harassment or assault by Bill Clinton. On Jan. 29, 1998, almost four years after he had convinced Jones and her family to file the lawsuit against Clinton, Evans-Pritchard claimed in the London *Daily Telegraph* that Jones's lawyers had a witness list which included "more than 100 women who allegedly had sexual encounters with the President in circumstances that are relevant to the [Paula Jones] case." This was a wild and fanciful boast, but Jones's lawyers attempted to publicize some of the incidents by dumping affidavits and other documents into the public record.

The "Jane Does" at issue in the "secret evidence" being promoted by the House Managers, are precisely the "Jane Does" from the Jones case. Included in 700 pages of documents filed last March by Jones's lawyers, was a document alleging that Clinton had committed a "brutal rape" in 1978—involving "Jane Doe No. 5." Jones's lawyers also argued that Clinton was guilty of obstruction of justice in connection with various women. But on April 1, 1998, Jones's case was thrown out of court.

But no matter. The day after the Lewinsky story hit the press, Ambrose Evans-Pritchard wrote in the Jan. 22, 1998 *Daily Telegraph:* "Paula Jones has now achieved her object of inflicting massive damage on Bill Clinton, with shortening odds that she may ultimately destroy his Presidency." Proving Evans-Pritchard's point, Starr then subpoenaed the "Jane Doe" files from Jones's lawyers—which was probably redundant, since his own investigators had long been digging up the same information. FBI agents working for Starr interviewed a number of these women. These FBI records and other raw, unsubstantiated material were then given to the House Judiciary Committee, and subsequently, David Schippers, the chief counsel to Republicans on the House Judiciary Committee, interviewed some of them. This is what now constitutes the "secret evidence" which Rep. Tom DeLay (R-Tex.) and many of the managers have been touting.

A few days after the House voted up the Articles of Impeachment, DeLay said that the 67 votes needed to convict the President in the Senate could materialize "out of thin air," if the Senators were to "spend plenty of time in the evidence room." DeLay boasted of "reams of evidence that have not been publicly aired."

Rep. Chris Cannon (R-Utah), one of the House managers, has especially been promoting the "secret evidence." Appearing on CNN on Sunday, Jan. 10, Cannon argued that the "Jane Doe" witnesses are important to show "the continuing pattern of how this President has obstructed justice over time."

Responding to Cannon, former White House special counsel Lanny Davis attacked the idea of using this hidden evidence in the Senate trial. "It's McCarthyism at its worst," Davis said. "This is slimy tactics, that they should not be allowed to get away with."

In their opening presentations on Jan. 14-15, a number of the House managers referred to a "pattern of obstruction of justice," in the same terms as Paula Jones's lawyer had done almost a year ago.

It is a dirty, filthy trail from Richard Mellon Scaife's "Arkansas Project" and Troopergate, to Ambrose Evans-Pritchard and the Paula Jones case, to Kenneth Starr's sex-obsessed inquisition, and finally to the House and the Senate. But this is the desperate game that is now being played out to drive President Clinton from office.

Documentation

Clinton lawyers warn of threat to Constitution

The following are excerpts from the Trial Memorandum of President Clinton, submitted to the United States Senate on Jan. 13:

Twenty-six months ago, more than 90 million Americans left their homes and work places to travel to schools, church halls and other civic centers to elect a President of the United States. And on January 20, 1997, William Jefferson Clinton was sworn in to serve a second term of office for four years.

The Senate, in receipt of Articles of Impeachment from the House of Representatives, is now gathered in trial to consider whether that decision should be set aside for the remaining two years of the President's term. It is a power contemplated and authorized by the Framers of the Constitution, but never before employed in our nation's history. The gravity of what is at stake—the democratic choice of the American people—and the solemnity of the proceedings dictate that a decision to remove the President from office should follow only from the most serious of circumstances and should be done in conformity with Constitutional standards and in the interest of the Nation and its people. . . .

On October 28, 1998, more than 400 historians issued a joint statement warning that because impeachment had traditionally been reserved for high crimes and misdemeanors in the exercise of executive power, impeachment of the President based on the facts alleged in the OIC Referral would set a dangerous precedent. "If carried forward, they will leave the Presidency permanently disfigured and diminished, at the mercy as never before of caprices of any Congress. The Presidency, historically the center of leadership during our great national ordeals, will be crippled in meeting the inevitable challenges of the future.". . .

Ours is a Constitution of separated powers. In that Consti-

tution, the President does not serve at the will of Congress, but as the directly elected, solitary head of the Executive Branch. The Constitution reflects a judgment that a strong Executive, executing the law independently of legislative will, is a necessary protection for a free people.

These elementary facts of constitutional structure underscore the need for a very high standard for impeachment. The House Managers, in their Brief, suggest that the failure to remove the President would raise the standard for impeachment higher than the Framers intended. They say that if the Senate does not remove the President, "The bar will be so high that only a convicted felon or a traitor will need to be concerned.". . . The Framers wanted a high bar. It was not the intention of the Framers that the President should be subject to the will of the dominant legislative party. As Alexander Hamilton said in a warning against the politicization of impeachment: "There will always be the greatest danger that the decision will be regulated more by comparative strength of parties than by the real demonstrations of innocence or guilt." Federalist 65. Our system of government does not permit Congress to unseat the President merely because it disagrees with his behavior or his policies. The Framers' decisive rejection of parliamentary government is one reason they caused the phrase "Treason, Bribery or other high Crimes and Misdemeanors" to appear in the Constitution itself. They chose to specify those categories of offenses subject to the impeachment power, rather than leave that judgment to the unfettered whim of the legislature.

Any just and proper impeachment process must be reasonably viewed by the public as arising from one of those rare cases when the Legislature is compelled to stand in for all the people and remove a President whose continuation in office threatens grave harm to the Republic. Indeed, it is not exaggeration to say—as a group of more than 400 leading historians and constitutional scholars publicly stated—that removal on these articles would "mangle the system of checks and balances that is our chief safeguard against abuses of public power." Removal of the President on these grounds would defy the constitutional presumption that the removal power rests with the people in elections, and it would do incalculable damage to the institution of the Presidency. If "successful," removal here "will leave the Presidency permanently disfigured and diminished, at the mercy as never before of the caprices of any Congress."

These articles allege (1) sexual misbehavior, (2) statements about sexual misbehavior and (3) attempts to conceal the fact of sexual misbehavior. These kinds of wrongs are simply not subjects fit for impeachment. To remove a President on this basis would lower the impeachment bar to an unprecedented level and create a devastating precedent. As Professor Arthur Schlesinger, Jr., addressing this problem, has testified: "Lowering the bar for impeachment creates a novel, . . . revolutionary theory of impeachment, [and] . . . would send us on an adventure with ominous implications for the separation of powers that the Constitution established as the basis of our political order. It would permanently weaken the Presidency."

An American impeachment trial is not a parliamentary inquiry into fitness for office. It is not a vote of no confidence. It is not a mechanism whereby a legislative majority may oust a President from a rival party on political grounds. To the contrary, because the President has a limited term of office and can be turned out in the course of ordinary electoral processes, a Presidential impeachment trial is a constitutional measure of last resort designed to protect the Republic.

This Senate is therefore vested with an extremely grave Constitutional task: a decision whether to remove the President for the protection of the people themselves. In the Senate's hands there rests not only the fate of one man, but the integrity of our Constitution and our democratic process. . . .

Our Framers wisely gave us a constitutional system of checks and balances, with three co-equal branches. Removing this President on these facts would substantially alter the delicate constitutional balance, and move us closer to a quasi-parliamentary system, in which the President is elected to office by the choice of the people, but continues in office only at the pleasure of Congress. . . .