THE LAWYER-HERO: LESSONS IN LEADERSHIP FOR LAWYERS FROM WATERGATE TO THE PRESENT DAY

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INTRODUCTION

Amidst recent political and social crises, a growing body of literature has turned to the critical role to be played by lawyer-leaders in the tasks of civic reinvention and restoration of the public trust.[1] Some of that literature focuses on the importance of developing leadership skills in law students and young lawyers,[2] noting the role that law schools can play in honing students' leadership acuities in preparation for the challenges of service in the private and public sectors.[3] A

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1. *See, e.g.*, JON MEACHAM, AND THERE WAS LIGHT: ABRAHAM LINCOLN AND THE AMERICAN STRUGGLE (2022) (chronicling Lincoln's life as he grew from a boy on the Kentucky frontier to a national leader during the Civil War); CHARLES R. DISALVO, M.K. GANDHI ATTORNEY AT LAW: THE MAN BEFORE THE MAHATMA (2013) (documenting Gandhi's early years as a student and lawyer); Deborah L. Rhode, *Lessons from Iconic Leaders: Thurgood Marshall and Nelson Mandela*, 48 HOFSTRA L. REV. 705 (2020) (profiling how two lawyers—Thurgood Marshall and Nelson Mandela—rose to leadership and made crucial contributions to social justice); Sameer M. Ashar, *Movement Lawyers in the Fight for Immigrant Rights*, 64 UCLA L. REV. 1464 (2017) (exploring the range of roles played by lawyers in the social change campaigns surrounding immigration enforcement and social movement activism more generally).

2. *See generally* George T. "Buck" Lewis & Douglas A. Blaze, *Training Leaders the Very Best Way We Can*, 83 TENN. L. REV. 771 (2016) (surveying leadership education in the legal field and best practices for developing leaders); Deborah L. Rhode, *Leadership in Times of Social Upheaval: Lessons for Lawyers*, 73 BAYLOR L. REV. 67 (2021) (advocating for legal educators to better prepare students for leadership positions, particularly in times of crisis); Paula A. Franzese & Daniel J. O'Hern Sr., *Restoring the Public Trust: An Agenda for Ethics Reform of State Government and a Proposed Model for New Jersey*, 57 RUTGERS L. REV. 1175 (2005) (detailing the ethics review completed by Franzese and O'Hern as Special Ethics Counsel and discussing cornerstones of good government); Paula A. Franzese, *The Anatomy of Government Ethics Reform: Lessons Learned, a Path Forward*, 35 NOTRE DAME J.L. ETHICS & PUB. POL'Y 523 (2021) (discussing recent events in New Jersey after the Special Ethics Counsel report and strategies to strengthen the public trust).

3. *See* Lewis & Blaze, *supra* note 2, at 773-74.

growing number of law schools now offer courses and programs on leadership, government ethics, and decision-making.[4] Concurrently, other commentary recognizes the relevance of historical exemplars in helping lawyers to meet the tests of contemporary practice and engagement.[5]

Still, that literature could not have fully anticipated the trials of leadership for the present social and political moment.[6] Recent crises have shaken the nation: the COVID pandemic,[7] the killing of George Floyd,[8] and the insurrection at the Capitol[9] principal amongst those. Simultaneously, civic discourse faces the challenges of "alternative facts,"[10] the delegitimization of expertise,[11] the ubiquity

4. *See, e.g.*, *Leadership Fellows Program*, SETON HALL L., https://law.shu.edu/students/academics/leadership-fellows/index.cfm (last visited Apr. 11, 2023); *Institute for Lawyer Leadership Education*, SANTA CLARA UNIV. SCH. OF L., https://law.scu.edu/leadership (last visited Apr. 11, 2023); *Leadership*, COLUMBIA L. SCH., https://www.law.columbia.edu/areas-of-study/leadership (last visited Apr. 11, 2023). *See also* Ben W. Heinman Jr., *Law and Leadership*, 56 J. LEGAL EDUC. 596, 596 (2006) ("My thesis is that law school graduates should aspire not just to be wise counselors but wise leaders.... I wish to redefine, or at least reemphasize, the concept of lawyer explicitly to include 'lawyer as leader.' I do this with the hope that the law schools and the profession will more candidly recognize the importance of leadership and will more directly prepare and inspire young lawyers to seek roles of ultimate responsibility and accountability than is the case today.").

5. Rhode, *supra* note 1, at 705.

6. *See* Nicholas Fandos & Michael D. Shear, *Trump Impeached for Abuse of Power and Obstruction of Congress*, N.Y. TIMES (Feb. 10, 2021), https://www.nytimes.com/2019/12/18/us/politics/trump-impeached.html; Dmitriy Khavin et al., *Day of Rage: How Trump Supporters Took the U.S. Capitol*, N.Y. TIMES (June 30, 2021), https://www.nytimes.com/video/us/politics/100000007606996/capitol-riot-trump-supporters.html; Luke Broadwater, *With Detailed Evidence and a Call for Accountability, Jan. 6 Panel Seeks a Legacy*, N.Y. TIMES (Dec. 23, 2022), https://www.nytimes.com/2022/12/23/us/politics/jan-6-committee-report-legacy.html; Charles Homans & Alyce McFadden, *Today's Politics Divide Parties, and Friends and Families, Too*, N.Y. TIMES (Oct. 18, 2022), https://www.nytimes.com/2022/10/18/us/politics/political-division-friends-family.html.

7. *See, e.g.*, Jesse McKinley, *New York City Region is Now an Epicenter of the Coronavirus Pandemic*, N.Y. TIMES (Mar. 22, 2020), https://www.nytimes.com/2020/03/22/nyregion/Coronavirus-new-York-epicenter.html; Jan Hoffman, *Opposition to School Vaccine Mandates Has Grown Significantly, Study Finds*, N.Y. TIMES (Dec. 16, 2022), https://www.nytimes.com/2022/12/16/health/vaccines-public-opinion.html; Eugene D. Mazo, *Voting During a Pandemic*, 100 B.U. L. REV. ONLINE 283 (2020) (discussing how the COVID-19 pandemic has impacted many aspects of life).

8. Evan Hill et al., *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (Jan. 24, 2022), https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html.

9. *See* Deirdre Walsh, *Congress' Electoral Count to Resume After Violent Protests Halt Process*, NPR (Jan. 6, 2021, 6:38 PM), https://www.npr.org/sections/congress-electoral-college-tally-live-updates/2021/01/06/953443833/congress-electoral-college-tally-promises-more-acrimony-than-ceremony.

10. *See* Aaron Blake, *Kellyanne Conway Says Donald Trump's Team has 'Alternative Facts.' Which Pretty Much Says It All*, THE WASH. POST (Jan. 22, 2017, 11:38 AM), https://www.washingtonpost.com/news/the-fix/wp/2017/01/22/kellyanne-conway-says-donald-trumps-team-has-alternate-facts-which-pretty-much-says-it-all/; Calvin Woodward, *Deceptions in the Time of the 'Alternative Facts' President*, THE ASSOCIATED PRESS (Jan. 17, 2021), https://apnews.com/article/donald-trump-capitol-siege-politics-coronavirus-pandemic-elections-69cafecdde291c5211daf9ffd0f2ad05.

11. *See* TOM NICHOLS, THE DEATH OF EXPERTISE: THE CAMPAIGN AGAINST ESTABLISHED KNOWLEDGE AND WHY IT MATTERS (2017) (considering how changes in higher education, the news industry, and the accessibility of information have led to the rejection of experts); Cara Reed & Michael Reed, *Expert Authority in Crisis: Making Authority Real Through Struggle*, 3 ORGANIZATION

of mis- and disinformation,[12] the rise of bots and artificial intelligence sources such as ChatGPT[13] whose neural networks present yet uncharted challenges, and what some describe as the death of truth.[14] For better and sometimes worse, attorneys have had to navigate the best interests of competing stakeholders in contexts where outcomes can be less than predictable. Whether serving as public officials, politicians, general counsel, law enforcement agents, or members of law firms or public interest organizations, lawyers have been tasked with leading amidst increasing volatility, uncertainty, complexity, and ambiguity.[15] Rising tides of public distrust, cynicism, and weariness compound the challenges.[16]

As the nation marks the fiftieth anniversary of Watergate,[17] there are lessons for these turbulent times to be drawn from the leadership of the reluctant lawyer-hero, Congressman Peter W. Rodino.[18] The series of events referred to as "Watergate" began in 1972, when several people associated with President Richard

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THEORY (Oct.-Dec. 2022) (examining the crisis in expert authority and the future stability of the concept of expert authority).

[12] *See, e.g.*, Dawn Carla Nunziato, *Misinformation Mayhem: Social Media Platforms' Efforts to Combat Medical and Political Misinformation*, 19 FIRST AMEND. L. REV. 32, 37, 52 (2020) (discussing medical misinformation during the COVID pandemic and political misinformation in the aftermath of the 2016 presidential election); Max Fisher, *'Belonging is Stronger Than Facts': The Age of Misinformation*, N.Y. TIMES (May 7, 2021), https://www.nytimes.com/2021/05/07/world/asia/misinformation-disinformation-fake-news.html.

13. *See* Cade Metz, *The New Chatbots Could Change the World. Can You Trust Them?*, N.Y. TIMES (Dec. 10, 2022), https://www.nytimes.com/2022/12/10/technology/ai-chat-bot-chatgpt.html ("Much like a good storyteller, chatbots have a way of taking what they have learned and reshaping it into something new—with no regard for whether it is true.... OpenAI[, the artificial intelligence lab that released ChatGPT,] warned those using ChatGPT that it 'may occasionally generate incorrect information' and 'produce harmful instructions or biased content.'"). *See also* MEREDITH BROUSSARD, ARTIFICIAL UNINTELLIGENCE: HOW COMPUTERS MISUNDERSTAND THE WORLD (2019) (exploring how technochauvinism—the belief that technology is always the solution—can exacerbate biases as the unfettered use of technology becomes pervasive.).

14. *See* MICHIKO KAKUTANI, THE DEATH OF TRUTH: NOTES ON FALSEHOOD IN THE AGE OF TRUMP (2018) (identifying the cultural forces that contributed to the death of objective truth, science, and expertise).

15. *See* DEBORAH L. RHODE & AMANDA K. PACKEL, LEADERSHIP FOR LAWYERS 43-44 (2018). The acronym VUCA—volatility, uncertainty, complexity, and ambiguity—has been developed by military leaders to describe this environment. *Id.*

16. Professor Deborah Rhode has assessed the best and worst practices of some of the lawyers at the center of recent crises to learn from their missteps and better prepare students and lawyers for leadership positions. *See generally* Deborah L. Rhode, *Leadership in Times of Social Upheaval: Lessons for Lawyers*, 73 BAYLOR L. REV. 67 (2021).

[17] *See Watergate Scandal*, HISTORY (Jan. 18, 2023), https://www.history.com/topics/1970s/watergate.

18. Born 1909, died 2005. Rodino was born to immigrant parents in Newark, New Jersey. He supported himself through undergrad and law school, working during the day and taking classes at night. Rodino's civic engagement began long before his congressional tenure, when he helped immigrants apply for citizenship and volunteered pro bono services at his solo law practice. Rodino entered Congress in 1949 and held his seat for 40 years. During his tenure, Rodino worked to pass civil rights, immigration, and housing legislation. He rose to the spotlight at chair of the Judiciary Committee, which was tasked with investigating President Nixon in the wake of Watergate. *See infra* Part II. The Peter W. Rodino, Jr. archives, including legislative records, press and campaign materials, constituent correspondence, and photographs, are housed at Seton Hall Law School.

M. Nixon's re-election campaign broke into the offices of the Democratic National Committee in the Watergate building in Washington, D.C. [19] The trespassers were caught wiretapping phones and stealing documents. Nixon endeavored to cover up the crimes, but his role in the conspiracy led to articles of impeachment being drafted against him, and on August 9, 1974, he resigned from office. Congressman Peter W. Rodino, then chair of the House Judiciary Committee, presided over the impeachment proceedings and met the resultant national crisis with a steadiness and dignity seldom seen in the public sphere since.

This Article considers how Rodino's approach to leadership in a time of social and political discord provides a model for lawyer-leaders in all spheres of professional and civic life today. Part I sets forth principles of effective leadership for lawyers, particularly in times of unrest and malaise. Part II profiles the making of a transformational leader by examining Rodino's life, early career, and the forces that would shape his time in practice and public service. Rodino's tenure in office reached its pinnacle when he was called to conduct the impeachment hearings against Nixon. His stewardship amidst national crisis yielded "the gold standard for what Congress is capable of doing."[20] Part III looks beyond Watergate at the impeachments of Presidents Bill Clinton and Donald Trump. Part IV returns to Rodino's leadership acuities, extracting object lessons for integrity-led management in uncertain times. The Article concludes by examining how Rodino's legacy can help to inform current and successive generations of lawyer-leaders in the tasks of restoring civic engagement and vindicating the public trust.

I. GUIDEPOSTS FOR PRINCIPLED LEADERSHIP IN UNCERTAIN TIMES

Leadership is most often described in terms of virtues, decision-making processes, skills, and relationships.[21] Thinkers from the ancient Greeks[22] to more contemporary theorists[23] have endeavored to pinpoint characteristics that yield effective leadership across multiple contexts and settings. While there is no single set of values, skills, or proficiencies that correspond to effective leadership in all situations, researchers have identified several time-tested categories of traits vital to the task.[24] Those categories include personal skills (social intelligence, empathy, persuasion, collaboration); values (honesty, candor, integrity); vision (forward-thinking, motivational, inspirational); and technical competence (knowledge, preparation, judgment). A Pew Charitable Trust survey found that the public rated

19. *See Watergate Scandal*, *supra* note 17.

20. Phil Cornell, *Fifty Years Later, This N.J. Congressman is Remembered as a Hero of Watergate*, NJ.COM (June 17, 2022, 11:00 AM), https://www.nj.com/politics/2022/06/fifty-years-later-this-nj-congressman-is-remembered-as-a-hero-of-watergate.html (quoting historian Julian Zelizer).

21. By some researchers' accounts, there are over 1,500 definitions and 40 distinctive theories. *See* RHODE & PACKEL, *supra* note 15, at 5.

22. *Id.* at 6 (including Greek philosophers such as Plato, Aristotle, and Socrates).

23. *Id.* at 6-7.

24. *See id.* at 23-24. These categories include values (integrity, honesty, trust, service); personal skills (self-awareness, self-control, conscientiousness); interpersonal skills (social intelligence, empathy, persuasion, collaboration); vision (forward-thinking, inspirational); and technical competence (knowledge, preparation, judgment). *Id.*

honesty, intelligence, decisiveness, and organization as the most important of those traits.[25]

In turn, organizational psychologists deem four characteristics most necessary for leadership: honesty, competence, the ability to inspire, and the capacity to be forward-looking.[26] Scholars of various disciplines have written persuasively about the power of social intelligence,[27] vulnerability, empathy,[28] and grit[29] in shaping great leaders. Trait theories of leadership coincide with "contingency" theories of leadership, describing the idea that "what produces leadership is great opportunities greatly met."[30]

Effective leaders are self-aware and mindful of how their priorities and goals affect others.[31] Values hold a central role in determining those priorities.[32] Values-driven leadership understands that "[f]or a person, a party and a nation, the element essential to success is character, a word that grew out of the Greek for 'to mark, to engrave.'"[33] Integrity is destiny. So is the capacity to resist the lures of narcissism in pursuit of a greater good. Inspired leadership is rooted not in what the given leader accomplishes for herself but rather what she enables others to achieve during and past the conclusion of her tenure.

Transformational leaders understand that we do not live only for ourselves.[34] It has been observed aptly that "a thousand fibers connect" us to the whole of humanity and that our actions run as causes, returning to us as effects.[35] Purpose-driven leadership places a premium on relationship-building and the forging of diverse alliances united in common cause. Its aims are informed by the best interests of all stakeholders as it sets about to narrow the gap between what is and *what ought to* be.[36]

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25. *Id.* at 24.

26. *Id.* at 27 (citing study by Kouzes and Posner).

27. *See generally* DANIEL GOLEMAN, SOCIAL INTELLIGENCE: THE NEW SCIENCE OF HUMAN RELATIONSHIPS (2006) (exploring the relationship between social connections and physical health, the accuracy of first impressions, and the basis of charisma).

28. *See* Paula A. Franzese, *The Power of Empathy in the Classroom*, 47 SETON HALL L. REV. 693, 695 (2017).

29. *See generally* ANGELA DUCKWORTH, GRIT: THE POWER OF PASSION AND PERSEVERANCE (2016) (proposing that a combination of passion and long-term perseverance drives success).

30. *See* RHODE & PACKEL, *supra* note 15, at 8. Contingency and situational theories can be explained by the idea that "times produce great leaders." *Id.*

31. *See* Deborah L. Rhode, *Leadership in Law*, 69 STAN. L. REV. 1603, 1664 (2017).

32. *See* RHODE & PACKEL *supra* note 15, at 9. ("For some commentators, good leadership depends on the ends being pursued. Theorists beginning with James MacGregor Burns have distinguished between transactional and transformational leadership. Transactional approaches focus on the relationship between leaders and subordinates and on what each gains or loses from the exchange… [but] transformational approaches stress the capacity of leaders not simply to influence followers' behaviors through rewards and sanctions, but also to reshape their objectives and, in the process, to elevate leaders' own sense of purpose.").

33. William Safire, *Opinion, Character is Destiny*, N.Y. TIMES (Jan. 12, 2005), https://www.nytimes.com/2005/01/12/opinion/character-is-destiny.html.

34. HENRY MELVILL, MELVILL'S GOLDEN LECTURES FOR 1855: PARTAKING IN OTHER MEN'S SINS 454 (1855).

35. *Id.*

36. *See* Heineman, *supra* note 4, at 599.

Effective leaders know that words matter. With them, leaders can inspire or dismay, unify or stir division, lie or tell the truth. Messaging has an important role to play in transformational leadership. Whether serving in the public or private sector, the lawyer-leader uses the training in persuasion and advocacy that a good legal education provides to help build ethical cultures and norm ethical behaviors. She develops a robust moral vocabulary to effectively communicate the power of virtue, shared vision, and humility.

Concurrently, a leader's actions must align with her rhetoric. The lawyer-leader wields power judiciously, demonstrating by words and deeds that trustworthiness and fairness are paramount. Decision-making thus requires that careful attention be given to whether the proposed course of action is the right and just thing to do. In arriving at consensus on first principles and common cause, lawyer-leaders find support in a strong civic economy, the organized bar, public interest groups, religious groups, and private sector business leaders invested in a shared purpose.

The observation has been made that "[l]eadership may be hard to define, but in times of crisis it is easy to identify."[37] Lawyer-leaders able to meet the tests of the given moment demonstrate empathy, a respect for expertise, and the willingness to be self-corrective. With honest and values-centric messaging, they invest their energies in calling *in* those of good intent and conscience rather than calling *out* those with whom they disagree.

Lawyers who lead effectively know that wisdom and compassion are indivisible. They understand the power of what Nobel laureate and economist Paul Romer describes as "conditional optimism,"[38] meaning that with the right tools and the power of collective engagement, the best is yet to be. They understand the privilege and responsibility vested in them and use power judiciously to summon the best in others.

Congressman Peter W. Rodino Jr. is one of the great exemplars of virtue-driven and transformational leadership. As a lawyer and then a reluctant hero, his stewardship during a turbulent time in American social and political life provides powerful lessons for the present moment. His rise to national prominence was marked most essentially by his guileless intention to "always do right." Amidst partisan divisions and a shaken public trust, Rodino's principled leadership, to paraphrase Mark Twain, "gratified some and astonished the others."[39]

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37. Jeremy Engle, Student Opinion, *What Makes a Great Leader?*, N.Y. TIMES (May 6, 2020), https://www.nytimes.com/2020/05/06/learning/what-makes-a-great-leader.html.

38. Paul Romer, *Conditional Optimism*, PAUL ROMER (Oct. 8, 2018), https://paulromer.net/conditional-optimism-technology-and-climate ("Complacent optimism is the feeling of a child waiting for presents. Conditional optimism is the feeling of a child, thinking about building a treehouse," who in turn musters the collective's talents to get that treehouse built.).

39. *See generally* MARK, TWAIN, THE WIT & WISDOM OF MARK TWAIN (Alex Ayres ed., 1987) (listing many quotations from Twain).

II. THE RISE OF PETER RODINO: THE RELUCTANT LAWYER–HERO

The United States was facing its gravest constitutional crisis since the Civil War. President Nixon was accused of unlawful activity and obstructing justice to cover it up. The executive and legislative branches were engaged in full-scale warfare with an uncertain outcome. With other options exhausted, Congress began the constitutional process of removing the President from office, a mechanism triggered only once before. As Americans anxiously awaited the outcome, attention focused on the person who would guide the nation down this uncharted path. He was an unlikely leader, a relatively unknown congressman who had only recently ascended to the chair of the Judiciary Committee responsible for considering articles of impeachment. He was from Newark, New Jersey, a place not known for its sophistication or its honest politics. He was an Italian American and thus a member of a group often stereotyped and maligned as gangsters and lawbreakers. Many observers and prognosticators in Washington argued that he was not up to this critical task and should be replaced by a more appropriate candidate.[40]

But Peter W. Rodino Jr. would prove the pundits wrong. His methodical and deliberative management of the Nixon impeachment in 1974 provided the foundation to build support for this difficult decision. His unyielding belief in the sanctity of the law and the Constitution became the guidepost for moving forward, and his recognition that bipartisanship was vital to secure the legitimacy of the outcome established a benchmark still referenced today. His calm presence throughout the televised hearings of the Judiciary Committee helped to reassure an apprehensive nation. Soon the unknown congressman from New Jersey became a household name, hailed as a national political hero who saved the country.[41] Rodino graced the covers of every weekly magazine, was honored with an array of national awards, and was placed on the short list of possible vice-presidential nominees in 1976. His retirement from Congress fourteen years after the impeachment hearings was a major news story, and he was lionized in newspapers across the country for his invaluable stewardship during a difficult time.[42]

When the nation again faced the crisis of another presidential impeachment a half century later, Rodino's relevancy appeared undiminished. "If young people have not heard of Peter W. Rodino Jr.," former poet laureate Robert Pinsky wrote

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40. William Vance, *Watergate, Ford Confirmation Put Him in Spotlight*, MIAMI HERALD, Oct. 28, 1973, at 16-AW; Yale University Oral History Transcript, Apr. 22, 1975, 2-10, Peter W. Rodino, Jr. Archives (RA), Rodino Law Library, Seton Hall University School of Law, Newark, New Jersey; *Rodino's Challenge*, WASHINGTON STAR, Nov. 4, 1973, at A-12; JOHN A. FARRELL, RICHARD NIXON: THE LIFE 465-71 (New York: Doubleday, 2017); MICHAEL DOBBS, KING RICHARD: NIXON AND WATERGATE: AN AMERICAN TRAGEDY (New York: Alfred A. Knopf, 2021).

41. William Greider, *Rodino Stumps for Party, the System*, WASH. POST, Sept. 16, 1974, at A1; Martin Tolchin, *Chairman and Skilled Politician: Peter Wallace Rodino Jr.*, N.Y. TIMES, July 26, 1974, at A14; "Rodino Called National Hero for Handling of Watergate," The Evening Bulletin, May 13, 1977, at B3; THEODORE H. WHITE, BREACH OF FAITH: THE FALL OF RICHARD NIXON 280–81 (New York: Atheneum Publishers, 1975).

42. *Chairman Rodino Retires, with Grace*, N.Y. TIMES, Mar. 15, 1988, at 26; Robert Cohen and David Wald, "Colleagues and Rights Leaders Praise Rodino's 40-Year Legacy, STAR LEDGER, March 16, 1988, at 19; *Mr. Rodino Steps Aside*, WASH. POST, Mar. 16, 1988, at 22.

in a 2018 *New York Times* op-ed, "please look up that name as soon as you can."[43] Members of the Judiciary Committee that voted to impeach Donald Trump repeatedly cited Rodino for establishing the "gold standard," and even opponents of impeachment applauded Rodino for his "fairness and thoroughness."[44] In the midst of rancor and disagreement, Rodino's enduring legacy was a rare source of bipartisan agreement. Almost two decades after his death, he remained a shining example of the lawyer-hero.

A. Congressman Rodino's Early Career

Peter Rodino's entry into the legal profession was neither quick nor easy. Born in 1909 in Newark, he was the son of Pellegrino Rodino, who arrived in the city a decade earlier as one of the more than four million Italians who left the harsh economic conditions of their homeland for the promise of unlimited opportunity in the United States.[45] At the time, the only barriers to entry facing these participants in the great migration were finding the money to purchase a steerage ticket for the transatlantic crossing and meeting the minimal health requirements demanded by the officials standing guard at the immigration station where they disembarked. Newark was a favored destination for many Italians because of its status as a major manufacturing center and its seemingly insatiable need for workers.[46] Pellegrino quickly found employment, met his wife, and began raising a growing family, including his first-born son, Pellegrino Jr., whose name was later anglicized to Peter by the Newark public school system.[47]

The Rodino family lived in a small tenement apartment in the First Ward, in Newark's Little Italy, where bootlegging and gambling were the easiest ways to make money. Peter Rodino recollected that he understood at an early age that there

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43. Robert Pinsky, *Patriotism for an Age of Unreason*, N.Y. TIMES (Oct. 5, 2018), https://www.nytimes.com/2018/10/05/opinion/robert-pinsky-patriotism-for-an-age-of-unreason.html.

44. *Impeachment of Donald J. Trump President of the United States, Report of the House Committee on the Judiciary, Dissenting Views,* House of Representatives, 116th Cong. 18 (2019). David Winston, *Why Pelosi Should Heed the Rodino Precedent on Impeachment*, ROLL CALL (Oct. 16, 2019, 6:00 AM), https://rollcall.com/2019/10/16/why-pelosi-should-heed-the-rodino-precedent-on-impeachment/.

45. National Archives and Record Administration (NA), Washington, D.C., *Records of the Immigration and Naturalization Service, 1891-1957*, Record Group 85, New York, New York, Roll 93. This manifest can also be found at www.Statue of Liberty-Ellis Island Foundation.com, *New York Passenger Arrivals Lists*, Pellegrino Rodia, Frame 154, Line 20.

46. JERRE MANGIONE & BEN MORREALE. LA STORIA: FIVE CENTURIES OF THE ITALIAN AMERICAN EXPERIENCE 31-53 (New York: Harper Collins 1992); JOSEPH LOPREATO, ITALIAN AMERICANS 24-25 (New York: Random House 1970); ROBERT CAROLA & BEN MORREALE, ITALIAN AMERICANS: THE IMMIGRANT EXPERIENCE 11-13 (New York: Metro Books 2008); MICHAEL J. EULA, BETWEEN PEASANT AND URBAN VILLAGER: ITALIAN-AMERICANS OF NEW JERSEY AND NEW YORK, 1880-1980 1-7 (New York: Peter Lang, 1993).

47. New Jersey State Archives (NJSA), Series CESCP005, Essex County Court of Common Pleas, Naturalization Records, 1792-1931, *Declaration of Intention of Pellegrino Rodini, July 17, 1915,* vol. 44 and *Petition for Naturalization of Pellegrino Rodini, February 21, 1922,* vol. 188; National Archives and Record Administration (NA), World War I Selective Service System Draft Registration Cards, M1509, Roll NJ77, *Draft Registration Card of Pellegrino Rodino, September 12, 1918.*

were those "who had taken up what they considered to be an easy life, but it led to a life of crime."[48] Walking to school, he passed Aqueduct Alley and Drift Street—the two most notorious streets in the city—where daily dice games were guarded by gang members who stood on the corner watching for the police. The ground floor of Rodino's building was occupied by a saloon that was a magnet for trouble and gunfire in the middle of the night. He witnessed his first fatal shooting when he was ten years old and on one occasion stood on the inside stairs as shots were fired on the floor above. Rodino himself was confronted with his own moral dilemma after several local lawbreakers offered him a considerable sum of money to open the courtyard gate so they could steal the bootleg liquor stored in the basement. Risking retribution if he declined, Rodino courageously refused the offer and warned the saloon owner. His early experiences living in a challenging environment provided the future attorney and legislator with a clear and unshakeable belief that respect for the law could not be compromised regardless of the consequences.[49]

Rodino's decision to attend Barringer High School, the premier public secondary school in the city, was the critical preliminary step in his professional development. New Jersey allowed students to leave school as early as age fourteen, and, considering that many of his classmates were compelled to end their formal education and enter the workforce, Rodino was fortunate that his father supported and encouraged his ambitions.[50] Although geographically only a short distance from his home, attending Barringer High School opened a door into a different world far beyond the boundaries of his neighborhood. Thanks to his good grades and thirst for knowledge, this son of a working-class immigrant entered "the beloved academic breeding ground of scholars, doctors, star athletes and many other distinguished alumni."[51]

Anxious to pursue a profession where he could help others, Rodino decided to become a lawyer when he graduated. He enrolled in night classes at Dana College (part of the New Jersey School of Law) to fulfill the recently adopted admission requirement of two years of undergraduate academic study and found fulltime employment as a clerk at the Public Service Transit Company to earn the money for tuition.[52] Unfortunately, his family's unexpected economic hardship

48. Transcript of Oral History Interview with Peter W. Rodino, Jr., 13, Columbia Center for Oral History Archives, Rare Book & Manuscript Library, Columbia University, New York (Hereafter Columbia Oral Transcript).

49. MICHAEL IMMERSO, NEWARK'S LITTLE ITALY: THE VANISHING FIRST WARD (Newark, NJ: Rutgers University Press, 1997), 109-13; Oral History Transcript, Tape 5, 7-10, Peter W. Rodino, Jr. Archives (RA), Rodino Law Library, Seton Hall University School of Law, Newark, New Jersey [hereinafter Oral Transcript]; Oral Transcript, Tape 21, 1-2, RA. *See also* Francesca Simone, *From Newark's Little Italy to Congress: How the Italian-American Values of Family, Pride, and Hard Work Influenced Congressman Peter Rodino's Legislation*, SETON HALL UNIV. SCH. OF L. (Apr. 28, 2022), https://scholarship.shu.edu/cgi/viewcontent.cgi?article=2332&context=student_scholarship.

50. Oral Transcript, 16, 6-10, RA; "Rodino Biographies," PER001, 12, RA; Myron S. Waldman, "Bowing Into History," NEWSDAY, June 4, 1988, at PartII-2.

51. GORDON BISHOP, GREATER NEWARK: A MICROCOSM OF AMERICA 109 (Chatsworth, CA: Windsor Publications, 1989).

52. Paul Tractenberg, *A Centennial History of Rutgers Law School in Newark: Opening a Thousand Doors* (Charleston, South Carolina: The History Press, 2010), 21, 29; Hugh Francis Bennett,

brought on by the Great Depression forced Rodino to postpone his legal education. "I had to decide," he remembered, "whether I would quit completely, or whether I would at least leave school for the time being and then work a bit more, acquire some money, in order to be able to go back to school."[53] Standing at a crossroad, he was propelled forward by his inner fortitude and for the next several years worked at a variety of menial and challenging jobs, an experience that left an indelible imprint on his worldview and strengthened his support for a progressive public policy agenda. He was finally financially secure enough to begin law school four years later and while working during the day in a nearby factory, he carried a full load of courses and passed the bar exam in September 1938.[54]

Throughout those demanding years, Rodino remained committed to helping his community and joined the effort to increase the number of Italian Americans applying for citizenship, as the statistics in this category for Italian immigrants lagged far behind other ethnic groups. He began holding free programs on citizenship and added English language classes to help Newark's immigrant population overcome language barriers deterring many potential applicants. After graduating from law school and opening his solo law practice, he continued to volunteer his services to assist his neighbors and expanded his efforts to other parts of the city. Those non-political activities soon caught the attention of Democratic party leaders, and they recruited Rodino to use his oratorical skills to encourage support among Italian Americans for President Roosevelt's New Deal programs.

Rodino formally launched his political career in 1940 when he was an unsuccessful candidate for the New Jersey General Assembly. Reflecting his growing stature in the First Ward, Rodino was appointed at the same time to serve as an adviser to the local draft board established by the recently enacted Selective Service Act.[55] Although this voluntary position qualified for an exemption from military service, Rodino declined the offer and enlisted in the army months before the United States declared war on Japan and Germany. During his four years overseas, he served in North Africa and Italy and rose through the ranks from private to captain.[56]

Returning home, Rodino continued to devote his attention to the causes he considered important, including improving housing conditions for veterans and mobilizing American support to help rebuild post-war Europe. In 1946, he decided

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"A History of the University of Newark 1908-1946," (Doctoral dissertation, New York University, 1956), 31-69; Tractenberg, *Centennial History of Rutgers Law School*, 22-29.

52. Then Pellegrino Rodino changed his name to Peter Rodino, first using it in 1918 when he registered for the draft and adopting it formally several years later.

53. Columbia Oral Transcript, 3-4; Oral Transcript, Tape 7, 9-10, RA.

54. New Jersey Law School, Pre-Legal Department, *Certificate of Completion*, June 12, 1930, PER 001, 192OV, RA; Oral Transcript, Tape 7, 6-10, RA. Oral Transcript, Tape 21, 1. RA.

55. Columbia Oral Transcript, 13-15; Oral Transcript, Tape 5, 6-7, RA; *Newark's Own Jimmy Walker*, ITALIAN TRIBUNE, May 17, 1940, at 1; *Peter Rodino Makes Strong Assembly Bid*, SPOTLIGHT ON ESSEX, Oct. 26, 1940, at 2.

56. Certificate of Appointment, Nov. 6, 1940, State of New Jersey Selective Service System, Personal Papers of Peter Rodino (PER), Box002, Folder 1, Peter W. Rodino, Jr. Archives (RA), Rodino Law Library, Seton Hall University School of Law, Newark, New Jersey; Military Record and Report of Separation Certificate of Service of Peter W. Rodino, U.S. Army, PER002, 2, RA; *Peter Rodino Returns Honored and Decorated*, ITALIAN TRIBUNE, Mar. 22, 1946, at 1.

to reenter the political arena by challenging the Tenth Congressional District's incumbent congressman, Republican Fred Hartley. It was a contest few believed he could win, and he was forced to conduct his campaign with few resources and little party support. Rodino's years as a community activist proved to be an invaluable experience, and he was an effective campaigner, winning a larger percentage of the vote than previous challengers. Two years later, as Hartley retired, Rodino succeeded in capturing what had been regarded as a safe Republican seat. Rodino would retain that seat for the next forty years.[57]

Rodino faced two major challenges during his early years in Washington that tested his character and influenced the direction of his congressional career. The first was his assignment to the House Veterans Affairs Committee, which was ruled with an iron fist by its chair John Rankin. Rankin was an unapologetic segregationist from Mississippi and considered one of the most tyrannical autocrats in an institution long dominated by the seniority system. As a freshman congressman, Rodino was expected to listen rather than speak and defer to the Veterans Affairs Committee's domineering leader. But within a few weeks of his arrival on Capitol Hill, Rodino was engaged in a public battle with Rankin that threatened to undermine his prospects for a successful apprenticeship on the Committee.[58]

The dispute began when Rankin convened a Veterans Affairs Committee meeting without any notice to approve a veterans' bonus bill that the Truman administration and many Democrats, including Rodino, opposed because of its unsustainable cost. A copy of the legislation was not distributed to the members in advance, and proposed amendments to the bill were either ruled out of order or simply rejected without a vote. In protest, Rodino and several other members of the Committee walked out of the hearing room and lodged a formal complaint with Speaker Sam Rayburn.[59] Rankin followed them onto the House floor, where he attacked these "uninformed" rebels and accused them of abandoning America's veterans.

A stunned Rodino faced a moment of truth, wondering if he should respond and further provoke Rankin's fury. "I was really concerned because here I am a freshman," he recollected, "and I walk out on a chairman who was discussing veterans benefits which was highly popular."[60] Yet he concluded that he could not allow Rankin's undemocratic behavior to go unchallenged, and "with quaking knees," he rose and addressed his colleagues:

The veterans fought to preserve our democratic way—and as a member of Congress—it is my solemn duty to continue to fight to preserve that way.... This opportunity I do not believe was afforded to us because of the objectionable way

57. Columbia Oral Transcript, 22-26; Oral Transcript, 11, 9, RA; *Rodino is Winner*, NEWARK STAR LEDGER, Nov. 3, 1948, at 1; Oral Transcript, Feb. 23, 1999, 6-10, RA; *Sleuth Helped Rodino Win on a Shoestring*, NEWARK STAR LEDGER, Nov. 4, 1948, at 2.

58. EMANUEL CELLER, YOU NEVER LEAVE BROOKLYN 177-83 (New York: John Day Company, 1953); GARRISON NELSON, JOHN WILLIAM MCCORMACK: A POLITICAL BIOGRAPHY 265-66, 412 (New York: Bloomsbury, 2017); Oral Transcript, Feb. 2, 1999, 10-11, RA.

59. C.P. Trussell, *House Unit at Odds, Votes*, N.Y. TIMES, Feb. 16, 1949, at A1; Columbia Oral Transcript, 42-45; Oral Transcript, 12, 8-9, RA.

60. Oral Transcript, 12, 9, RA.

in which the chairman of the House Veterans' Affairs Committee conducted today's meeting.[61]

When Rodino concluded speaking, the chamber erupted in applause for his courageous challenge to the arbitrary and abusive exercise of power. It was his first speech as a member of the House of Representatives.[62]

Unknown to Rodino at the time, his actions impressed House Judiciary Committee chair Emanuel Celler, who was one of the chamber's leading liberals and one of Rankin's fiercest opponents. When there was an unexpected opening on the Judiciary Committee the following year, Celler ignored the usual protocol and offered Rodino the vacant slot. Thrilled to find refuge on this important committee, Rodino soon became the chair's trusted lieutenant and helped to push a progressive policy agenda that embraced immigration reform, anti-trust enforcement, voting rights, and civil rights.[63] Celler also appointed Rodino to serve on a special bipartisan investigative panel created in 1952 to investigate the Justice Department's failure to prosecute charges of bribery and corruption by political appointees. It was a challenging assignment for the relatively new committee member, placing him for the first time in the middle of a high-profile investigation and potentially at odds with the Truman administration and his Democratic colleagues who wanted to downplay any scandals within their own party.

Recognizing the pitfalls of conducting a politically sensitive inquiry during an election year, Rodino promised to "do as my judgment directs for a thorough, fair, nonpartisan job based on the facts as presented," eerily similar words to those he used to reassure the public in 1974.[64] This task was made easier with the selection of the low-key Kentucky Democrat Frank Chelf as chair. Rodino admired Chelf and encouraged him to hire experienced counsel and hold public hearings. Throughout the proceedings, Rodino attempted to find the appropriate balance between rigorous investigation and fairness, grilling administration officials when they testified before the special investigative panel and pushing back on efforts to ignore the rules of evidence or expand the inquiry without authorization. After almost a year, the special subcommittee reached a unanimous conclusion that the senior political appointees at the Justice Department were guilty of gross mismanagement. It was an experience that would provide Rodino with an important frame of reference in the future.[65]

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61. *Rep. Rodino, Speaking on Veteran Pension Bill, on February 15, 1949*, 81st Cong., 1st Sess., *Congressional Record* 95, pt.3: 1213 (1949); Columbia Oral Transcript, 45.

62. *Rodino Rips Rankin, Wins House Cheers*, NEWARK STAR LEDGER, Jan. 16, 1949, at 2; Robert C. Albright, *Uproar Reigns as House Group Reports Veterans Pension Bill*, WASH. POST, Feb. 16, 1949, at 1.

63. Columbia Oral Transcript, 49; Oral Transcript, 5, 6, RA; *Rep. Rodino, Letter of Resignation to Speaker and H. Res. 444*, 81st Congress, 2d. sess., CONG. REC. 96, pt., 1: 959 (1950).

64. Arthur Sylvester, *Rodino Faces Stiff Job*, NEWARK EVENING NEWS, Feb. 6, 1952, at 1; *Rodino Pledges Probe Won't Be a Witch Hunt*, NEWARK STAR LEDGER, Feb. 6, 1952, at 1.

65. *Chelf to Head House Probe of McGrath*, WASH. POST, Feb. 6, 1952, at 1; U.S. Congress, House, Committee on the Judiciary, *Investigation of the Department of Justice: Report to the Committee on the Judiciary by the Special Subcommittee to Investigate the Department of Justice pursuant to H. Res. 50*, 83d Cong., 1st Sess., H.R. 1079, 1-3, (1953).

Rodino continued to serve in the legislative trenches and accrued the seniority that positioned him to become the chair of the Judiciary Committee when the aging Celler finally retired. But this long-delayed aspiration was seriously threatened in 1972 following a bitter and protracted battle over reapportionment. When the New Jersey legislature failed to adopt a constitutional redistricting plan following the 1970 census, a court-imposed map redrew the boundary lines of Rodino's constituency and transformed New Jersey's Tenth Congressional District into a majority Black district.[66] The critical electoral threshold for the district now became the nominating primary held in June of 1972, and three African American challengers immediately announced their candidacy.

Considered the underdog at the outset of the campaign, Rodino launched an intensive effort to persuade his new constituents that his reform agenda aligned with theirs. Rodino's key role in passing major civil rights laws a decade earlier, a political liability in the old district, was now the centerpiece of his message. He touted the endorsement of civil rights icon A. Philip Randolph, who hailed Rodino as "a permanent ally in the struggle for economic and social justice."[67]

Rodino's election campaign attracted national attention; indeed, reporters gathered at his campaign headquarters on primary night preparing to write his political obituary. But shortly after the polls closed Rodino was declared the victor, once again defying the odds and winning more votes than his three opponents combined. Two weeks later, Celler, then chair of the House Judiciary Committee, unexpectedly lost his primary and Rodino's long wait to inherit the gavel had finally ended.[68] In the two preceding decades, Rodino had diligently worked to accrue the technical competency, personal skills, and seniority that positioned him to lead the Judiciary Committee, a role he assumed in 1972.[69]

B. Rodino's Leadership in Times of Crisis: Careful Preparation, Nonpartisan Inquiry, and Consensus Building

The experiences of Rodino's early life and career served as a solid foundation for when he faced the greatest challenge of his life, just ten months after becoming chair of the House Judiciary Committee. Tasked in the fall of 1973 with managing the first implementation of the Twenty-Fifth Amendment following the resignation of Vice President Spiro Agnew and nomination of Gerald Ford as Agnew's replacement, Rodino was carefully crafting a process that would serve as a precedent for the position of the vice presidency. At the same time, the unfolding

66. Jean Joyce, *Redistricting Cauldron Bubbling*, EVENING NEWS, Apr. 10, 1972, at 1; Joseph Carragher, *Hope Dim for Assembly Remap*, THE STAR LEDGER, Apr. 12, 1972, at 1; *U.S. Judge Hand Down Remap Lines*, THE STAR LEDGER, Apr. 13, 1972, at 1.

67. Statement of A. Philip Randolph On The Candidacy of Congressman Peter Rodino, PER, 87, 10, RA; Rodino Campaign, brochure, "This Election Is Not As Simple As Black and White," PER, 88, 1, RA; Rodino Campaign, brochure, "Peter Rodino A Man For All The People," PER, 87, 8, RA.

68. Michael J. Jayes, *Rodino Easily Defeats 10th District Rivals*, EVENING NEWS, June 7, 1972, at 1; Robert M. Herbert, *Rodino Beats Three Blacks in the 10th District*, THE STAR LEDGER, June 7, 1972, at 1.

69. Jayes, *supra* note 68, at 1; Herbert, *supra* note 68, at 1.

Watergate scandal was casting a larger shadow over the presidency of Richard Nixon. Some critics on Capitol Hill suggested Nixon should not select the new vice president, a notion Rodino strongly opposed. Other colleagues began to raise the possibility of impeaching Nixon, and several introduced impeachment resolutions that were referred to the Judiciary Committee. Rodino deflected those as premature efforts, urging caution before crossing that constitutional threshold. Privately, he began preparing for what still seemed an unlikely outcome—the impeachment of President Richard Nixon. "I knew that there was much that we had to do," he recalled, "by the way of research, by the way of trying to get information and facts, before we could even consider the launching of an inquiry by the committee."[70]

That quiet preparation proved invaluable when President Nixon fired Archibald Cox, the special prosecutor who had been appointed to investigate Watergate. Attorney General Eliot Richardson and his deputy then resigned in protest as part of what became known as the "Saturday night massacre" on October 20, 1973.[71] Three days later, House Speaker Carl Albert added the prospect of presidential impeachment to the Judiciary Committee's already crowded agenda.[72]

The initial reaction to Rodino's selection to lead the impeachment inquiry was not encouraging. His impressive biography was largely unknown to the Washington press corps. The *New York Times* published a profile hinting that Rodino might have ties to organized crime, a claim refuted by the facts and the Nixon appointed U.S. Attorney in New Jersey.[73] Focusing on Rodino's inexperience at the helm of the Judiciary Committee, the *Miami Herald* lamented that selecting him to direct the impeachment inquiry was "a little like calling in the bullpen rookie for his first pitch with the bases loaded."[74] Rodino himself readily acknowledged his own sense of inadequacy and admitted having sleepless nights worrying about his new "awesome" responsibility.[75]

Prior to the Judiciary Committee's opening impeachment session, Rodino had made several key decisions that would guide his actions for the next nine months. He wanted to avoid the pervasive partisanship of the impeachment of President Andrew Johnson in 1868, which had seriously undermined the legitimacy of the charges brought against Johnson.[76] Rodino was determined to

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70. Columbia Oral Transcript, 73, 101-102; H. COMM. ON THE JUDICIARY, 93D CONG., IMPEACHMENT: SELECTED MATERIALS (Comm. Print 1973).

71. Lesley Oelsner, *Cox Office Shut in Nixon's Order*, N.Y. TIMES, Oct. 21, 1973, at 60; John M. Crewdson, *Richardson Quits Over Order on Cox*, N.Y. TIMES, Oct. 21, 1973, at 1; *Democrats to Press Impeachment Study*, WASHINGTON POST, Oct. 24, 1974.

72. Lesley, *supra* note 71; Crewdson, *supra* note 71.

73. *See* Douglas Robinson, *Jersey Leaders Deny Mafia Ties Implied on Tapes*, N.Y. TIMES, Jan. 8, 1970, at 1.

74. Vance, *supra* note 41.

75. *See id.*; Martin Tolchin, *Head of House Judiciary Panel*, N.Y. TIMES, Oct. 24, 1973, at 34; John Pierson, *Man on the Spot: Rep. Pete Rodino Faces a Rough Task as Chief of Impeachment Probe*, WALL ST. J., Nov. 9, 1973, at 1.

76. The impeachment of President Andrew Johnson has been described as a "travesty of justice." Michael Les Benedict, *The Impeachment Precedent*, N.Y. TIMES, Aug. 26, 1973, at 185. *See also* MICHAEL LES BENEDICT, THE IMPEACHMENT AND TRIAL OF ANDREW JOHNSON (Harold M. Hyman ed., 1973).

embrace a bipartisan posture that considered multiple viewpoints. If the unthinkable happened and the Judiciary Committee's inquiry ended by adopting articles of impeachment against President Nixon, Rodino believed it was vital that this conclusion be endorsed by both Democratic and Republican members. With that as a top priority, he concluded that it was essential to have an outside, non-partisan, special counsel to lead a team of lawyers and investigators who were neither part of the existing Judiciary Committee staff nor aligned with any partisan bias. His decision to hire John Doar, who worked at the Justice Department during both Republican and Democratic administrations, contributed significantly to the ultimate success of the impeachment inquiry.[77]

Unlike many of his colleagues, Rodino approached his assignment with an open mind, unwilling to speculate on the guilt or innocence of the President before the inquiry was completed. His research into British and American legal precedent persuaded him that there should be a very high bar for defining what might warrant impeachment. The task necessitated a "sober and deliberative" process to allow for the careful examination of the evidence. Rodino wanted to avoid what he regarded as the grandstanding of the Senate committee that had publicly investigated the Watergate break-in and Nixon's illegal campaign activities from the spring to fall of 1973. He aimed to set a tone commensurate with the solemnity of a presidential impeachment.[78]

Considering the stakes and his cautious nature, Rodino was determined to spend the necessary time to address the serious questions raised and was prepared to withstand any political pressure placed on the Judiciary Committee either to ignore the facts or rush to judgment. Those abiding precepts would be criticized at various moments of the deliberations by critics on both sides of the political aisle. But Rodino never wavered. Addressing his colleagues on the House floor, he explained the reason for his unwillingness to expedite the process:

> Whatever the result, whatever we learn or conclude, let us now proceed, with such care and decency and thoroughness and honor that the vast majority of the American people, and their children after them, will say: This was the right cause, there was no other way.[79]

Rodino thus began the impeachment inquiry and the task of leading a Judiciary Committee that reflected a mix of geography, ideology, and personality that included some of Richard Nixon's fiercest critics on the left and staunchest defenders on the right.[80] In a political climate eerily similar to today's, Rodino's

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77. Columbia Oral Transcript, 73, 118-23; Oral Transcript, July 13, 1999, 1, RA; Interview by Timothy Naftali with John Doar in N.Y.C., N.Y., 22-25, 58-59 (Jan. 24, 2014). Richard Nixon Oral History Project, Richard Nixon Presidential Library and Museum, Yorba Linda, California.

78. Columbia Oral Transcript, 72-77, 169-172; Yale University Oral History Transcript, April 22, 1975, 16-22, Peter W. Rodino, Jr. Archives (RA), Rodino Law Library, Seton Hall University School of Law, Newark, New Jersey (hereinafter Yale Oral Transcript).

79. *Investigatory Powers of Comm. on the Judiciary with Respect to its Impeachment Inquiry*, 93d Cong. 2349-63 (1974) (statement of Rep. Peter Rodino speaking on impeachment).

80. Fragile Coalition Interview with Walter Flowers, in Hilton Head Island, S.C., M. Caldwell Butler Papers, Tape 4, 2, Lewis F. Powell, Jr. Archives, Washington and Lee University, School of

formidable challenge was to "chart a course between fire-eating Republicans ready to accuse him of partisanship and young liberal bomb throwers ready to accuse him of timidity," a difficulty further compounded by the obstructionism of the President and his legal representatives.[81]

Determined to create a framework for encouraging bipartisan consensus, both Rodino and Special Counsel to the Committee, John Doar, envisioned a process similar to a grand jury, where evidence was presented in a non-confrontational manner before jurors who would then decide whether or not to go forward with an indictment, or in this case articles of impeachment. After five months evaluating evidence from the Watergate grand jury, which included taped White House conversations and a variety of other sources, Doar and his staff began their first presentation of evidence in May 1974. For the next six weeks, the Judiciary Committee members assembled daily to hear the details of the material contained in thirty-six volumes organized to reflect the possible impeachable offenses that were investigated and to listen to excerpts from the nineteen tape recordings that were in the Committee's possession.[82]

Rodino had insisted that this phase of the process be conducted in executive session to allow for an open and thorough discussion of all the evidence. Once this was completed, he ordered the publication of all non-classified documentary evidence, to make the public aware of the case against President Nixon. Details from this material were highlighted in newspapers and reported on national television. Regularly criticized for not moving faster, Rodino's decision to publicize this material offered tangible proof of the magnitude of the Judiciary Committee's task. Moreover, his commitment to transparency reassured a skeptical public that the process was proceeding with fairness and accountability. The Committee was now praised for its hard work and diligence, providing an important boost as it prepared for the final phase of its impeachment inquiry. The *New York Times*, previously dubious, asserted: "Chairman Rodino, his colleagues and the committee's legal staff have thus far conducted this extraordinarily difficult assignment, one which had few modern precedents or guidelines, with fairness, diligence and good judgment. The country can rightly feel that a thorough, conscientious and non-partisan job has been done."[83]

The formal consideration of the impeachment resolutions before the Judiciary Committee began on the evening of July 24, 1974, in a public session that was nationally televised. That morning a unanimous U.S. Supreme Court had

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Law (July 11, 1975); Columbia Oral Transcript, 136-40, 145-46; Interview by Timothy Naftali with Charles Rangel, in Washington D.C., 9-12 (June 28, 2007), Richard Nixon Oral History Project, Richard Nixon Presidential Library and Museum, Yorba Linda, California.

81. *Spotlight on Rodino*, THE STAR LEDGER, Mar. 17, 1974, at 10; EDWARD MEZVINSKY, A TERM TO REMEMBER 105-107 (1977).

82. *Impeachment Inquiry: Hearings Before the Committee on the Judiciary*, 93d Cong. Book I, 543-782 (1974); Committee on the Judiciary, House of Representatives, 93d Congress, 2d Session, *Impeachment of Richard M. Nixon, President of the United States: Final Report*, August 20, 1974, 9.

83. *Impeachable Offenses*, N.Y. TIMES, July 14, 1974, at 16; *House Committee Issues the Voluminous Evidence from Watergate Inquiry*, N.Y. TIMES, July 12, 1974, at 1; JAMES RESTON, JR., THE IMPEACHMENT DIARY: EYEWITNESS TO THE REMOVAL OF A PRESIDENT 44-46 (2019).

instructed President Nixon to surrender tapes requested by the special prosecutor.[84] Rodino, confident that there was the bipartisan support he needed to proceed, ignored suggestions for a delay. He set the solemn tone he believed was appropriate for the occasion in his opening statement, reaffirming the thoroughness of the investigation and his unshakeable belief in the sanctity of the Constitution:

> Make no mistake about it. This is a turning point, whatever we decide. Our judgment is not concerned with an individual but with a system of government.... Whatever we now decide, we must have the integrity and the decency, the will, and the courage, to decide rightly. Let us leave the Constitution as unimpaired for our children as our predecessors left it to us.[85]

Two days later, by a bipartisan vote of 27-11, the Judiciary Committee approved an article of impeachment charging President Nixon with obstruction of justice, making it the first article of impeachment against a president of the United States reported to the House of Representatives in 106 years.[86] The vote gave Rodino no cause for celebration. He retreated from the handshakes and expressions of congratulations to instead share the news with his wife in the privacy of his nearby office. "I started to sob," he recalled, "and I'm not at all embarrassed to say it."[87] The Judiciary Committee would approve two additional impeachment articles before finally adjourning. It was estimated that ninety million Americans had watched the proceedings.[88]

While Rodino prepared to bring the impeachment article before the House of Representatives, President Nixon was forced to release a previously withheld recording that revealed a clear obstruction of justice in the Watergate cover-up, forcing his allies to abandon him. With little doubt that Congress was ready to remove him from office, Nixon announced his resignation on August 8, 1974.[89] Rodino watched the speech in his office and issued a brief statement acknowledging that "it has been an ordeal for President Nixon and for all our people... I know it was necessary. I believe our laws and our system will [b]e stronger for it. I hope we will all be better for it."[90]

Hoping still to memorialize the Judiciary Committee's work and the case against the President without having an actual debate and vote on the articles,

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84. United States v. Nixon, 418 U.S. 683, 700-702 (1974).

85. *Debate on Article of Impeachment: Hearings of the Committee on the Judiciary*, 93d Cong. 2, 4 (1974) (statement of Hon. Peter W. Rodino, Jr., a Representative in Congress from the 10th Congressional District of the State of N.J.) [hereinafter Debate]; Oral Transcript, Dec. 8, 1999, 3, RA; Columbia Oral Transcript, 254-59.

86. *Debate*, *supra* note 85, at 329-31. *See also* MICHAEL J. GERHARDT, IMPEACHMENT: WHAT EVERYONE NEEDS TO KNOW 24-25 (2018) (offering a timeline of all impeachment proceedings).

87. Oral Transcript, Apr. 9, 2003, 12-13, RA; Yale Oral Transcript, 40-41, RA.

88. *Debate*, *supra* note 82, at 333-489; Columbia Oral Transcript, 240-46, 279-81; Joanna Weiss, *How Peak TV Prepared All of Us for The Impeachment Hearings*, POLITICO MAG., Nov. 22, 2019.

89. Richard Nixon, *U.S. President, Address from the Oval Office at the White House: Resignation Speech* (Aug. 8, 1974), https://www.pbs.org/newshour/spc/character/links/nixon_speech.html.

90. James M. Naughton, *An Impeachment Ordeal's Climax*, N.Y. TIMES, Aug. 9, 1974, at 6; Carroll Kilpatrick, *Nixon Resigns*, WASH. POST, Aug. 9, 1974, at A01.

Rodino arranged to submit the panel's formal report and secured approval for its publication. For Rodino, the most meaningful portion of the detailed document was the House concurring opinion supported by all members and endorsing the first article of impeachment on the charge of obstruction of justice, based on the new evidence revealed by the tapes. It was the bipartisan unanimity he had hoped for throughout the long and difficult process.[91]

While the Nixon impeachment transformed Peter Rodino into a national hero, he refused to capitalize on the experience and declined offers to write a book or join the paid lecture circuit. He remained a public servant, and for the next fifteen years he continued to navigate the Judiciary Committee through choppy waters as the nation's ideological landscape changed. He continued to devote much of his energy during the ensuing years to protecting the Constitution. An unapologetic progressive his entire life, he placed duty above partisanship and worked closely with the Ford administration to reauthorize the Voting Rights Act (which he had helped to pass), and to mobilize the resources needed to meet the unexpected refugee crisis that followed the fall of South Vietnam. In a surprising finale, he partnered with the conservative Reagan administration to pass the immigration reform legislation he had first proposed a decade earlier.

Rodino spent his retirement from public life teaching new generations of law students at Seton Hall Law School. In his classes, he shared his thoughts on how best to secure the blessings of liberty not just for some, but for all. When he died in 2005, the *New York Times*, echoing the tone of many of the obituaries that appeared across the country, observed that Rodino had "impressed the nation by the dignity, fairness and firmness he showed."[92]

III. BEYOND WATERGATE: THE PRESIDENCY AGAIN IN CRISIS, LAWYERS AGAIN AT THE FORE

President Nixon's impeachment hearings were not the last the country would see. A quarter century after Nixon's resignation, the American presidency was again thrust into turmoil when President Bill Clinton was impeached in 1998 on charges of lying to a federal grand jury and obstruction of justice.[93] Clinton had had an affair with a White House intern named Monica Lewinsky before lying about it under oath. After a woman named Paula Jones sued Clinton alleging that he sexually harassed her when he was governor of Arkansas,[94] Clinton was forced

91. Rep. Peter Rodino, speaking on impeachment, August 20, 1974, 93d Congress, 2d sess., *Congressional Record* 120, pt., 22: 29219-29362; H.R. REP. NO. 93-1305 (1974).

92. Michael Kaufman, *Former Representative Peter W. Rodino Jr. is Dead at 95; Led House Watergate Hearings*, N.Y. TIMES (May 8, 2005), https://www.nytimes.com/2005/05/09/nyregion/former-rep-peter-w-rodino-jr-is-dead-at-95-led-house-watergate.html; *Judiciary Chairman Steered Nixon Impeachment Hearing,* PALM BEACH POST, May 8, 2005, at 10; Ron Marsico, *Watergate Icon Rodino Dies*, THE STAR LEDGER, May 8, 2005, at 1.

93. *See* GERHARDT, *supra* note 86, at 25 (explaining that Clinton was impeached in 1998 "for lying under oath to a federal grand jury and for obstruction of justice").

94. Jones had sought civil damages from Clinton, but her case was dismissed by the district court on grounds of presidential immunity. Jones v. Clinton, 858 F. Supp. 902, 906-907 (E.D. Ark. 1994). On appeal, the United States Court of Appeals for the Eighth Circuit reversed and ruled in favor of

to sit for a deposition in which he was confronted about his relationship with Lewinsky. He denied ever having the affair at that deposition and later to a federal grand jury. After further evidence of Clinton's sexual improprieties with Lewinsky was exposed, the House impeached him for committing perjury.[95] The House officially voted to forward official articles of impeachment against Clinton to the Senate, where Clinton was tried.[96] Although the Senate acquitted him, Clinton's conduct proved to be greatly humiliating for the Oval Office.[97]

In the years that followed, President Donald Trump made history by becoming the first president to be impeached twice by the House of Representatives. Trump was first impeached in 2019 after an inquiry by the House revealed that he had threatened to withhold military aid to Ukraine unless that country's president, Volodymyr Zelenskyy, agreed to launch an investigation into the business affairs of former Vice President Joe Biden's son, Hunter Biden. Trump enlisted surrogates within and outside of his official administration, including both Attorney General William Barr and Trump's personal lawyer Rudolph W. Giuliani, to pressure the Ukrainian government to begin investigating Biden's son. After a whistleblower complaint raised concerns that Trump was using his presidential powers to solicit foreign interference in the upcoming 2020 U.S. presidential election, the House began to investigate Trump's actions. Trump obstructed the House inquiry by instructing officials in his administration to ignore the subpoenas for documents and testimony that they were receiving from lawmakers. He was impeached on charges of abuse of power and obstruction of Congress.[98]

Jones, finding that "the President, like all other government officials, is subject to the same laws that apply to all other members of our society." Jones v. Clinton, 72 F.3d 1354, 1358 (8th Cir.). The case then went to the U.S. Supreme Court, which issued a landmark ruling. *See generally* Clinton v. Jones, 520 U.S. 681 (1997) (holding that a sitting President of the United States has no immunity from civil law litigation in federal court for acts that he had done prior to taking office, and that were unrelated to that office).

95. RICHARD A. POSNER, AN AFFAIR OF STATE: THE INVESTIGATION, IMPEACHMENT, AND TRIAL OF PRESIDENT CLINTON 24-30 (1999) (detailing President Clinton's lies in a case filed against him by Paula Jones, and then subsequently in his statements to a grand jury). Clinton's impeachment spawned a large literature, including many books on the subject. *See, e.g.*, PETER BAKER, THE BREACH: INSIDE THE IMPEACHMENT AND TRIAL OF WILLIAM JEFFERSON CLINTON (2000); DAVID P. SCHIPPERS, SELLOUT: THE INSIDE STORY OF PRESIDENT CLINTON'S IMPEACHMENT (2000). Scholarly commentaries were also inspired and were abundant. *See, e.g.*, AFTERMATH: THE CLINTON IMPEACHMENT AND THE PRESIDENCY IN THE AGE OF POLITICAL SPECTACLE (Leonard V. Kaplan & Beverly I. Moran eds., 2001). Many of those involved in the events later wrote books telling their side of the story as well. *See, e.g.*, KEN STARR, CONTEMPT: A MEMOIR OF THE CLINTON INVESTIGATION (2018).

96. *See* Articles of Impeachment Against William Jefferson Clinton, H.R. 116, 105th Cong. (1998), https://www.congress.gov/105/bills/hres611/BILLS-105hres611enr.pdf.

97. Only eight of the twenty-one people who have been impeached by the House have ever been convicted and removed from the office by the Senate, and all of them were federal judges. The others, including the Presidents, have been acquitted. *See* GERHARDT, *supra* note 86, at 25.

98. Articles of Impeachment Against Donald John Trump, H.R. 755, 116th Cong. (2019). As with Clinton's impeachment, Trump's first impeachment also inspired many books. *See, e.g.*, JEFFREY TOOBIN, TRUE CRIMES AND MISDEMEANORS: THE INVESTIGATION OF DONALD TRUMP (2020); KEVIN SULLIVAN & MARY JORDAN, TRUMP ON TRIAL: THE INVESTIGATION, IMPEACHMENT, ACQUITTAL AND AFTERMATH (Steve Luxenberg ed. 2020). A scholarly literature followed, including a renewed interest in the history and use of the constitutional impeachment power. *See, e.g.*, FRANK O.

President Trump was impeached for a second time in 2021 on charges of inciting an insurrection.[99] Unhappy with the election defeat that he suffered to Biden in the presidential election of 2020, Trump devised a plan to overturn that election's results. He and his surrogates decided they would send fake electors to Congress on January 6, 2021, the day Congress was scheduled to meet in joint session to count the electoral votes from the states.[100] On that day, Trump instructed his supporters to come to Washington, D.C. He held a rally at the Ellipse on the Washington Mall, during which he falsely told the gathered crowd that the 2020 election had been stolen and suggested that those assembled had the power to prevent Biden from taking office. Trump urged his supporters to head to the Capitol to "stop the steal."[101]

As members of Congress convened to certify the electoral votes, Trump's supporters stormed the U.S. Capitol. They ransacked and desecrated the building. Several people died in the ensuing confrontations, including a Capitol Hill police officer. The events were captured on national television, leading the House to impeach Trump for a second time before his term ended. He was tried by the Senate but, as in his first impeachment trial, ultimately acquitted.[102]

A connection runs from Watergate to the Clinton and Trump impeachments, and eventually to the insurrection of January 6 that led to Trump's second impeachment. Each time, lawyers played pivotal roles, both for better and worse. A generation after Watergate, John Dean, former White House Counsel to President Nixon, reflected on the role that lawyers played in that scandal.[103] After Dean exposed Nixon's wrongdoings, he provided relevant authorities with a list of the people who had violated the law. On June 16, 1973, during his second day of testimony before the Senate committee investigating the Watergate break-in, Dean looked down at the list of names of the Watergate perpetrators he had provided to the Senate. He noticed how "there certainly are an awful lot of lawyers involved here."[104] Dean had placed an asterisk next to the name of each individual who was

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BOWMAN III, HIGH CRIMES AND MISDEMEANORS: A HISTORY OF IMPEACHMENT FOR THE AGE OF TRUMP (2019); MICHAEL J. GERHARDT, THE FEDERAL IMPEACHMENT PROCESS: A CONSTITUTIONAL AND HISTORICAL ANALYSIS (3d ed. 2019).

99. Resolution Impeaching Donald John Trump, President of the United States, for High Crimes and Misdemeanors H.R. 24, 117th Cong. (2021).

100. *Id.*

101. *See* MARK BOWDEN & MATTHEW TEAGUE, THE STEAL: THE ATTEMPT TO OVERTURN THE 2020 ELECTION AND THE PEOPLE WHO STOPPED IT (2022) (detailing President Trump's plan to overturn the 2020 election).

102. *See* MARK C. ALEXANDER ET AL., BEYOND IMAGINATION? THE JANUARY 6 INSURRECTION (2022) (detailing President Trump's impeachment trial following the events on January 6, 2021).

103. John W. Dean III, *Watergate: What Was It?*, 51 HASTINGS L.J. 609, 611 (2000). The following lawyers were indicted by a grand jury because of Watergate: John N. Mitchell, John D. Ehrlichman, Charles W. Colson, Robert C. Mardian, Gordon Strachan, and Kenneth W. Parkinson. Several more were named as unindicted co-conspirators by the grand jury: William O. Bittman, John W. Dean III, Herbert W. Kalmbach, G. Gordon Liddy, Paul O'Brien, and Richard Nixon, *id.* at 611-12 n.6.

104. *See Presidential Campaign Activities of 1972: Hearing Before the Select Comm. on the Presidential Campaign Activities of the United States Senate on Watergate and Related Activities*, 93d Cong. 911, 1054 (1973).

trained in the law. "Any significance to the star? That they are all lawyers," Senator Herman Talmage of Georgia asked Dean during his testimony.[105] "No," Dean said in answering the Senator's question, but then admitted "that was just a reaction [I had] myself, the fact that how in God's name could so many lawyers get in involved in something like this?"[106]

By Dean's account, at least twenty-one lawyers found themselves on the wrong side of the law during Watergate, including Nixon himself.[107] Why were so many perpetrators of Nixon's scheme and coverup lawyers? Shouldn't the lawyers have known better? Dean offered three explanations for why a legal training did not stop the lawyers' transgressions. First, the lawyers who worked for Nixon presumed themselves to be above the law. They thought that the law somehow did not apply to them, and they believed that any actions the President took "were, by definition, legal."[108] Nixon himself often imposed this view on his subordinates. It was a view shared by Nixon's closest aides, including Gordon Liddy.[109]

Second, many of the lawyer-perpetrators of Watergate were inexperienced, with little or no prior government expertise. Many had never worked in the public sector before they became White House lawyers. As a result, they were not particularly well-informed about the legal domains in which they functioned.[110] They did not perceive the magnitude of the President's transgressions in part because they had little knowledge of the law that applied to his actions. Many of them had worked only as corporate lawyers, with few opportunities to consider the public trust and greater public good.[111]

The third reason offered by Dean for why so many lawyers were involved in the Watergate scandal is perhaps the most telling: these lawyers did not understand their role. They believed that their duty was to serve the President, rather than the Constitution. "There is no question that many lawyers committed illegal acts out of loyalty to Richard Nixon," Dean tells us.[112] Loyalty to a president of course has its rewards, and every lawyer who has worked in the White House knows this. But when the loyalty given to a president supersedes the loyalty that the lawyer owes to his country and to the Constitution, a misalignment occurs. The lawyer begins to succumb to an individual president's whims rather than serve the will of the

105. *Id.*

106. *Id. See also* Dean, *supra* note 103, at 611.

107. Dean, *supra* note 103, at 612.

108. *Id.*

109. *Id.* at 613.

110. *Id.* at 618-19 (explaining how "[a]fter the arrests at the Watergate, my incompetence became a factor: [my] confusion about national security and inexperience with the criminal law" harmed the country.). When Dean became counsel to the President, he was just 31 years of age, and, in his words, "I was anything but a criminal lawyer. It never occurred to me when accepting the White House position that I needed practical experience in the criminal law." *Id.* at 619.

111. A literature has recently developed investigating what it means to live for a greater good. *See, e.g.*, DAN R. EBENER & BORNA JALSENJAK, LEADERSHIP FOR THE GREATER GOOD: A TEXTBOOK FOR LEADERS 6 (2021); ROBERT B. REICH, THE COMMON GOOD (2018).

112. Dean, *supra* note 103, at 621.

people themselves. As some authors have noted, this misalignment constitutes a form of corruption.[113]

President Nixon was a lawyer, as was President Bill Clinton. Despite this, Clinton lied not only to a grand jury but also to the American public. He emphatically and repeatedly denied, both publicly and privately, that he had any form of sexual relations with Lewinsky.[114] When those denials were disproven and new events concerning the Lewinsky scandal were revealed, a chorus of Clinton advisors, including his lawyer Sidney Blumenthal, began a smear campaign aimed at tarnishing Lewinsky's reputation. When that did not work as planned, Clinton's lawyers tried to attack the integrity of Kenneth W. Starr, the independent special counsel who had been appointed by the Department of Justice to investigate Clinton's dealings.[115] "The President's lawyers tried to derail the investigation and, failing that, delay it by making expansive claims of executive and attorney-client privilege with respect to witnesses summoned before the grand jury."[116]

Starr's office found itself engaging in a public relations battle with the White House's "slander machine."[117] The strategy employed by Clinton's lawyers involved efforts to tarnish the reputations of the President's adversaries in what has been called a "desperate, no-holds-barred struggle to retain his office."[118] That effort was met with Starr's determination to include in his final report copious evidence of the President's transgressions.[119]

Certainly, the "investigation, impeachment, and trial of President Clinton was not the legal profession's finest hour," Judge Richard Posner would later explain in a book about the Clinton impeachment.[120] The "technical acrobatics of the President's lawyers, though helpful for throwing sand in the eyes of [Clinton's] attackers," ultimately tarnished the President's reputation and "may have tipped the balance in favor of impeachment."[121] The saga saw few heroes, as loyalty to a president once again trumped loyalty to the Constitution and the public trust.[122]

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113. Scholars sometimes call it "institutional corruption." *See, e.g.*, DENNIS F. THOMPSON: ETHICS IN CONGRESS: FROM INDIVIDUAL TO INSTITUTIONAL CORRUPTION 27 (1995). Lawrence Lessig refers to this kind of misalignment as "dependence corruption." *See, e.g.*, LAWRENCE LESSIG, REPUBLIC, LOST: HOW MONEY CORRUPTS CONGRESS—AND A PLAN TO STOP IT 17 (2015). Though the literature alludes to an allegiance to monied interests rather than to a specific allegiance to the presidency, the same idea flows naturally from an allegiance to the presidency.

114. *See* POSNER, *supra* note 95, at 27.

115. *See* KEN GORMLEY, THE DEATH OF AMERICAN VIRTUE: CLINTON VS. STARR 440 (2010).

116. POSNER, *supra* note 95, at 27-28.

117. *Id.* at 74.

118. *Id.* at 74 n. 25.

119. *See* THE STARR REPORT: THE FINDINGS OF INDEPENDENT COUNSEL KENNETH W. STARR ON PRESIDENT CLINTON AND THE LEWINSKY AFFAIR XXVIII (1998).

120. POSNER, *supra* note 95, at 246.

121. *Id.*

122. In addition to Sidney Blumenthal and Kenneth Starr, the events surrounding Clinton's impeachment involved numerous other lawyers, including William Bennett, Vernon Jordan, and Janet Reno, among others. *Cast of Characters in the Clinton-Lewinsky Saga*, ALLPOLITICS CNN, https://www.cnn.com/ALLPOLITICS/1998/resources/lewinsky/cast.characters/list.html (last visited Apr. 18, 2023).

Lawyers again were at the fore amidst the turbulence of the 2020 presidential election and the events that followed. Dissatisfied after losing the election, President Donald Trump's lawyers concocted a scheme to overturn that election's results. The scheme involved submitting a fraudulent list of presidential electors to claim that Trump won the electoral college vote in seven states where he, in fact, had lost.[123] Those fraudulent certificates were to be passed to Trump's Vice President, Mike Pence, responsible for counting the electoral votes before both houses of Congress.[124] Trump hoped Pence would count the fraudulent elector votes, and thus overturn President-Elect Joe Biden's victory. Chief among those responsible for pushing Trump's fake electors plan were Rudolph W. Giuliani, Trump's personal lawyer, and John Eastman, a former law professor and former U.S. Supreme Court clerk. Another lawyer, Boris Epshteyn, introduced Eastman to Trump. A host of other lawyers who worked in the executive branch and who were part of Trump's orbit were also involved in the fake electors' plan.[125]

The testimony before the January 6 Committee charged with investigating the 2021 insurrection at the Capitol riveted the nation. Once again, a congressional committee found itself investigating the actions of a sitting president who had used unlawful means to cling to power. Once again, that committee's hearings were broadcast live on national television, with the drama playing out in living rooms across the country.[126]

The principal leaders of the January 6 Committee were lawyers. They included Republican Representative Liz Cheney (the Committee's Vice Chair) and Democratic Representative Jamie Raskin.[127] The daughter of former Republican Vice President Dick Cheney, Liz Cheney defied the wishes of her party's leaders by voting to establish the January 6 Committee and then by taking a seat on that committee herself. "We cannot leave the violence of January 6 and its causes uninvestigated," she said at an early hearing of the committee. "If those responsible

123. Indeed, this was the conclusion that even leading Republican statemen and judges had document. *See, e.g.*, JOHN DANFORTH ET AL., LOST, NOT STOLEN: THE CONSERVATIVE CASE THAT TRUMP LOST AND BIDEN WON THE 2020 PRESIDENTIAL ELECTION (2022) (analyzing the lawsuits brought by Trump's team and concluding that each allegation lacked merit).

124. U.S. CONST., amend. XII (describing how state electors shall "transmit sealed to the seat of the government of the United States, directed to the President of the Senate" their electoral votes, and how "[t]he President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted"). Prior to the adoption of the Twelfth Amendment, the candidate who received the most electoral college votes would become President and the candidate who received the second-most votes would become Vice President. However, it quickly became apparent that this system did not work very well in practice. *See* EDWARD W. FOLEY: BALLOT BATTLES: THE HISTORY OF DISPUTED ELECTIONS IN THE UNITED STATES 71 (2017).

125. The lawyers who worked on the fake elector scheme included Jenna Ellis, Boris Epshteyn, Katherine Friess, and Christina Bobb. Others included Sidney Powell, Cleta Mitchell, Kenneth Chesebro, and John Eastman. Eastman was a key player in President Trump's efforts to overturn the election. *See* SELECT COMM. TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE UNITED STATES CAPITOL, 11TH CONG., FINAL REPORT 203-04 (2022) [hereinafter Final Report].

126. Also once again, John Dean found himself testifying before Congress. In 2019, testified before the House Judiciary Committee to raise parallels between Trump's activities and Watergate. *See* ERIC SWALWELL, ENDGAME: INSIDE THE IMPEACHMENTS OF DONALD TRUMP 154-57 (2020) (discussing the topics of Dean's testimony and the nature of his remarks before the Judiciary Committee).

127. *See* Final Report, *supra* note 125, at ii.

are not held accountable, and if Congress does not act responsibly, this will remain a cancer on our constitutional republic."[128]

A former law professor who found his expertise in constitutional law sorely needed when he arrived in Congress, Raskin served as the impeachment manager who prosecuted the second impeachment of Trump. The events of January 6 had affected Raskin personally and deeply. He had just lost his son, an idealistic law student, to suicide,[129] and had buried him only a day before the rioters attacked the Capitol building. Like Cheney, he felt an obligation to serve on the committee that would investigate and document the unprecedented attack on American democracy.

The half-century since the Watergate proceedings had changed American politics. Congress was now more polarized. So were the nation's voters. Whereas Watergate had united the country, Clinton's impeachment had the opposite effect, splitting Americans along party lines. Since then, political divisions only worsened, with the insurrection at the Capitol fomenting partisan divides. Had the January 6 Committee met in 1974, both Cheney and Raskin would have been viewed as lawyer-heroes. But in 2022, the partisan tribalism of contemporary American politics was on full display. The Republican National Committee chose to describe the events of January 6 as "legitimate political discourse" and overwhelmingly voted to censure both Liz Cheney and Adam Kinzinger, the Republican congressman from Illinois who had joined Cheney on the January 6 Committee.[130] After being attacked in the media by former President Trump and ostracized by his party, Kinzinger decided not to stand for re-election in 2022. And Cheney lost her primary in Wyoming to a far-right candidate who had sought and received Trump's endorsement.

IV. RECLAIMING THE PROMISE OF THE LAWYER-HERO FOR THE PRESENT MOMENT

Certainly, from Watergate to the impeachments of Presidents Clinton and Trump, lawyers wielded immense power. Tellingly, the example set by Peter Rodino a generation earlier was still on many lawmakers' minds when the House voted to impeach President Donald Trump. At the end of the hearings on the first articles of impeachment before the House Judiciary Committee, several members of the House even invoked Rodino's name. Describing "President Trump's obstruction of Congress as an affront to Peter Rodino,"[131] they asked Americans to think back to 1974, when

128. *See* Jeremy Schulman, *Hero: Liz Cheney*, MOTHER JONES (Dec. 26, 2021), https://www.motherjones.com/politics/2021/12/hero-liz-cheney.

129. *See* Statement of Congressman Jamie Raskin and Sarah Bloom Raskin on the Remarkable Life of Tommy Raskin (Jan. 4, 2021), https://raskin.house.gov/2021/1/statement-congressman-jamie-raskin-and-sarah-bloom-raskin-remarkable-life-tommy.

130. *See* Jonathan Weisman & Reid J. Epstein, *Republican Party Declares Jan. 6 Attack "Legitimate Political Discourse,"* BOSTON GLOBE (Feb. 4, 2022), https://www.bostonglobe.com/2022/02/04/nation/republican-party-declares-jan-6-attack-legitimate-political-discourse/.

131. *Articles of Impeachment Against President Donald J. Trump: Hearing on H.R. 755 Before the H. Comm. on the Judiciary*, 117th Cong. (Dec. 11-13, 2019) at 14.

> Judiciary Chairman Peter Rodino warned President Nixon about his failure to comply with subpoenas issued in the Watergate impeachment inquiry. Under the Constitution, it is not within the power of the President to conduct an inquiry into his own impeachment to determine which evidence and what version or portion of that evidence is relevant and necessary to such an inquiry. These are matters which, under the Constitution, Rodino wrote, the House has the sole power to determine. Sole, not shared with the executive. Sole, not shared with the courts.[132]

There is a reason that Rodino's legacy continues to serve as a guide. Amidst the corrosive forces of his time, Rodino refused to waver from the conviction that rightness should prevail and that democracy does work. During the impeachment proceedings Rodino said of the House Judiciary Committee, "I know we're sometimes weak-kneed, and sometimes political. But I really believe this is an instance where we can demonstrate that the system does work."[133] To meet the moment, Rodino studied the impeachment and trial of President Andrew Johnson.[134] He poured over the writings of classic political thinkers including the eighteenth-century theorist Edmund Burke, who stressed that "any process of impeachment should rest 'not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality.'"[135]

Rodino's moral courage came from his upbringing and immigrant roots. While in law school, he studied the lessons of American constitutional history and resolved to commit his life's work to securing the "blessings of liberty" for those who had long been excluded from the promise found in the Constitution's preamble. He sought and won elected office to advance aims of equal opportunity and equal access to justice. During his forty years in Congress, he succeeded in spearheading seminal legislative reform on immigration policy,[136] civil rights,[137] fair housing,[138] and labor law.[139]

Rodino's four decades in the House were marked by social upheaval, civil unrest, and "a crisis of [public] confidence."[140] Yet amidst the challenges of the

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132. *Id.* at 239.

133. Kaufman, *supra* note 92.

134. *Id.*

135. *Id.*

136. *See, e.g.*, Indochina Migration and Refugee Assistance Act, H.R. 6755, 94th Cong. (1975) (sponsored by Rodino, passed into law); Refugee Assistance Amendments of 1982, H.R. 5879, 97th Cong. (1982) (sponsored by Rodino, passed into law); Stephen Engelberg, *Rodino Plan Seen Aiding Changes of Bill on Aliens*, N.Y. TIMES (July 25, 1985), https://www.nytimes.com/1985/07/25/us/rodino-plan-seen-aiding-chances-of-bill-on-aliens.html.

137. Civil Liberties Act of 1987, H.R. 442, 100th Cong. (1988) (cosponsored by Rodino, passed into law); Civil Rights of Institutionalized Persons Act, H.R. 10, 96th Cong. (1980) (cosponsored by Rodino, passed into law); Civil Rights Commission Authorization Act, H.R. 5645, 95th Cong. (1977) (sponsored by Rodino, passed into law).

138. Fair Housing Amendments Act of 1988, H.R. 1158, 100th Cong. (1988) (cosponsored by Rodino, passed into law).

139. Retirement Equity Act of 1984, H.R. 4280, 98th Cong. (1984) (cosponsored by Rodino, passed into law).

140. Jimmy Carter, U.S. President, Address to the Nation on Energy and National Goals: The Malaise Speech (July 15, 1979) (transcript available at The American Presidency Project, https://w

time, he managed to achieve consensus, helping to secure the passage of virtually every major civil rights bill of the twentieth century, including the watershed Civil Rights Act of 1964.[141] Then, as chair of the Judiciary Committee, he led the nation through a constitutional crisis.[142] In that pivotal role, Rodino transcended partisanship and appealed instead to first principles, setting forth a mandate anchored in transparency, accountability, truth-telling, and promise-keeping.[143]

On July 24, 1974, Rodino had opened the Judiciary Committee's consideration of the articles of impeachment against Nixon with these words: "We have deliberated. We have been patient. We have been fair. Now the American people, the House of Representatives and the Constitution and the whole history of our republic demand that we make up our minds."[144] The nation watched as "six of the Committee's Republicans joined the Democratic majority in passing three of the five articles of impeachment" that were lodged against Nixon.[145]

It is telling that, just after the Judiciary Committee voted to impeach a sitting president of the United States, Rodino declined the opportunity to grandstand on the House steps or to leverage what partisans might savor as a great political victory. Putting country before party, he walked past the press, retreated to his chambers, and wept.[146] When asked about that moment, he explained, "I wept for the nation. I wept for a President whose previous achievements would now be eclipsed. And I wept at the magnitude of the truth that 'character is destiny."[147]

Throughout his storied political career, Rodino always led in his own inimitable way. The country came to see that his way "meant great patience, caution, enormous energy, and fairness above all."[148] He understood the role of the lawyer-hero to be one of "teacher, negotiator, leader and symbol."[149] He was honest and candid, willing to acknowledge his fears and anxieties about the responsibilities vested in him. He described how he would "lie awake at night" mindful of the immensity of the tasks at hand.[150]

Throughout, Rodino never sought the spotlight. Indeed, in photographs and footage of the signings of some of the watershed legislation that Rodino

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ww.presidency.ucsb.edu/documents/address-the-nation-energy-and-national-goals-the-malaise-speech).

141. *Id.*

142. *See* Melissa Block, *Watergate Figure Peter Rodino Dies*, NPR, at 00:15 (May 9, 2005), https://www.npr.org/2005/05/09/4645365/watergate-figure-peter-rodino-dies.

143. *Id.* (John Doar, Special Counsel to the Committee, noted of Rodino: "He was able to impose discipline on the staff. He insisted that there be no leaks to the press. There were no leaks to the press. He insisted that it be bipartisan, it not be partisan. There was no partisanship on the staff. In fact, it was remarkably non-partisan. And that is the result of good leadership. And although Congressman Rodino was a quiet man, he had the knack of leading, of managing, and he did it very well.").

144. Robert Pinsky, Opinion, *Patriotism for an Age of Unreason*, N.Y. TIMES (Oct. 5, 2018), https://www.nytimes.com/2018/10/05/opinion/robert-pinsky-patriotism-for-an-age-of-unreason.html.

145. *Id.*

146. Paula A. Franzese, *Keep that Good Heart: The Life and Legacy of Congressman Peter W. Rodino, Jr.*, 36 SETON HALL L. REV. ix, xi (2006).

147. Conversation with Peter Rodino (October 2004) (notes on file with author).

148. *Id.*

149. *Id.*

150. *Id.*

spearheaded, one finds him in the background, away from the podium. But in 1974, with the Watergate hearings, the spotlight was inescapable. Rodino presided over the impeachment proceedings with dignity, never wavering from his reverence for the office of the presidency and never straying from his conviction that our great democracy would withstand, indeed transcend, this immense test.

The nation watched a reluctant but gifted lawyer-leader who was, first and foremost, a good person. Here was a patriot who in words and actions had devoted his life to exalting the values of shared governance, due process, and the rule of law. As then-Senator Ted Kennedy later remarked, "Many of us felt as we watched the Watergate hearings we were seeing a founding father in action, living the highest ideals of the Constitution. I'm sure my brother would have called him a profile in courage. I feel the same way, and I'll never forget him."[151]

Rodino was clear about his motivations for leading.[152] He never forgot why he chose to enter public life. In his own words, it was to champion the underdog and the people denied the "blessings of liberty." Rodino understood that public office is a public trust. He led with empathy, consistently endeavoring to feel into the lived experiences and struggles of his own constituents. His humility helped him "to walk with kings" while never losing "the common touch."[153]

Years later, when he served on the faculty of Seton Hall Law School, Rodino gave an address where he told the assembled law students that "this country's greatest hope is its rising lawyer-leaders."[154] He urged the law students to live a life that matters. "What will matter," Rodino said, "is not your success, but your significance; not what you bought but what you built. A life that matters is a life lived with great love."[155] Amidst the acrimony of our contemporary political discourse, such exaltations seem to be in short supply. Yet, leaders who emerge from turbulent times to inspire consensus and renewed hope have all echoed a similar refrain, consistently appealing to "the better angels of our nature."[156]

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151. *Id.*

152. *See generally* SIMON SINEK, START WITH WHY: HOW GREAT LEADERS INSPIRE EVERYONE TO TAKE ACTION (2009) (positing that effective leaders, who have the greatest influence, guide and inspire those around them to understand the *purpose* behind the movement).

153. Rudyard Kipling, *If*, POETRY FOUND., https://www.poetryfoundation.org/poems/46473/if--- (last visited Apr. 11, 2023).

154. Franzese, *supra* note 146.

155. *Id.*

156. Abraham Lincoln, U.S. President, First Inaugural Address of Abraham Lincoln (Mar. 4, 1861) (Most recently and just days before his passing, Congressman John Lewis noted the power of human compassion to lay down "the burdens of division."); John Lewis, Opinion, *Together, You Can Redeem the Soul of Our Nation*, N.Y. TIMES, July 30, 2020, at A23, https://www.nytimes.com/2020/07/30/opinion/john-lewis-civil-rights-america.html. (He encouraged his successors to "answer the highest calling of your heart and stand up for what you truly believe. In my life I have done all I can to demonstrate that the way of peace, the way of love and nonviolence is the more excellent way. Now it is your turn to let freedom ring."); Franzese, *supra* note 146.

CONCLUSION

Effective leadership for lawyers in times of social and political upheaval requires the ability to place a complex set of events into a coherent narrative anchored in first principles of duty, accountability, and the public trust. It transcends partisanship and self-interest in pursuit of common cause.[157] It is for this reason that Rodino's stewardship of the Watergate hearings remains the "gold standard."[158] Today, as lawyers play an important role in charting a path forward for a divided nation, Rodino's example provides a roadmap. His legacy serves as a powerful reminder that "[d]emocracy's legitimacy and durability depend on dialogue and deliberation—on process as much as outcomes."[159] Most essentially, by placing virtue at its center, his leadership model provides a basis for civic reinvention.

157. Garrett M. Graff, *Three Critical Lessons of the Watergate Hearings that the Jan. 6 Committee Should Learn*, N.Y. TIMES (June 10, 2022), https://www.nytimes.com/2022/06/10/opinion/watergate-january-6-hearings.html.

158. Robert Draper, *The Watergate Hearings, 50 Years Ago: Truth Was Not Up for Debate*, N.Y. TIMES (June 17, 2022), https://www.nytimes.com/2022/06/17/us/watergate-jan-6.html?searchResultPosition=1.

159. Carlos Lozada, *How to Strangle Democracy While Pretending to Engage in It,* N.Y. TIMES (Oct. 23, 2022), https://www.nytimes.com/2022/10/20/opinion/albert-hirschman-political-rhetoric.html).