater. Instead, there is a grab bag of suggested improprieties by a wide assortment of people, most prominently, James McDougal, the owner of Madison who had close ties to many Arkansas political and business leaders.

"It can go in every conceivable different direction," said Washington lawyer James Mackay, the former independent counsel who prosecuted former Reagan administration official Lyn Nofziger. "There's all sorts of ramifications that are involved."

At her news conference minutes after receiving Nussbaum's letter, Reno avoided all questions about the new prosecutor's mandate, saying she first wanted to consult with whomever she selected. But Reno also said she wants the issues resolved "thoroughly" and "promptly"—an objective that has proven difficult in the past, as demonstrated by the more than six-year investigation into the Iran-contra

affair by independent counsel Lawrence Walsh.

"In the history of these special counsels, once they have an inch they take yards and miles," said Terry Eastland, a former top aide to Meese and now a fellow of the Ethics and Public Policy Center. "The central issue is going to be the scope of the investigation."

On its face, the investigation into Whitewater would appear to be fairly simple: The Justice Department has already subpoenaed all documents relating to Whitewater in the Clintons' possession.

One possible charter for the new outside counsel would be a review of those records to determine whether the Clintons were aware of any financial improprieties relating to hundreds of thousands of dollars that appear to have passed through Whitewater's accounts.

But the problem gets much stickier when matters branch out to Madison. The thrift at one point was represented by the Rose Law Firm whose partners included Hillary Clinton, Associate Attorney General Webster Hubbell, and Vincent W. Foster, Jr., the deputy White House counsel who committed suicide July 20. Foster, as personal attorney for the Clintons, had handled matters relating to Whitewater before his death.

An even more pressing problem is the case of David Hale, the for-

mer Arkansas municipal judge who is scheduled to go on trial March 28 on charges that he defrauded the Small Business Administration in the management of his federally backed small business investment firm. Hale has publicly alleged that Clinton and McDougal pressured him to make a \$300,000 SBA-backed loan that ended up in Whitewater accounts. He also has charged that similar potentially improper loans benefited among others, Jim Guy Tucker, now governor of Arkansas—allegations that Tucker has denied.

The issues in Hale's upcoming trial are wholly unrelated to Whitewater; one former federal prosecutor suggested yesterday that a special counsel who was only interested in getting to the bottom of Whitewater would quickly seek a plea agreement with Hale and bring him before a grand jury to hear what he has to say about the president.

Department officials said the imminent appointment of a special counsel who would take over the

lems that could delay matters. "There are various complications that the attorney general had in mind" when she initially opposed appointment of an independent counsel, said Carl Stern, the Justice Department spokesman. "But obviously, we'll do whatever we can to get over what hurdles there are."



# After Slow Start, Network TV Grabs

Whitewater

By Howard Kurtz  
Washington Post Staff Writer

Throughout November and most of December, despite a spate of front-page stories and editorials in major newspapers, the Whitewater investigation was virtually invisible on network television.

"It's one of the most difficult stories to explain that I've ever encountered," said Erik Sorenson, executive producer of the "CBS Evening News." "The networks do not have the resources to pursue complicated investigations like that on an ongoing basis." In fact, said Sorenson, he had trouble explaining the story to his mother.

In the last three weeks, however, ABC, CBS and NBC have jumped on Whitewater night after night. On Wednesday, when President Clinton agreed to the appointment of a special counsel to investigate the matter, the network anchors traveling with Clinton in Ukraine and Russia dealt with Whitewater before the news of the trip itself.

"Journalists love a coverup," said Robert Lichter, director of the Center for Media and Public Affairs. "The intimations of Whitewatergate will bring the TV cameras every time."

The story was not ready for prime time until just before Christmas, when White House aides acknowledged they had removed Whitewater files from deputy counsel Vincent Foster's office after he committed suicide last summer. The focus of the story shifted from the decade-old financial dealings of the president and Hillary Rodham Clinton to a daily political drumbeat about whether they were withholding evidence.

Media analysts say no national scandal can reach critical mass until it becomes a television story. But correspondents filing two-minute reports have struggled to explain the possible wrongdoing in the tangled Arkansas dealings on which the Clintons say they lost \$69,000.

Once Republicans began demanding a special prosecutor, a simpler story line emerged. On Wednesday, ABC's Jim Wooten said that "what is at risk for the president here is nothing less than the erosion of his political authority." CBS anchor Dan Rather declared from Moscow

ton this entire trip."

The coverage has been fueled by the administration's "stubborn refusal, against all known rules of modern politics, to just put all the stuff on the table," said Alan Murray, the Wall Street Journal's Washington bureau chief. "Why can't they answer the questions? It's just mind-boggling."

The media's pursuit of Whitewater comes almost two years after it briefly erupted as a campaign issue. In March 1992, Jeff Gerth of the New York Times reported that the Clintons had entered into the Whitewater real estate venture with James McDougal, whose failed savings and loan was bailed out by

*"Journalists love a coverup. The intimations of Whitewatergate will bring the TV cameras every time."*

— Robert Lichter,  
Center for Media and Public Affairs

taxpayers. That article raised many of the questions—including Hillary Clinton's representation of the S&L—that have reverberated in recent weeks.

The Clinton campaign snuffed out the story by releasing a batch of incomplete and confusing documents, and the news media moved on to other controversies in the hectic campaign atmosphere. "The entire media, print included, copped out during the campaign," Sorenson said. "All of us snooped around and frankly couldn't figure it out. ... We all gave up."

What put the story back in play was an Oct. 31 Washington Post report by Susan Schmidt that the Resolution Trust Corp. had asked federal prosecutors to open a criminal investigation into Madison Guaranty, the failed S&L. In November and December, The Washington Post ran 12 stories on Whitewater, six of them on the front page. The New York Times ran seven stories, plus three editorials with such headlines as "Release the Whitewater Files." The Washington Times published 16 stories and the Los Angeles Times six.

But except for a Nov. 11 NBC story by Andrea Mitchell, television basically ignored the controversy.

"There was no easy hook for TV to latch onto," Lichter said. "TV needs something simple: removing files, withholding evidence, not coming clean. This ties into our collective memory of Watergate."

As for the story itself, Lichter said: "It's my job to follow this stuff, and I couldn't follow the story. It was so convoluted and so dull."

But Jeff Gralnick, executive producer of "NBC Nightly News," said

that in the age of computer graphics, "there is no story that is too complicated for TV. The caution for us is to make sure we are not piling on, and that we have a story that moves us forward and is not just another incremental nag."

"Remember, there is no evidence of wrongdoing in any of this. But the White House has created the impression of the possibility of wrongdoing, and that has created pressures on the White House, and we are covering the pressures."

James Carville, a Clinton political adviser, contended that Whitewater is being overplayed because "the media is bored by the European trip and the Brady bill. In the end, people will say it was a non-story."

Clearly, much of the public is puzzled. A CNN-USA Today poll says 71 percent of respondents are unsure whether Clinton did anything wrong.

The president clearly has grown impatient with the media clamor over Whitewater. He cut short an

NBC interview with Jim Miklaszewski Wednesday after two questions on Whitewater. "I'm sorry you're not interested in the truth," Clinton said. He also said that "the press has editorialized and pressurized the politicians" into demanding a special counsel and has practically placed "the presumption of guilt" on him. "It's a bizarre circumstance," the president said.

Clinton also refused Wednesday to talk with ABC's "Nightline," as he had agreed to do each night this week for a series on the European trip.

The good news for the White House is that the naming of a special counsel will likely move the investigation off the journalistic radar screen. "A special counsel puts the story on ice," said Fred Barnes, New Republic's White House reporter. "It stops the bleeding. The counsel works in private, doesn't leak and the story goes away until the counsel issues his or her report."



## TONY SNOW

Gimmicks  
that failed

The bluff didn't work. The White House spent a week besmirching Republicans who wanted a special prosecutor to look into what has come to be known as "Whitewatergate," but public pressure finally forced the president to ask for one, anyway.

The question now is whether the Clinton team will come clean or try to manage the flow of information to investigators. So far, it has employed every trick in the book to foil inquisitors, including the cheesy use of the president's late mother, Virginia Kelley, as a political human shield. Al Gore thumped the poor woman's coffin four times on CBS's "Face the Nation" last week, hoping her beloved memory would hold the curious at bay.

These gimmicks haven't worked

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because the facts available to the public raise the possibility that the president and/or his friends bent the law during his tenure as governor of Arkansas. Here's a small, incomplete list of allegations.

•Illegal gratuity: Just before becoming governor of Arkansas, Bill Clinton and his wife joined a real-estate partnership with old friend James McDougal and McDougal's then-wife, Susan. The Clintons put up less than 9 percent of the start-up money for the Whitewater Development Corp. and got 50 percent of the stock.

The arrangement is public record. Does the discounted price of the partnership constitute an illegal gratuity?

•Illegal campaign contributions: James McDougal threw a fund-raiser on April 4, 1985, to help rescue Mr. Clinton from a \$50,000 personal loan. The party raised \$35,000.

Federal investigators suspect that at least \$12,000 of the donations were siphoned from a savings and loan owned by McDougal. If so, the Clintons received money taken from depositors of the Madison Guaranty Savings and Loan — an institution that failed in 1989 at a cost to taxpayers of \$47 million to \$60 million.

•Conflicts of interest: When federal regulators were recommending that Madison Guaranty mend its ways or close its doors, McDougal concocted a plan to sell preferred stock to the public. He hired Hillary Rodham Clinton as his lawyer in response to Bill Clinton's personal request for "help."

Mrs. Clinton asked a securities commissioner appointed by her husband to approve a stock-sales plan proposed by his (and her) business partner, James McDougal — without telling the Arkansas official about her ties to the thrift operator.

•Conspiracy: Former Arkansas Judge David Hale made a \$300,000 Small Business Administration loan to a real-estate company owned by Susan McDougal. Half that money found its way into the Whitewater Development Corp.

Government investigators question the propriety of the SBA loan, which was intended to help minority-owned

Clinton and James McDougal pressured him into giving the money to Mrs. McDougal and says he has records to prove it. If so, the president and his friend may have engaged in a conspiracy to defraud the federal gov-

ernment.

•Violation of attorney-client privilege: Vincent Foster Jr. solicited federal contracts to sue Madison Guaranty on behalf of the Rose Law Firm of Little Rock. He failed to disclose the fact that Rose partner Hillary Rodham Clinton had represented the savings and loan. The solicitation at a bare minimum threatened Madison's attorney-client privilege with Rose.

•Obstruction of justice: White House counsel Bernard Nussbaum took several boxes of files from Vincent Foster's office after Mr. Foster's suicide. He shipped the deceased aide's personal diary and papers to the Foster family lawyer, James Hamilton, and records regarding the Whitewater Development Corp. and other dealings to David Kendall, the Clinton family lawyer. He prevented investigators from looking at the documents. These acts could have violated several federal statutes, including laws that require the preservation of White House documents and prohibit the removal of records relevant to an ongoing criminal investigation.

*Administration stonewalling and name-calling have transformed a political nuisance into a potential disaster, and that is amazing.*

The public deserves a full look at all the weird strands of Whitewater-Madison, which means that Attorney General Janet Reno must suspend the statute of limitations for all related civil and criminal infractions. (The statute on fraud and other civil violations expires in March.) The attorney general also needs to avoid placing undue restrictions on the prosecutor's investigation. Otherwise, Congress will impanel Watergate-style committees, which will make even the smallest Clinton peccadillo look like a crime against humanity.

Administration stonewalling and name-calling have transformed a political nuisance into a potential disaster, and that is amazing. As political scandals go, Whitewatergate should have been small potatoes.

Rep. Jim Leach, Iowa Republican, put it best in an interview the other day. "It's my own view that they should lay everything on the table, take responsibility, perhaps have a civil penalty or two (against people other than Clinton)."

"Then this thing would be over," he said, snapping his fingers, "just like that."

Tony Snow is a Washington-based editorial page columnist for the Detroit News and is nationally syndicated.

## Why didn't Clintons deduct losses?

By Jerry Seper  
THE WASHINGTON TIMES

Bill and Hillary Clinton routinely claim \$1 and \$2 deductions for used underwear on their federal tax returns but never took a legal tax deduction for the \$68,900 they claim to have lost on the Whitewater Development Corp.

Federal investigators want to know why.

Internal Revenue Service officials, tax lawyers and others familiar with federal tax laws say

the Clintons legally could have declared capital losses of up to \$3,000 a year over 23 years if they lost \$68,900 on Whitewater.

The tax deduction would have been limited to \$3,000 a year and would have been taken against the couple's ordinary income.

This analysis contradicts Paul Begala, a senior presidential adviser, who said the Clintons could have taken a deduction only in 1992, when they sold their 14-year

see TAXES, page A8

## TAXES

From page A1

half-interest in Whitewater to one of their partners, James B. McDougal, for \$1,000.

Mr. Begala told the Wall Street Journal last week that the Clintons would have saved only \$280 if they claimed losses to cancel out the \$1,000 gain and "it wasn't worth it because of the hassle factor."

Other White House officials have said no capital losses were declared because documentation was so poor that it was impossible for the Clintons to prove their losses.

Even if the Clintons were "passive shareholders" in Whitewater, as a spokesman has said, they could have legally claimed \$3,000 annual deductions until the whole loss was written off, the experts told The Washington Times.

But the Clintons did not claim these deductions at a time when Mrs. Clinton was routinely claiming tax write-offs for donations of used underwear, sweat shirts, tennis shoes, socks, slippers, stockings, mittens, bikinis and "Clinton for Governor" T-shirts.

Mr. and Mrs. Clinton were joint partners with Mr. McDougal and his wife, Susan, in Whitewater, which planned to build vacation homes on 42 lots on the White River in northeastern Arkansas. The project failed. The partnership appears to have been structured to enable the Clintons to receive half the profits with little or no investment.

The Clintons said during the 1992 presidential campaign that they lost \$68,900 in the venture, but questions have arisen about the validity of that figure.

Mr. McDougal, the focus of a Justice Department investigation into suspicions of illegal loans and campaign fraud involving Whitewater and his now-defunct Madison Guaranty Savings and Loan Association, has said he does not remember the Clintons losing that much.

During an interview with The Times in April 1992, he said he thought the Clintons lost "significantly less" than \$68,900 in Whitewater.

In a Jan. 7 interview with the Associated Press, he said he recalled the Clintons investing about \$9,000 in the venture.

The New York Times reported in March 1992 that the Clintons had taken \$5,133 in illegal tax deductions on their 1984 returns for a Whitewater loan that should have been deducted for the corporation.

Mr. Clinton at that time told reporters the couple lost \$25,000 on Whitewater.

James M. Lyons, a Denver lawyer and longtime Clinton ally who was called in by the campaign to write a report in response to the Whitewater disclosures, was the first to put the Clintons' loss at \$68,900. Mr. Lyons prepared the report in conjunction with the Denver-based accounting firm Patten, McCarthy & Associates.

Mr. Lyons later acknowledged — and The Washington Times reported in November — that many of the Whitewater documents were missing and that he had never discussed the matter with the McDougals.

The Wall Street Journal reported yesterday that Patten, McCarthy & Associates in a March 1992 letter to the Clintons said that "due to the nature of the engagements and incomplete or unavailable records," the

firm could not vouch for the accuracy of its findings.

The Lyons report, issued March 24, 1992, took no notice of the fact that Whitewater had failed to file corporate tax returns from 1985 to 1987. When inquiries were made during the campaign, the Clintons said the Whitewater tax records were not available.

The tax problem was resolved in December 1992 by White House Deputy Counsel Vincent W. Foster Jr., who was the Clintons' personal attorney until he killed himself July 20. He filed returns showing that Whitewater had earned no income. The returns made no mention of any capital losses.

IRS officials told The Times it is not necessary for someone to have accumulated capital gains to declare capital losses.

They also said that if a taxpayer is aware of the provision for the \$3,000-per-year deduction, he must claim the deduction on his federal income tax returns. Failure to do so because of ignorance is not a violation of the law.

Richard Morris, a former IRS agent who works as a tax preparer, said the capital loss deduction is a common one claimed by taxpayers and recommended by tax preparers as long as it is claimed within three years of the year in which the loss occurred.

Three Washington-based tax lawyers who asked not to be named told The Times there was "no logical reason" why the legal deductions were not taken if the losses occurred.

"Sometimes a loss is a freebie in exchange for other considerations, such as regulatory help through a government agency," one of the lawyers said.

# Probe of first lady expected to write new chapters in law

By Nancy E. Roman  
THE WASHINGTON TIMES

The unprecedented investigation of a first lady for possible civil or criminal wrongdoing in the Whitewater-Madison affair unleashes a host of legal questions and strategies, top defense lawyers said yesterday.

The lawyers interviewed by The Washington Times also said the powerful Rose Law Firm in Little Rock, Ark., for which Hillary Rodham Clinton worked, may be vulnerable to lawsuits as the result of the demise of Madison Guaranty Savings and Loan Association, which cost taxpayers \$50 million.

The relationships between Madison, the Rose Law Firm, bank regulators, and friends and family of President Clinton raise so many ethical questions that Harvard law professor Alan Dershowitz will begin this semester's legal ethics course with an assignment to scrutinize their activities.

"My nose as a legal professor smells something suspicious in the activities of the Rose firm," Mr. Dershowitz said. "It is the kind of elite insensitivity that Harvard and Yale and other elite law school students should be particularly sensitive about."

Mrs. Clinton, a partner at the Rose Law Firm, represented Madison before state banking regulators in the 1980s while her husband was governor of Arkansas.

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## HILLARY

From page A1

Questions have been raised about Madison's ties to Whitewater, a northern Arkansas real estate venture jointly owned by the Clintons and James B. McDougal, owner of Madison, and his wife, Susan.

The lawyers who discussed with The Times the first lady's potential case noted several murky legal areas:

- Will executive privilege apply to Mrs. Clinton?
- Because Mrs. Clinton represented Mr. Clinton in the Whitewater investment, is attorney-client privilege applicable?
- Will marital privileges, such as one that prevents one spouse from testifying against another, apply?

"There is a whole range of privileges... spousal and executive privilege," said Gerald Lefcourt, a defense lawyer in New York. "It's almost a joke, but their conversations are protected by more privileges than any other couple in the country's."

Executive privilege originated to protect the president and his staff from releasing information that could jeopardize national security.

Lawyers agreed that executive privilege would not apply to any of the Whitewater dealings because they occurred long before Mr. Clinton assumed the presidency. But Mr. Dershowitz said executive privilege might apply to the allegations of a Whitewater-Madison cover-up.

Paul Rothstein, a law professor at Georgetown University, said executive privilege does not apply to personal information but it does apply to information that might include military secrets, for example.

"But it is conceivable to use executive privilege by promoting an illusion that there is a danger in revealing secret things," he said.

Invoking any of the special privileges will make the investigation more difficult, Mr. Rothstein said.

"But there will be available unprivileged material and witnesses who will be able to provide a picture of what happened," he said. "The public's need to know will be satisfied, but it will take some time and some digging."

Mr. Lefcourt said that as the case progresses David Kendall, the Clintons' personal attorney, may invoke special privileges such as the attorney-client privilege, which would protect certain documents drafted by Mrs. Clinton as her husband's attorney.

"As a defense attorney it would be my goal to preserve any privileged material. I would certainly look into it," he said. "You carefully screen all documents and information to see whether any privilege applies. I'm sure that's what would be done here."

The Clintons also might attempt to use marital privilege, Mr. Lefcourt said. "Spousal testimonial privilege prevents a spouse from testifying against another spouse to preserve the sanctity of a marriage," he said.

Mr. Dershowitz, however, said it would be outrageous to claim that privilege.

"I cannot imagine the nation being willing to accept the spousal privilege from the president or the first lady," he said. "The only real privilege the president has is executive privilege, and that comes at a great political cost."

Mr. Dershowitz said he will ask his students to examine the role of the spouses of public officials.

"Since so many of my students — men and women — will be married to important public officials, I want them to look at the relationship between practicing law and being an advocate," he said.

So many powerful people are married to each other that potential ethical violations are bound to come up more frequently, Mr. Dershowitz said. "The purpose of my course is preventative, to make sure that no student of mine gets himself or herself into this Hillary mess," he said.

Mr. Rothstein urged some leniency in this area.

"Unless you want to say that of an important man can never apply her trade, you've got to be lenient on that," he said. "You don't want to disable professional wives from practicing their trade."

As for the legal vulnerability of the Rose Law Firm, Mr. Rothstein said the lawyers there would have to have known of the shaky financial conditions of Madison and then to have actively helped the client cover them up.

"I don't know if there was that kind of involvement," he said. "But his is a new, forefront area of the law — to hold the lawyers and the accountants responsible of the wrongdoing of the managers of an &L."

For example, the accounting firm Ernst and Whinney spent \$5 million on a legal battle before it agreed to a \$2.5 million settlement of the Federal Deposit Insurance Corp.'s \$100-million-plus lawsuit against it after the collapse of Franklin National Bank.

In the case of the Rose Law Firm, Mrs. Clinton and another partner, Richard N. Massey, represented Madison before state regulators in 1985, using an audit by Frost & Co. to show that it was solvent. Four years later, the firm — in a case handled by another partner, Webster L. Hubbell, now associate attorney general — sued Madison for the Federal Deposit Insurance Corp., saying the Frost audit was bogus.

## Says some of her actions were his idea

By Judy Keen  
and Dennis Cauchon  
USA TODAY

FLIPPIN, Ark. — The man who sold Whitewater lots says he, not Hillary Rodham Clinton, was responsible for her role in two of several areas likely to be part of a special counsel's probe of the deal.

Chris Wade, who handled all sales at the Whitewater Development Co. Inc. property, says he initiated her active involvement, which critics have used to undermine the claim of President Clinton and Hillary Clinton that their participation in the investment was minimal.

Most of the 42 lots have been sold in the 230-acre development along the White River. Only a handful of homes have been built.

Interviewed at his realty office here, Wade says, to his knowledge, the Clintons never visited the property.

"They were really passive investors," he says. That changed when he urged Hillary Clinton to become more actively involved:

► He suggested that Hillary Clinton seek power of attorney over Whitewater in November 1988. That would have effectively given her control.

Wade says the Clintons' partner in the deal, James McDougal, was too busy with his failing Madison Guaranty Savings and Loan to make routine business decisions.

"That was my idea," Wade says of the letter in which Hillary Clinton requested power of attorney. "I couldn't get ahead of Jim because of the Madison problems. Hillary and I were talking on the phone and I told her she should get power of attorney so we could deal with some decisions on Whitewater. I don't know that she ever did get it."

Bruce Lindsey, a senior Clinton adviser at the White House, says Hillary Clinton never acquired power of attorney.

► Wade suggested that Hillary Clinton pay for a model home on the property in 1981 to try to spur sales. To build the three-bedroom, ranch-style modular home on the 2.66-acre

Clinton borrowed \$30,000 from the Bank of Kingston, Ark., in which McDougal had an interest.

In 1988, Wade says, it was also his idea that she buy back the home from the estate of an owner who went bankrupt before dying. "Here we had a loan on the house, nobody making payments," says Wade. "We had a problem. ... (Her repurchase of the house) was the only way."

She bought it in September 1988 for \$8,000 and sold it two months later for \$28,000.

Hillary Clinton's involvement in Whitewater's management, as described by Wade, runs counter to the Clintons' efforts to downplay their role.

Still, says Wade, "Hillary Clinton didn't do anything wrong — nothing. Absolutely, and that's not a guess. That's a fact. I know it."

Wade has turned over documents relating to Whitewater to the FBI and says he expects to be subpoenaed by the special counsel who will investigate Whitewater.

Meanwhile, Beverly Bassett Schaffer, then the state supervisor of savings and loans, says a letter she received from Hillary Clinton's law firm requesting permission for Madison Guaranty to raise money from investors was routine and did not imply pressure from then-governor Clinton.

On April 30, 1985, the Rose Law Firm wrote to Schaffer's agency seeking the go-ahead to sell preferred stock to shore up Madison's net worth. The letter asked state regulators to contact Hillary Clinton or her colleague at Rose, Richard Massey, if they had questions.

Two weeks later, Schaffer wrote a "Dear Hillary" letter saying the plan "is not inconsistent with Arkansas law." The appropriateness of Hillary Clinton's representation of Madison in the request — made to an official appointed by her husband — also has been questioned.

Madison was owned by

McDougal, the Clintons' partner in the Whitewater investment. The thrift failed in 1989 and cost taxpayers \$47 million to \$60 million.

"Nobody in my office would have any problem saying 'no' (to the Rose Law Firm request) just because her name was on it," Schaffer says. "Nobody was going to get fired over that. Bill Clinton was my boss, not Hillary Clinton."

Wade says McDougal handled all of Whitewater's finances while Wade handled the marketing of the vacation-home lots, surveying of the property and the construction of access roads.

# Salesman details Hillary's role

## Tours, ballet for first lady

First lady Hillary Rodham Clinton and daughter Chelsea are in Moscow today for the final stages of President Clinton's trip to Europe and Russia.

On her agenda: tours of a Moscow hospital, the Kremlin and nearby sites, and another hospital tour in Minsk, Belarus, Saturday.

She'll be in the audience when President Clinton delivers a speech from a Russian TV station and then will join him for an official dinner at the Kremlin hosted by Boris Yeltsin.

The Clintons will spend the night at the Kremlin as guests of the Yeltsins before leaving Saturday morning for Minsk.

Early today, Hillary Clinton has a tour of a hospital followed by a visit to the Kremlin and a lunch hosted by Naina Yeltsina.

Later, she tours St. Basil the Blessed's church in Red Square before joining President Clinton for his speech and other events.

In addition to the hospital tour in Minsk, Hillary Clinton will attend a ballet performance.



# Moynihan an ally, a tormentor as well

By Adam Nagourney  
and William M. Welch  
USA TODAY

In the space of two months, President Clinton flew to New York to raise \$1 million for Sen. Daniel Patrick Moynihan. He lathered praise on the Senate Finance Committee chairman ("Moynihan's got an IQ of 300," Clinton exclaimed). He had the senator to dinner at the White House.

But, in just the past week, Moynihan has ridiculed Clinton's commitment to welfare reform, saying he used it as "boob bait for bubbas" to revive lagging political fortunes. He questioned the need for Clinton's health care reform, saying: "We don't have a health crisis in this country."

And he led Democrats in calling for a special counsel to probe the Clintons' holdings in the failed Whitewater Development Co. — lighting a flame under the issue just as Clinton hoped to extinguish it with a European trip.

For anyone who has followed the quirky relationship between the career politician from Arkansas and the Harvard-professor-turned-politician, this marks another in a year of memorable, if sometimes tense, exchanges between two pioneers of the Democrats' moderate wing.

But as Clinton enters his second year, the relationship looms as perhaps the most important one Clinton has with any member of Congress. Moynihan, as chairman of the committee that oversees health and welfare, has emerged as the president's most important ally — and, potentially, his most troublesome tormentor.

It is no wonder that White House officials say they have invested more energy in appeasing Moynihan — from presidential phone calls to getting jobs for Moynihan's allies to funneling funds to New York — than almost any of his colleagues.

Moynihan's recent remarks sent a shiver through the White House. But in fact, they fit neatly into a pattern that began weeks after Clinton's election, with Moynihan's tart observation that he could hear from Little Rock the "clatter of campaign promises being tossed out the window."

Moynihan declined repeated requests for an interview. White House officials, anxious to avoid a rift, were intensely cautious in discussing something that has caused resentment in

some quarters of the administration.

"He has this wonderful quality of being always provocative, often illuminating and — on very rare occasion — impossible," Presidential Counselor David Gergen said.

"The relationship is very good," asserts Clinton senior adviser George Stephanopoulos, who spoke to Moynihan last Friday night in what other aides said was an attempt to push Moynihan into being supportive in his *Meet the Press* appearance. Instead, the senator called for a Whitewater special counsel.

Asked his reaction to Moynihan's remarks on the Sunday show, Stephanopoulos, who had dinner with him again that evening, responded: "He's a very smart man who is often misunderstood."

Moynihan's defenders say there's no personal animosity.

"He's at a stage of life and career where he's going to say what he thinks, and thank God for that — he's a virtuoso," says Sen. Joseph Lieberman, D-Conn. "He disagrees with people he talks to from time to time from the administration, but I don't think there's personal animus here."

Others insist Moynihan is deliberately seeking to force Clinton to recognize the political realities of the Senate Finance Committee, where Democrats hold a thin 11-9 margin which requires the chairman to fashion compromises on such divisive issues as health care. And it doesn't hurt for him to demonstrate some independence from the president.

Lawrence O'Donnell, Moynihan's closet adviser, says the senator's call for a special counsel was meant only as a help: "It comes from someone who's been in Washington for 30 years and seen a variety of things unfold. He gives his experience to the president for free ... And that's what he first came to Washington to do, to advise the president."

It is tempting to draw easy conclusions about the relationship with Clinton and Moynihan. At first glance, it appears the result of friction between someone who has spent a life being schooled in Washington government and a newcomer, 25 years' Moynihan's junior, who succeeded by attacking the institutions that have been Moynihan's life.

Many of the suggestions — no matter how undiplomatically put — are

not bad advice. "There are issues which Pat Moynihan has reason to believe he knows more about than anyone helping Bill Clinton," says presidential scholar Stephen Hess.

Said Analyst William Schneider: "I think what Moynihan is trying to do is save Clinton from himself."

Indeed, Moynihan remarked on this when asked about his threat to hold health care hostage to force the administration to act on welfare: "I think we have their attention."

This has been, from the start, a complicated and sometimes difficult relationship, according to colleagues of both men. It was hurt badly when an anonymous White House aide was quoted in *Time* after Election Day saying the administration will "roll

right over" the new chairman.

Clinton called to apologize; Moynihan aides say he accepted it. Yet, Gergen noted that the event left "scar tissue that has since disappeared."

If Moynihan really forgave Clinton, it was not immediately apparent: He called Clinton economic estimates "fantasy" and berated the administration consideration of Social Security cost-of-living cuts a "death wish."

Mandy Grunwald, the political consultant who works for both Clinton and Moynihan, says she thought any concern about tensions was unfounded.

"President Clinton thinks that Pat Moynihan's one of the smartest people he ever met. And Pat Moynihan thinks President Clinton will be the best president he's ever served."

# Papers from Foster's office draw missing media into Whitewater

By Joyce Price  
THE WASHINGTON TIMES

The Whitewater-Madison controversy, ignored by most of the media until recently, has become the hottest story around.

It's on the front pages of daily newspapers, a staple on the nightly network news shows, and the subject of lengthy articles in this week's issues of Time and Newsweek.

But a month ago, a person would have been hard pressed to find any reports about the Whitewater Development Corp., a failed Arkansas land deal in which the Clintons invested, or Madison Guaranty Savings and Loan Association, a failed thrift owned by Whitewater partner James B. McDougal.

Before last month, only The Washington Times and The Washington Post had reported regularly on the growing controversy.

The Washington newspapers exposed details in the matter after the disclosure in October that the Resolution Trust Corp., the federal agency that disposes of failed S&Ls, had asked the Justice Department to investigate Madison Guaranty.

As Time writer George Church says this week in "Searching for the Missing Pieces," the magazine's four-page report: "The press and television paid almost no attention until recently and then largely be-

cause it developed that a file relating to Whitewater had been removed from the office of White House counsel Vincent Foster after he committed suicide last July."

The Washington Times' Jerry Seper broke the story Dec. 20 about the removal of the Whitewater files from Mr. Foster's office. Media scrutiny of Whitewater and Madison has since intensified.

"A story isn't really big until television picks it up, and television discovered this story around Christmastime," said Robert Lichter, founder and co-director of the Center for Media and Public Affairs.

He said most news organizations ignored the story because "it's complicated and esoteric and it didn't seem to lead anywhere."

"What killed the story for many news organizations was that they [the Clintons] said they lost money and nobody gained," he said.

"So if nobody gained, why don't they want to talk about it? A cover-up of higher-ups is suggested.... When it became a White House cover-up story, television latched onto it."

Like Time's Mr. Church, Mr. Lichter said the report that files were removed from Mr. Foster's office was the catalyst for wide coverage of Whitewater and Madison.

Tim Graham, the associate editor of MediaWatch, a conservative media watchdog newsletter, said the

Clintons can thank the "Trooper-gate" scandal for "getting Whitewater on television."

Network reporters played down two Arkansas state troopers' accusations of womanizing by President Clinton and pointed to the Whitewater-Madison controversy as an issue that warranted closer scrutiny, he said.

Mr. Graham dismissed arguments that the controversy's complexity was a major reason the media ignored it. "Iran-Contra was complicated, but that didn't stop anybody," he said.

Katherine McQuay, spokeswoman for NBC-TV, said her network aired reports on Whitewater and Madison "going back to September... but nobody was paying attention."

But Mr. Graham said he has tracked media coverage of Whitewater and Madison and that NBC "did its first story on Whitewater November 11. That was 12 days after The Washington Post reported the RTC request for a probe of Madison."

It was also seven days after The Times reported that the Clintons were active partners in Whitewater's management and that Hillary Rodham Clinton had sought power of attorney over the venture. The Clintons had said they were only passive partners in the deal.

# White House Redirects Focus From Land Deal To Rest of Its Agenda

By Dan Balz  
Washington Post Staff Writer

After a frenzied week of Whitewater damage control, the Clinton White House on two continents tried to affect an air of normalcy yesterday.

In Moscow, White House officials attempted to redirect interest to President Clinton's foreign policy and his meetings with Russian President Boris Yeltsin. In Washington, senior advisers who had spent the week grappling with whether to ask for a special counsel to investigate Whitewater happily took a renewed vow of silence on the issue.

"I'm not going to answer any more questions about it," one adviser said yesterday. Why not? "Special counsel," he replied.

Even as the Justice Department searched for someone to head the new investigation, the word "Whitewater" was virtually banned from the lexicon of White House aides. "Everything is in the Justice Department's court," one official said.

The decision to seek a special counsel, however, did nothing to answer the substantive questions surrounding the Clintons' partnership in the Whitewater Development Corp. or the relationship between the land development firm and the failed Madison Guaranty Savings & Loan, which was owned by James McDougal, the Clintons' business partner.

It will take more than White House talking points to put the issue to rest, but Wednesday's decision by Clinton to ask Attorney General Janet Reno to appoint a special counsel provided the circuit breaker the White House was looking for to shift the focus of the story and prevent it from overwhelming everything else Clinton is doing.

The official word yesterday was that the White House was back working at full speed on things like health care, welfare reform and the president's upcoming state of the Union Address.

"Things were getting done, but probably not at the pace anyone would have liked," said one aide.

The growing clamor for a special counsel, which came not just from Republicans or the media but from Democratic senators this week, pinned down top White House aides and created a sense of inevitability—even if it was slow in coming. Officials described Tuesday as tense, Wednesday as simply chaotic.

Senior adviser George Stephanopoulos, new White House Deputy Chief of Staff Harold Ickes, senior adviser Bruce Lindsey and others who were left here to deal with the mess while Clinton and the bulk of the staff headed for Europe had time for little other than Whitewater.

The process of decision-making was complicated by time zone differences, Clinton's frenetic schedule of meetings, speeches and photo opportunities abroad—and by the reluctance of the president and Hillary Rodham Clinton to accept the need for a special counsel to examine their past financial affairs.

By Tuesday there was a consensus in Washington that the president had to change his opinion and ask Reno to appoint a special counsel, not because they believed it was justified, but in the words of one adviser, because "the distraction factor became sufficient that you say the heck with it." But Clinton was not ready to yield until Wednesday.

Clinton's irritation with Whitewater's intrusion on his first trip to Europe was evident Wednesday, first when he upbraided an NBC reporter for asking only about Whitewater, and later when he got a question about the special counsel during a news conference in Kiev.

The questions won't go away, but White House officials believe for now, at least, they can point to someone else to answer them.

*Traveling with Clinton in Moscow, contributed to this report.*