Suggestion
Call-in

October 4, 1994
[redacted]
Mobile, AL 36606

To: Mr. Brian Lamb - For your Info.

Re: Whitewater:
How the New York Times
Got it Wrong
By: Gene Lyons

One can only assume that you've not read this article since there's been no mention of it over the airwaves (except for a caller on C-SPAN). In case you've not read this article which appeared in the October 1994 issue of Harpers' magazine, I ask that you **please read the entire article.**

Since your industry certainly has been willing relentlessly to use the damaging information against the President and First Lady regarding Whitewater, it seems to me only fair that you, at the very least, read the article.

I believe any fair-minded person who takes the time to read this article would have to admit that the Clintons have taken a bum rap (to put it tritely) from this overblown so-called scandal...and that they are grossly overdue some recourse from responsible reporters.

Yours very truly,

[redacted]

Enclosure

P.S.: I sent ~~this~~ letter to various reporters.
Hope you will take time to read this article.
Thanks for C-SPAN.

[redacted]

FOOL FOR SCANDAL

How the *Times* got Whitewater wrong

By Gene Lyons

The Great Whitewater Political Scandal and Multimedia Extravaganza, now on the verge of entering its second smash year, has always played very differently here in Little Rock than in, say, Washington, New York, or Los Angeles. To read the great metropolitan newspapers, observe the grave demeanor of network TV anchors, and heed the rhetoric of the politicians and radio talk-show hosts who have made the issue their own, one would gather that the republic teeters on the brink of a constitutional crisis. The dread "gate" suffix of Nixonian legend has been applied. Melodramatic charges of bribery, corruption, cover-up, even of suicide and murder, fill the air (although at the time of this writing the focus has shifted to "improprieties" in Washington). There has even been loose talk of presidential impeachment.

All this over a failed $200,000 dirt-road real-estate deal up in Marion County and a savings and loan flameout that cost taxpayers a lousy $65 million—the 196th most costly S&L failure of the 1980s, nationally speaking, and one that accounted for about 7 percent of the roughly $1 billion tab bankrupt institutions ran up right here in little old Arkansas. For the longest time, it was hard for most Arkansans to take all the bellyaching over Whitewater and Jim McDougal's Madison Guaranty very seriously.

Apart from a superficial acquaintance with both Clintons shared by thousands of Arkansans, I know none of the characters in the Whitewater saga personally. (My wife gave Clinton a little bit of money and went to Wisconsin for a week on his behalf as an "Arkansas Traveler" at her own expense. But that's her business.) What little I have written over the years has been mostly critical. Indeed, I cherish a videotape of myself in a short-lived guise as the poor man's Andy Rooney on a Little Rock TV station back in 1988 predicting that the governor had won his last election.

It angers me, though, that Whitewater has brought back all the old stereotypes, what the *Arkansas Times* magazine once called the image of "the Barefoot State." Barefoot, hell. To hear the national press go on about it, under Clinton poor little Arkansas became a veritable American Transylvania: a dark, mysterious netherworld populated by a mob of ignorant peasants and presided over by a half dozen corrupt tycoons in collusion with the Clintons as the Count and Countess Dracula. Scarcely a Whitewater story has appeared in the national press that hasn't made references to the state's uniquely "incestuous" links between business, government, and the legal establishment—concepts utterly foreign to places like Washington, D.C., and New York City, of course.

Even Arkansans long weary of Clinton's amoeba-like style of leadership—his indecisiveness, his downright genius for equivocation, his habit of launching more trial balloons than the National Weather Service—can't recognize the caricature of either the man or his milieu in the national press. And we're not just talking about such off-the-wall publications as *The American Spectator* or the *Wall Street Journal* editorial page. In *The New Republic*, author L. J. Davis accused Bill and Hillary Clinton of a nefarious plot to void Arkansas usury limits for the benefit of the First Lady's banker

Gene Lyons writes a column for the Arkansas Democrat-Gazette *and reviews books for* Entertainment Weekly. *He is the author of* Widow's Web (1993), *an account of a celebrated murder in Arkansas. Ernest Dumas helped research this article.*

clients. Problem is, the deed was done through an amendment to the Arkansas constitution by public referendum during the term of Republican Governor Frank White—a banker.

So how did we get here? Well, at the expense of shocking you, dear reader, it all began with the *New York Times*—specifically with a series of much-praised articles by investigative reporter Jeff Gerth: groundbreaking, exhaustively researched, but not particularly fair or balanced stories that combine a prosecutorial bias and the art of tactical omission to insinuate all manner of sin and skulduggery. Accompanied by a series of indignant editorials, Gerth's work helped create a full-scale media clamor last December for a special prosecutor. Testimony in recent Senate hearings showed that the Resolution Trust Corporation's Whitewater investigation began in direct response to the *Times* coverage; the hearings *themselves* resulted in large part from the Clinton Administration's panicky reaction to reporters' queries about the RTC probe, Gerth's among them. Absent the near-talismanic role of the *New York Times* in American journalism, the whole complex of allegations and suspicions subsumed under the word "Whitewater" might never have made it to the front page, much less come to dominate the national political dialogue for months at a time. It is all the more disturbing, then, that most of the insinuations in Gerth's reporting are either highly implausible or demonstrably false.

THE RECEIVED VERSION OF THE WHITEWATER SCANDAL AS IT TOOK SHAPE IN THE PAGES OF THE *NEW YORK TIMES* BEARS ALMOST NO RELATION TO REALITY

Let us return briefly to those thrilling days of yesteryear—specifically the 1992 primary season. On March 8, 1992, Jeff Gerth's initial story about Whitewater appeared on the *Times* front page under the headline CLINTONS JOINED S.&L. OPERATOR IN AN OZARK REAL-ESTATE VENTURE:

> [In 1984], Madison started getting into trouble. Federal examiners studied its books that year, found that it was violating Arkansas regulations and determined that correcting the books to adjust improperly inflated profits would "result in an insolvent position," records of the 1984 examination show.
>
> Arkansas regulators received the Federal report later that year, and under state law the securities commissioner was supposed to close any insolvent institution.
>
> As the Governor is free to do at any time, Mr. Clinton appointed a new securities commissioner in January, 1985. He chose Beverly Bassett Schaffer. . . .
>
> In interviews, Mrs. Schaffer, now a Fayetteville lawyer, said she did not remember the Federal examination of Madison, but added that in her view, the findings were not "definitive proof of insolvency."
>
> In 1985, Mrs. Clinton and her Little Rock law firm, the Rose firm, twice applied to the [Arkansas] Securities Commission on behalf of Madison, asking that the savings and loan be allowed to try two novel plans to raise money.
>
> Mrs. Schaffer wrote to Mrs. Clinton and another lawyer at the firm approving the ideas. "I never gave anybody special treatment," she said.
>
> Madison was not able to raise additional capital. And by 1986 Federal regulators, who insured Madison's deposits, took control of the institution and ousted Mr. McDougal. Mrs. Schaffer supported the action.

Gerth's original story was recently praised in the *American Journalism Review* as containing 80 to 90 percent of what the press knows about Whitewater today. Rival reporters complained, though, that the 1992 article lacked a "nut paragraph" summing up what the Clintons had done wrong and why it was important.

The insinuations became clearer in subsequent Gerth stories in the fall of 1993.* Following the *Washington Post's* October 31, 1993, revelation that the RTC had made a referral to the Justice Department naming the Clintons as (perhaps unwitting) beneficiaries of possible criminal actions, Gerth and Stephen Engelberg, another *Times* reporter, wrote lengthy articles that appeared on November 2 and December 15. The first dealt mainly with the still-unsubstantiated claims of former Municipal Judge David Hale that Bill Clinton urged him to commit federal bank fraud by lending $300,000 to Jim McDougal's wife, Susan. (Gerth and Engelberg neglected to point out that David Hale—no Clinton intimate but a courthouse pol first appointed by Republican Governor Frank White—had set up thirteen dummy companies with the same mailing address as his own, evidently without pressure from the Clintons.) Elsewhere, the November 2 piece was pretty much a rehash of the original 1992 article, with a few characteristically misleading tidbits added for emphasis. "By 1983, Mr. McDougal's bank was in trouble with Arkansas regulators," the *Times* informed readers. "The state's banking commissioner, Marlin S. Jackson, ordered the bank to stop making im-

*By this time, recall, the stakes were incontestably higher—Bill Clinton was President of the United States; politically damaging memos by one Jean Lewis, an employee in the ostensibly neutral RTC, had been leaked to Republican Congressman Jim Leach and others; and right-wing outfits like Floyd Brown's Citizens United had begun to churn out what Trudy Lieberman in the *Columbia Journalism Review* called "a steady stream of tips, tidbits, documents, factoids, suspicions and story ideas for the nation's press."

prudent loans. Mr. Jackson, a Clinton appointee, said in an interview last year that he told Mr. Clinton at the time of Mr. McDougal's questionable practices." Now, what Jackson told the *Los Angeles Times* (which also turned the tale inside out but did give fair context) was that the governor had urged him to ignore politics and be the "best banking commissioner you can [be]." Jackson had acted on this suggestion, with the result that the Clintons' own note was called.

The real bombshell was Gerth and Engelberg's December 15, 1993, story, which all but accused both Clintons, Jim McDougal, and Beverly Bassett Schaffer of criminal conspiracy to keep Madison Guaranty afloat regardless of the cost. But the implication in that account that has shown the most staying power involves a supposed quid pro quo involving Hillary Rodham Clinton. It centers on an April 1985 political fund-raiser Jim McDougal held and the suspicion that he may have illegally siphoned Madison Guaranty funds into Bill Clinton's campaign coffers. "Just a few weeks after Mr. McDougal raised the money for him," the *Times* noted darkly, "Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock."

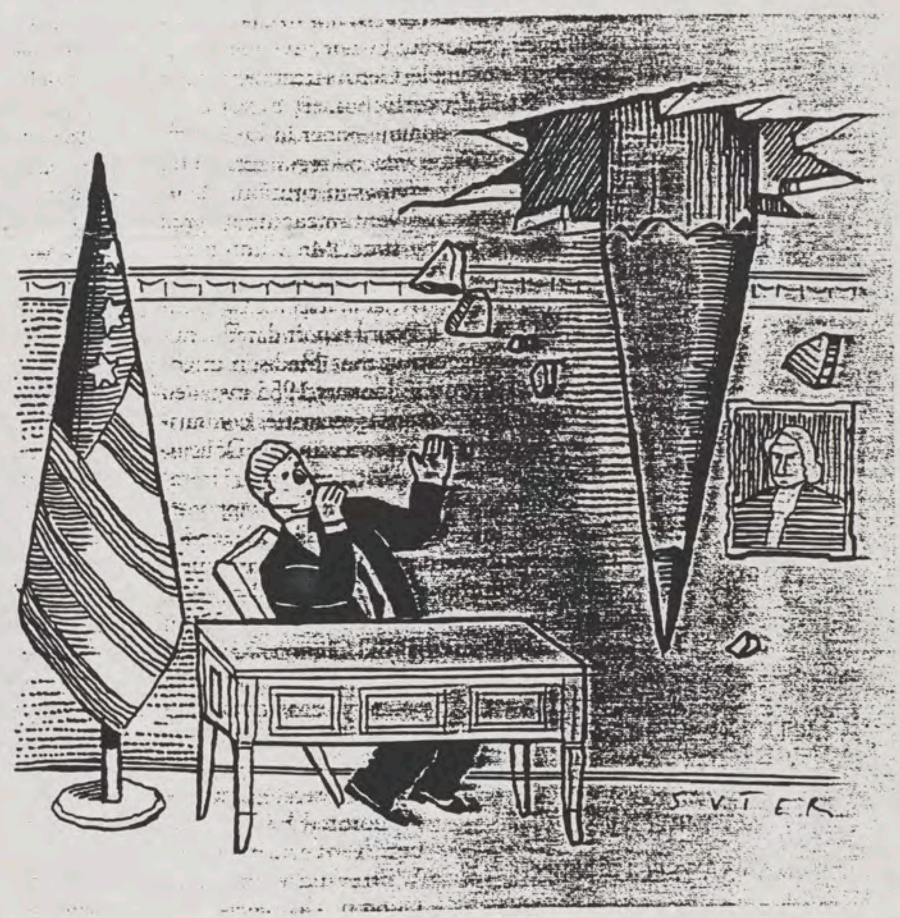
"The search for new capital," Gerth and Engelberg continued,

> took Madison to the offices of Mrs. Schaffer, who had the ultimate authority to approve any such stock sale. One of the lawyers employed by Madison to argue its case before the state regulators was Mrs. Clinton.
>
> Within weeks, Mrs. Schaffer wrote a letter to Mrs. Clinton giving preliminary approval to Madison's stock plan.
>
> The sale never went forward. But this fall the [RTC] asked the Justice Department to examine a number of Madison's transactions, and federal officials say the state's approval of the stock plan was among the matters raised by investigators.

The *Times* also quoted McDougal to the effect that Bassett Schaffer was his handpicked choice as Arkansas securities commissioner.

The theory implicit in Gerth's *Times* stories may be summarized as follows: when his business partner and benefactor McDougal got in trouble, Bill Clinton dumped the sitting Arkansas securities commissioner and appointed a hack, Beverly Bassett Schaffer. He and Hillary then pressured Bassett Schaffer to grant McDougal special favors—until the vigilant feds cracked down on Madison Guaranty, thwarting the Clintons' plan. This is the Received Version of the Whitewater scandal as it first took shape in the pages of the *New York Times*—what all the fuss is ultimately about. And it bears almost no relation to reality.

The distortions begin with the headline of the



original Gerth story in the *Times*: CLINTONS JOINED S.&L. OPERATOR IN AN OZARK REAL-ESTATE VENTURE. This headline was misleading because when Bill and Hillary Clinton entered into the misbegotten partnership to subdivide and develop 230 forested acres along the White River as resort property in 1978, Jim McDougal wasn't involved in the banking and S&L businesses at all. He was a career political operative—a former aide to Senators J. William Fulbright and John L. McClellan. In the meantime, McDougal had done well in the inflation-fueled Ozarks land boom of the Seventies. But it wouldn't be until five years later—by which time the Whitewater investment was already moribund—that he bought a controlling interest in Madison Guaranty.

Details, details. Gerth wrote that McDougal quickly built Madison "into one of the largest state-chartered associations in Arkansas." Wrong again. Among thirty-nine S&Ls listed in the 1985 edition of Sheshunoff's *Arkansas Savings and Loans*, Madison ranked twenty-fifth in assets and thirtieth in amount loaned. These errors of detail might be forgiven if Gerth had in fact uncovered a conspiracy between the Clintons and the Arkansas securities commissioner to treat Jim McDougal leniently. The appearance of conspiracy, however, was created not by the actions of the alleged parties but by selective reporting.

Consider, for example, Gerth's treatment of the appointment of Beverly Bassett Schaffer as Arkansas securities commissioner in his March 8, 1992, article: "After Federal regulators found that Mr. McDougal's savings institution, Madison Guaranty, was insolvent, meaning it faced possible closure by the state, Mr. Clinton appointed a new state securities commissioner. . . ." The clear implication is that *in response* to a Federal Home Loan Bank Board report dated January 20, 1984, suggesting that Madison might be insolvent, Clinton in January 1985 installed Bassett Schaffer as Arkansas securities commissioner for the purpose of protecting McDougal.

So how come he waited an entire year? In reality, the timing of Bassett Schaffer's appointment had nothing to do with the FHLBB report, which there's no reason to think Clinton knew about. (The Clintons had no financial stake in Madison Guaranty, although that, too, has been obscured.) The fact is that Bill Clinton *had* to find a new commissioner in January 1985 because the incumbent, Lee Thalhiemer, had resigned to reenter private practice. Appointed by Republican Governor Frank White and kept on by Clinton, Thalhiemer says he told Gerth this in an interview, and describes the *Times* version as "unmitigated horseshit."

IF MCDOUGAL SHOVED ANY FUNNY MONEY IN THE CLINTONS' DIRECTION, THE ARKANSAS SECURITIES DEPARTMENT SURE FOUND AN ODD WAY TO REWARD HIM

Bassett Schaffer strenuously insists that to this day she has never met McDougal, never heard Bill Clinton mention his name, and does not believe he influenced her appointment—and told Gerth so. She had actively sought the job from the moment she learned that Thalhiemer was quitting (he confirms recommending her to Clinton). She herself had volunteered in Clinton's 1974 congressional campaign and had worked for him full time on the Arkansas attorney general's staff while in law school. And her brother, Woody Bassett, also a Fayetteville attorney, was a personal friend and supporter of Bill Clinton.

The claim that Jim McDougal was behind Bassett Schaffer's appointment rests entirely on the word of McDougal himself, a victim of manic-depressive illness whose lawyer filed an insanity plea in a 1990 bank-fraud trial in U.S. District Court, in which McDougal was ultimately found not guilty. In his original 1992 article, Gerth had acknowledged McDougal's history of emotional illness but described him as "stable, careful and calm." By 1993 mention of those difficulties had all but vanished from the pages of the *New York Times*—despite the fact that the supposed recipient of Bill Clinton's largess was living in Arkadelphia in a trailer on SSI disability payments. Also unmentioned, for what it's worth, was that McDougal had long since recanted his accusations against Clinton and taken to blaming the whole mess on Republican partisans in the RTC.

But did Bassett Schaffer help McDougal anyway? Did the Arkansas Securities Department, as Gerth asserts, have proof of Madison Guaranty's insolvency in early 1985? Did Bassett Schaffer have the legal authority to shut it down?

Consider the allegation that Madison was insolvent and Bassett Schaffer failed to respond. True, the 1984 FHLBB report did argue that Madison Guaranty had overestimated its profit from contract land sales—not including Whitewater—by $564,705. "Correcting entries will adversely effect [*sic*] net worth and result in an insolvent position." But is this proof of legal insolvency? Hardly. In the first place (although Gerth neglected to point this out), the title page of the document from which the *Times* reporter took the one brief passage he cited stipulated that it had "been prepared for supervisory purposes only and should not be considered an audit report." More significantly, federal auditors later accepted Madison's position on contract land sales, and the putative adjustments were never made. Indeed, on June 26, 1984, six months after the report Gerth cited, and six months *before* Bassett Schaffer took office, Madison Guaranty's board of directors met in Dallas with state and federal regulators. They agreed to enter a formal "Supervisory Agreement" with the FHLBB that spelled out detailed legal and accounting procedures designed to help the S&L improve its financial position. In a letter dated September 11, 1984, the FHLBB gave Madison formal approval of a debt-restructuring plan that "negat[ed] the need for adjustment of $564,705 in improperly recognized profits" and dropped all references to insolvency. Arkansas officials also called Gerth's attention to an independent 1984 audit that also refuted Madison's insolvency. In his story the reporter neglected to mention either document.

If McDougal shoved any funny money in the Clintons' direction—either through Whitewater or an April 1985 campaign fund-raiser—the Arkansas Securities Department sure found an odd way to reward him. No sooner did Bassett Schaffer receive the FHLBB's 1986 report on Madison than she recommended stringent action. On July 11, 1986, she and a member of her staff flew to Dallas to meet with FHLBB and Federal Savings and Loan Insurance Corporation regulators for a showdown with Madison's board. McDougal himself was not invited. McDougal was stripped of authority, and federal officials agreed to supervise the failed thrift until the FSLIC found money to pay depositors. When, a year later, Bassett Schaffer received an audit for 1986 (and a revised audit for 1985) officially reflecting that Madison Guaranty was insolvent, she wrote the FHLBB and FSLIC a letter, dated December 10, 1987, strenuously urging them to shut down Madison and two other Arkansas S&Ls. Fifteen months later, federal regulators (whose tardiness cannot be blamed on pressure from a state governor) finally locked Madison's doors.

There is not the slightest evidence, then, that Bassett Schaffer inappropriately delayed taking action against Madison. Nor, it seems, did she bend the law when asked by Hillary Clinton to approve a stock sale by the ailing thrift.

Remember the dark hint of misdeeds in Gerth and Engelberg's December 15, 1993, story: "Just a few weeks after Mr. McDougal raised the money for [Governor Clinton], Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock." Now, what made Madison Guaranty's plan "novel" is hard to say. The vast majority of state-regulated S&Ls in 1985 issued stock. Even so, the adjective, with its implication of wrongdoing, has recurred mantra-like in virtually every Whitewater roundup article since.

For Hillary Rodham Clinton to have ventured anywhere near Madison in any capacity was a damn fool thing to do. But the fact is that her entire involvement in the "novel" stock issue consisted of the mention of her name in a letter written by a junior member of the Rose Law Firm expressing the opinion that it would be permissible under state law for Madison Guaranty to make a preferred stock offering. After studying the applicable statutes and consulting with her staff, Bassett Schaffer agreed. "Arkansas law," she wrote in a two-paragraph letter dated May 14, 1985—the now-famous "Dear Hillary" missive—"expressly gives state chartered associations all the powers given regular business corporations . . . including the power to authorize and issue preferred capital stock." Bassett Schaffer had issued the narrowest sort of regulatory opinion. Had she ruled otherwise, Madison Guaranty would have had no difficulty finding a judge to reverse her. Anyway, no application was ever filed.

The Arkansas Securities Department's power to close ailing S&Ls was mostly theoretical. Unlike the feds, Bassett Schaffer's office had no plenary authority to shut S&Ls down and seize their assets. Nor did Arkansas law make any provision for the state to pay off despositors of bankrupt S&Ls. That duty belonged to the FSLIC. "We acted in unison at all times," says Walter Faulk, then director of supervision for the FHLBB in Dallas. "I never saw [Bassett Schaffer] take any action that was out of the ordinary. Nor, to be perfectly honest, could she have gotten away with anything if she did. To my knowledge, there is nothing that she or the governor of Arkansas did or could have done that would have delayed the action on this institution."

When I asked him recently about the discrepancies and omissions in his reporting, Jeff Gerth stood his ground, alternately argumentative and defensive, and did not wish to be quoted. He argues, for example, that he never literally wrote that Jim McDougal had *in fact* gotten Bassett Schaffer the job, merely that he'd claimed to. Her denial struck him as beside the point. In other instances, he pleaded limitations of time and space.

The perception that Gerth most resents is the one most talked about in Arkansas: his reliance upon the hidden hand of Sheffield Nelson—Clinton's 1990 Republican gubernatorial opponent and a legendary political infighter. The *Times* reporter insists that Nelson did no more than give him Jim McDougal's phone number and later introduce him to former Judge David Hale, whose defense attorney is Nelson's associate. Nelson, the Republican nominee for governor again in 1994, tends to be coy about his role. But he has given other reporters a thirty-eight-page transcript of an early 1992 conversation between himself and McDougal, then embittered by what he saw as Clinton's abandonment.

Indeed, Jeff Gerth, Sheffield Nelson, and the *New York Times* go way back. As long ago as 1978, Gerth wrote a well-timed exposé of Nelson's mortal foes Witt and Jack Stephens—the billionaire natural-gas moguls and investment bankers who ran Arkansas like a company store during the Orval Faubus era (1955–67). The Stephens brothers owned a small gas-distribution company in Fort Smith that was paying them at a better rate than other gas-royalty owners. But what made Gerth's piece significant was its timing: it appeared shortly before a Democratic primary in which the Stephenses' nephew, U.S.

Representative Ray Thornton, was eliminated in a three-man race for the U.S. Senate. Gerth had promised local reporters he'd uncovered a scandal that would knock Thornton out of the race. Some observers think the *Times* article about the business dealings of Thornton's uncles did swing just enough votes in Fort Smith to keep him out of a runoff election won by Senator David Pryor.

A few more highlights from Sheffield Nelson's political biography may help underline his motives for helping reporters portray the Clintons in the worst possible light. Hired out of college as Witt Stephens's personal assistant, Nelson was later installed as CEO of Arkansas-Louisiana Gas Co. (Arkla), controlled by the Stephens family and the state's principal natural-gas utility. (It was his subsequent refusal to use Arkla pipelines to carry gas from other Stephens-owned companies to buyers east of the state that eventually provoked a lifelong blood feud of Shakespearean malevolence.) Until 1989 Nelson was a Democrat, impatiently biding his time until the end of the Clinton era. But when it became apparent that Clinton would run again in 1990, Nelson became a Republican and won the 1990 gubernatorial primary over an opponent funded by Stephens interests. Bill Clinton then proceeded to humiliate Nelson 58 percent to 42 percent in the general election.

Clinton owed his 1990 triumph in part to the fact that his Public Service Commission conducted an inquiry into a business deal involving Nelson and a friend of Nelson's named Jerry Jones. It seems that back when Nelson was CEO of Arkla, he'd overridden the objections of company geologists and sold the drilling rights to what turned into a mammoth gas field in western Arkansas to Arkoma, a company owned by Jones, whom Nelson had brought onto Arkla's board of directors. The price was $15 million. Jones found gas almost everywhere he drilled. Two years after Nelson's departure, Arkla paid Jones and his associates a reported $175 million to buy the same leases back as well as some other properties. Jerry Jones then proceeded to buy the Dallas Cowboys and win two Super Bowls. The election-year probe of the Arkla-Arkoma deal resulted in millions of dollars of refunds to rate payers, which wasn't necessarily the point. It also earned the President a permanent spot on Sheffield Nelson's enemies list. The result, it's no exaggeration to say, has been Whitewater.

The talents of investigative reporters now poring over Whitewater documents might be better spent looking into another McDougal real-estate venture. Sheffield Nelson and Jerry Jones put up a reported $225,000 each in return for a 12.5 percent share of McDougal's ill-conceived luxury retirement community on Campobello Island, New Brunswick, Canada. It was New Deal Democrat McDougal's odd conceit that wealthy vacationers and retirees would be moved by sentimental memories of FDR's summer retreat (remember *Sunrise at Campobello*?) to purchase lots on a resort island that is in fact damp, cold, foggy, and remote. The Campobello project not only failed but helped pull Madison Guaranty down with it. Gerth and the *Times* have left that aspect of the Madison Guaranty story unexplored—even though, unlike Whitewater, the name of Campobello Properties Ventures is mentioned prominently and repeatedly in the very FHLBB examination report that Gerth quoted in his original March 8, 1992, article. Also unlike Whitewater, the Campobello project *did* put a big chunk of Madison Guaranty's scant capital at risk—some $3.73 million, to be exact, at a time when the FHLBB examiner contended that the S&L was actually $70,000 in the hole.

At last report, that particular picturesque stretch of Canadian coastline belonged to the Resolution Trust Corporation. Nelson and Jones, however, actually made a profit. In 1988, the FHLBB, then supervising Madison Guaranty's assets, bought the boys out for $725,000—leaving them a profit of $275,000. No doubt there's a plausible explanation, although William Seidman, chief of the FDIC and the RTC at the height of the S&L crisis, told the *Fort Worth Star-Telegram* that "I can't believe it. It's an extraordinary event. It smells. It could be legit, but I doubt it." Gerth says the Campobello deal holds no interest for *Times* readers. But imagine the uproar had your tax dollars bailed out the Clintons rather than an embittered Republican politician feeding damaging allegations to the *New York Times*.

The same faults that mar Jeff Gerth's reporting on Whitewater—misleading innuendo and ignorance or suppression of exculpatory facts—also showed up in the *Times* accounts of Hillary Rodham Clinton's commodity trades with Springdale attorney Jim Blair and her husband's dealings with Tyson Foods. "During Mr. Clinton's tenure in Arkansas," Gerth wrote near the top of his March 18, 1994, front-page account, "Tyson benefited from a variety of state actions, including $9 million in government loans, the placement of company executives on important state boards and favorable decisions on environmental issues." The alleged $9 million in loans was the implied quid pro quo for old pal Blair's generous tips to Hillary in the 1970s that helped her turn $1,000 into nearly $100,000.

Following Gerth's report, the incriminating $9 million figure appeared virtually everywhere. The

Times itself weighed in with a March 31 editorial called "Arkansas Secrets," attacking the "seedy appearances" of Bill and Hillary Clinton's "extraordinary indifference to . . . the normal divisions between government and personal interests." The same editorial went on to deride what it called "the Arkansas Defense": that "you cannot apply the standards of the outside world to Arkansas, where a thousand or so insiders run things in a loosey-goosey way that may look unethical or even illegal to outsiders." Nor have *Times* editorial writers been the only ones to scold the Clintons for succumbing to the lax moral climate of the President's native state. The *Baltimore Sun*, Spiro Agnew's hometown paper, opined that the First Lady's adventures in the cow trade "certainly [don't] smell right, especially considering that [Jim Blair] represented a giant, influential agribusiness firm in Arkansas that later received what seemed to be favors from Gov. Clinton." *Newsweek*'s Joe Klein wrote of the President's "multiple-personality disorder," involving a moderate Clinton, a liberal Clinton, and "the likely suspect in the Whitewater inquiry, a pragmatic power politician who did whatever necessary to get and keep office in Arkansas . . . granting low-interest loans to not-very-needy business interests, who in turn contributed generously to his political campaigns. This Clinton snuggled up close to the Arkansas oligarchs, the bond daddies and chicken pluckers—and never quite escaped the orbit of the shadowy Stephens brothers, Witt and Jackson." (Witt Stephens has been dead for three years, and Jack Stephens is a Reagan Republican who has bankrolled nearly every Clinton opponent—except Sheffield Nelson—since the early 1980s.)

THOUGH GERTH PORTRAYED DON TYSON AS A MAJOR CLINTON SUPPORTER, CLINTON'S BATTLES WITH THE CHICKEN MOGUL ARE LEGENDARY IN ARKANSAS

There's just one problem with this chorus of self-righteous denunciation: the $9 million in loans that inspired it never existed. Especially attentive readers of the *New York Times* may have noticed an odd little item in the daily "Corrections" column on April 20, 1994:

> An article on March 18 about Hillary Rodham Clinton's commodity trades misstated benefits that the Tyson Foods company received from the state of Arkansas. Tyson did not receive $9 million in loans from the state; the company did benefit from at least $7 million in state tax credits, according to a Tyson spokesman.

Gerth blames a chart misread on deadline.

But was the *Times* embarrassed? Hardly. In the journalistic equivalent of double jeopardy, the *Times* editors, having convicted Hillary Clinton on a spurious charge, decided she was guilty of a *new* charge: helping Tyson Foods to that $7 million in tax credits. No sooner had she held her April 22 press conference on Whitewater-related issues than the *Times* fretted that the First Lady's performance had been smooth but cleverly evasive. Particularly suspicious, an April 24 editorial found, were her dealings with Jim Blair, "a lawyer for Tyson Foods, a large company that was heavily regulated by and received *substantial tax credits* from the Arkansas government." [Emphasis added] And people call the President slick!

The truth is far less lurid. The $7 million in investment tax credits Tyson Foods claimed against its Arkansas state tax bill after 1985—that is, between seven and fourteen years after Hillary's commodity trades—were written into the state's revenue code and were never Bill Clinton's to bestow or withhold. True, the Clinton Administration did sponsor the 1985 legislation that created the tax credits. It did so under strong pressure, not from Tyson but from International Paper, which threatened to take its processing plants elsewhere unless Arkansas matched tax breaks available from other states—a potentially severe economic blow to the already poor southern half of the state. Far from being unique to Arkansas, state investment tax credits are now the rule from sea to shining sea. One week after the *Times* made its lame correction, Tyson announced the opening of a new plant in Portland, Indiana. According to a press release by Indiana Governor Evan Bayh, the state and local governments provided some $9 million in economic incentives—approximately equal to what Tyson got from Arkansas during Bill Clinton's six terms.

Elsewhere, nearly every bit of evidence cited as proof of shady connections between the Clintons and Tyson Foods in the *Times* March 18, 1994, front-page story got the familiar Gerth treatment. Besides the imaginary $9 million in loans, Gerth cited several other suspicious transactions, among them a bitter court battle over polluted groundwater in the town of Green Forest in which the Clinton Administration "failed to take any significant action," and a pair of seemingly tainted appointments—including renaming a Tyson veterinarian to the state Livestock and Poultry Commission and Jim Blair to the University of Arkansas board. An objective account of the court battle would have pointed out that the city of Green Forest was itself a defendant in the same lawsuit. Bill Clinton was not. Officials of the Arkansas Department of Pollution Control and Ecology testified for the plaintiffs against Tyson Foods. So much for yet another dark Clintonian conspiracy.

Reappointing a Tyson veterinarian to the Livestock and Poultry Commission? Clinton is guilty as charged. Except that the fellow happens to be the state's ranking expert on chicken diseases, the prevention and treatment of which is the commission's principal task. As for naming Jim Blair himself to the University of Arkansas board? Well, it's quite an honor, and Blair can undeniably score great Razorback tickets. Otherwise, where's the scandal? At any rate, Blair wasn't a Tyson employee back when he and Hillary did their cattle trades. He was in private practice as one of Springdale's most prominent corporate attorneys, representing banks, trucking companies, insurance firms, and poultry interests.

Gerth portrayed chicken mogul Don Tyson as a major Clinton supporter and fund-raiser, one whose close ties to the President had "been a subject of debate for years in Little Rock and [which] became an issue during the 1992 Presidential campaign." The fact is that Clinton's battles with Tyson and the poultry industry are legendary in Arkansas. After Clinton failed to support an effort by the poultry and trucking lobbies to raise the truck weight limit to 80,000 pounds, Tyson backed his Republican opponent, Frank White, in 1980 and 1982 and refused to speak to Clinton for years. When Clinton finally gave in on the 80,000-pound limit (making Arkansas the last of the states to do so), he pushed through the legislature an unusual "ton-mile" tax on eighteen wheelers—scaling the fee to the weight and distance they drove on Arkansas highways. The ton-mile tax was eventually thrown out after a bitter court battle. (In keeping with tradition, a profile of Clinton in *The New York Times Magazine* by Michael Kelly last July omitted the political context and cited the same fight as evidence of Clinton's spinelessness.)

Like most Arkansans, Tyson did back Clinton's 1983 educational reforms and made relatively modest campaign contributions from then on—something that was clearly prudent on the part of one of the state's largest private employers. But in the legislature the poultry and trucking industries fought virtually every Clinton initiative. Indeed it was Clinton's anger at the poultry industry and the Stephens interests, among others, after they combined to beat back a half-cent education sales tax in 1987 that provoked him to create a statewide "blue-ribbon" panel to write Arkansas's first meaningful ethics and disclosure law. After the selfsame "special interests" gutted the thing during a special session, Clinton dissolved the legislative session, led the effort to put the new standard on the ballot as an initiated act, campaigned for it hard, and won. (*Times* editorial writers may be interested to know that New York Governor Mario Cuomo's having earned $270,000 in 1992 giving speeches might constitute a felony here in darkest Arkansas.)

Don Tyson did throw in with the governor on one notable issue during Clinton's last go-around with the Arkansas legislature. A charter member of the so-called Good Suit Club—a group of wealthy bankers and businessmen, like the late Sam Walton of Wal-Mart, who met informally to encourage educational reform—Tyson endorsed Clinton's plan to levy a 1/2 of 1 percent increase in the corporate income tax to benefit community technical colleges, helping the bill win the necessary three-fourths vote. Quick, somebody call Gerth at the *New York Times* and notify the special prosecutor. Something tells me they're fixing to load those technical colleges up with poultry-science courses.

All of this raises the *really* interesting question at the heart of the Whitewater scandal: why—with representatives of the vaunted national press camped out in Little Rock for weeks at a time, squinting over aged public documents and pontificating nightly at the Capital Hotel bar—has nobody blown the whistle on Gerth and the *New York Times*? There are several reasons, ambition and fear among them. It is always safest to run with the pack, and editors who invest thousands of dollars on a scandal don't normally want to hear that there's no scandal to be found. Reporters who *have* challenged aspects of the official version, like Greg Gordon and Tom Hamburger of the *Minneapolis Star Tribune* and John Camp of CNN, have not found their celebrity enhanced. Those who have tried to split the difference, like the reporters for *Time* magazine—which has always reported (albeit parenthetically) that Arkansas bank regulators treated Madison Guaranty sternly—have ended up producing accounts as muddled and self-referential as a John Barth novel. "The dealings in question," *Time*'s George Church wrote last January 24, "are so complex that it is difficult even to summarize the suspicions they arouse, let alone cite the evidence supporting such suspicions. . . . Violations of law, if any, would be extremely difficult to prove." And people call Clinton mealymouthed.

Regional bias and cultural condescension play a part, too. How could the *New York Times* be wrong and the *Arkansas Times* be right? But even if Bill Clinton had been governor of Connecticut instead of Arkansas, in the post-Watergate, post-everythinggate culture no reporter wishes to appear insufficiently prosecutorial—particularly not when the suspects are the President and his wife. By definition they've got to be guilty of something; it may as well be Whitewater. ■