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VIEWPOINTS

Embattled Clintons Should Note Watergate Lessons

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SOME PEOPLE see in Whitewater the specter of Watergate, while others deny any analogy. I think it's too early to make a definitive judgment - but there are disquieting similarities.

Watergate referred to a host of scandals that involved more than the burglary of Democratic Party headquarters. The Senate Watergate hearings, for example, disclosed that Richard Nixon's White House had created an "enemies list" of reporters and others not friendly to administration. We recently learned that a member of Bill Clinton's cabinet, Energy Secretary Hazel O'Leary, spent more than \$40,000 of taxpayers' money to create her own enemies list of reporters writing stories unfavorable to O'Leary and her department. The White House announced that the list was "unacceptable," but not illegal. Ditto, Nixon.

When some of the Watergate tapes were finally released, we learned Nixon advised aides to say: "I don't remember . . . I can't recall." No one claims Clinton has given such advice, but many of his aides also have bad memories. Witnesses at the Senate Whitewater hearings have used the phrases "don't recall" or "don't remember" nearly 800 times. One, when confronted with inconsistent statements from his diary, claimed he lied to his diary. The "I don't recall" defense did not preclude perjury convictions against the Watergate defendants.

When 18 1/2 minutes disappeared from the White House tapes, Alexander Haig blamed the gap on "some sinister force." In Whitewater - which, like Watergate, involves a wide variety of purported wrongdoing - documents have mysteriously appeared. For two years, the independent counsel has subpoenaed certain billing records of the Rose law firm - where Hillary Clinton and several Clinton aides worked. A few weeks ago, these records surfaced, covered by a White House aide, in (of all places) the family quarters of the White House.

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The records are annotated in the handwriting of Vince Foster, the White House aide who apparently committed suicide in 1993. Hillary Clinton has not explained how they materialized in one of the most secure places in the world - unless they had previously been withheld in violation of the subpoenas. That would involve an obstruction of justice.

After Hillary Clinton testified before the Whitewater grand jury, she said she had no idea how the documents got there. The records, showing she worked on projects for Madison Guaranty Savings & Loan, appear inconsistent with her claim that she did little work for the failed thrift, which is at the center of the Whitewater controversy.

Nixon unsuccessfully sought to keep documents from Congress by asserting executive privilege, while Bill Clinton has unsuccessfully asserted attorney-client privilege. Another disquieting similarity between Watergate and Whitewater is the way facts seem to drip out slowly and the story keeps changing. First, we're told that the first lady "had no role" in the decision to fire the employees of the White House Travel Office. Then a memorandum is uncovered that says, "Hillary wants these people fired - Mac [McLarty, then chief of staff] wouldn't do it." We are told that the travel employees were fired because of sloppy records and criminal behavior.

Then we learn that, before the inauguration, before any investigation of the travel office, Clinton's aides in Arkansas were saying the decision had already been made to remove the travel office staff and replace it with political cronies. The attorneys for Billy Dale, the head of the travel office, accused the White House of removing logs that would account for money he was charged with embezzling. Although the trial judge refused Dale permission to subpoena the White House for these records, the jury returned a swift verdict of acquittal.

Ultimately, Watergate was a scandal about abuse of power, which also involved laundering of funds. Whitewater may involve a scandal about laundering of funds, which also involves abuse of power. A cynic may look at what has been revealed and see an interesting business relationship between the former governor of Arkansas and his wife, a practicing lawyer. When the Arkansas Securities Department started investigating Madison, Madison began sending Hillary Clinton a \$2,000 monthly retainer; as Bill Clinton was about to become governor, an official connected to Tyson Foods (a big Arkansas employer) arranged commodities trades for Hillary Clinton that rapidly converted \$1,000 to \$100,000.

Continuing lessons abound in both the Watergate and Whitewater experiences. Last month, I visited Moldova, one of the former Soviet

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publics, to advise the newly created Supreme Court on the role of an independent judiciary. Toward the end of our meetings, the justices asked about Watergate. Later, they said, "Tell us about the Hillary problem." They clearly saw a resemblance. I told them that in America, no one, not the president, not his spouse, is above the law. That is the lesson of Watergate.

----- INDEX REFERENCES -----

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OFFICE OF the PRESIDENT, petitioner,
v.
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Case below, In re Grand Jury Subpoena Duces
Tecum, 112 F.3d 910.

No. 96-1783.

*2483 Petition for writ of certiorari to the United
States Court of Appeals for the Eighth Circuit
denied.

Supreme Court of the United States

June 23, 1997.

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