

# Day of Decision

# The Thirty-Eight on

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**T**HE EAGLE never blinks. Perched in the center of the pale green wall, it stares fixedly across Room 2141 of the Rayburn House Office Building at Peter W. Rodino Jr. Plaster, yes, cloaked in white paint and gilt. But more, much more: a symbol of national greatness, an embodiment of a republic, a reminder of history's omnipresence. The talons cling tenaciously to the olive branch and the arrows. The beak clamps unyielding to the banner with the Latin phrase etched in gold. E Pluribus Unum. Out of many, one.

Across the wide hearing room of the House Committee on the Judiciary, bracketed by oil portraits of illustrious predecessors, Chairman Peter Rodino seems to wonder if the great seal of the United States might be knocking him, taunting him.

E Pluribus Unum. Why Peter Rodino? Out of so many, why Peter Rodino? After nearly two centuries of the American experiment, why must he be the one to preside over a proceeding that will decide the fate of a President and, perhaps, alter the course of history?

"I'm responsible for all of this," he says, ankle deep in awe at the size of the task. He is directing the first inquiry in more than a century — the second in history — into the impeachment of a President. "I didn't seek it. I had it thrust on me."

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**H**ARDLY ANYONE sought it. Certainly not Richard M. Nixon, the 37th President whose passion for historic firsts did not include the prospect of being the only Chief Executive canned by Congress.

Nor was it sought by most of the 35 men and two women who sit on either side of Rodino at a two-tiered mahogany dais, across from the stern eagle, in the hearing room where sometime in late spring a vote will be taken on whether to recommend that President Nixon be in-

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dicted by the House of Representatives, tried for high crimes and misdemeanors by the Senate and cast out of the White House.

These are mere mortals trafficking in constitutional immortality. Each of the 21 Democrats and 17 Republicans who compose the Judiciary Committee is a lawyer, but their backgrounds are in prosecution of petty grafters, not Presidents, in the preparation of \$50 wills, not articles of impeachment.

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**I**T IS clear now that the Judiciary Committee contains — as does the House itself — three types of individuals whose political and ideological instincts will shape the way in which they analyze the evidence and seek to find its meaning.

There are perhaps seven impeachment zealots, Nixon antagonists who, as liberal Democrats, would like very much to find grounds to indict the President for high crimes and misdemeanors: Jack Brooks of Texas, Robert W. Kastenmeier of Wisconsin, Don Edwards and Jerome R. Waldie of California, John Conyers Jr. of Michigan, Robert F. Drinan of Massachusetts and Charles B. Rangel of Manhattan.

Then there are about nine anti-impeachment hard-liners, Presidential protectors who, as conservative Republicans, seem to be earnestly seeking any rationale that would excuse Mr. Nixon of anything but bad judgment: Edward Hutchinson of Michigan, Charles W. Sadtman Jr. of New Jersey, Charles E. Wig-

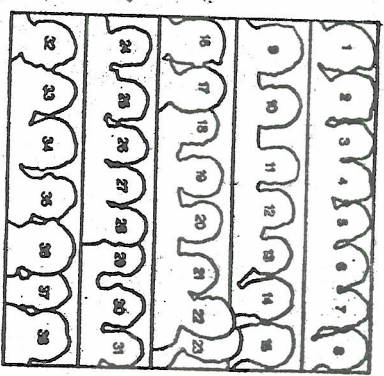
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**Sometime soon, the 38 members of the House Judiciary Committee are going to have to decide whether to recommend that the President be impeached—not many of them, it can be said, are looking forward to the day of the outright Yes or the outright No.**

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Members of the House Judiciary Committee, who must make the first judgment on the impeachment of the President: 1. Kastenmeier (Dem-Wis.) 2. Hungate



- (Dem-Mo.) 3. Sandman (Rep-N.J.) 4. Mezvinsky (Dem-Iowa) 5. Donohue (Dem-Mass.) 6. Flowers (Dem-Ala.) 7. Dennis (Rep-Ind.) 8. Lott (Rep-Miss.) 9. Rangel (Dem-N.Y.) 10. Eilberg (Dem-Pa.) 11. Mann (Dem-S.C.) 12. Edwards (Dem-Calif.) 13. Owens (Dem-Utah) 14. Cohen (Rep-Me.) 15. Moorhead (Rep-Calif.) 16. Waldie (Dem-Calif.) 17. Danielson (Dem-Calif.) 18. Jordan (Dem-Tex.) 19. McClory (Rep-Ill.) 20. Wiggins (Rep-Calif.) 21. Fish (Rep-N.Y.) 22. Hogan (Rep-Md.) 23. Latta (Rep-Ohio) 24. Drinan (Dem-Mass.) 25. Hutchinson (Rep-Mich.) 26. Seiberling (Dem-Ohio) 27. Brooks (Dem-Tex.) 28. Rallsback (Rep-Ill.) 29. Sarbanes (Dem-Md.) 30. Froehlich (Rep-Wis.) 31. Smith (Rep-N.Y.) 32. Conyers (Dem-Mich.) 33. Mayne (Rep-Iowa) 34. Thornton (Dem-Ark.) 35. Butler (Rep-Va.) 36. Maraziti (Rep-N.J.) 37. Rodino (Dem-N.J.) 38. Holtzman (Dem-N.Y.)

gins and Carlos J. Moorhead of California, David W. Dennis of Indiana; Lawrence J. Hogan of Maryland, Trent Lott of Mississippi, Harold V. Froehlich of Wisconsin and Delbert L. Latta of Ohio.

And there are some 21 individuals —

a motley assortment of Democrats and Republicans, liberals and conservatives, Nixon stalwarts and loyal opponents — who have tried for differing reasons and with varying degrees of success to remain neutral.

Among them are ten Democrats: Rodino of New Jersey, William L. Hungate of Missouri, Joshua Eilberg of Pennsylvania, Paul S. Sarbanes of Maryland, George E. Danielson of California, John F. Seiberling of Ohio, Barbara Jordan of Texas, Elizabeth Holtzman of Brooklyn, Wayne Owens of Utah and Edward Mezvinsky of Iowa.

They also include three conservative Democrats from pro-Nixon sectors of the Old South: Walter Flowers of Alabama, James R. Mann of South Carolina and Ray Thornton of Arkansas.

They number six moderate Republicans whose districts are cool to the Nixon White House: Robert McClory and Tom Railsback of Illinois, Henry P. Smith 3d and Hamilton Fish, Jr. of upstate New York, William S. Cohen of Maine and Joseph J. Maraziti of New Jersey. And they include two conservative Republicans who recoil, as legal scholars, from political pre-judgment: Wiley Mayne of Iowa and M. Caldwell Butler of Virginia.

Finally, there is the 38th member — Harold D. Donohue, Democrat of Massachusetts. He is easy enough to describe. Heavy, bulbous, 72, with parchmentlike skin and wispy white hair, he has been likened to James Cagney rolled in baby powder. Some imagine him as Bert Lahr in the cowardly lion's costume. But he is more difficult to categorize. His Worcester district is blue-collar and middle American and somehow Donohue has lingered in Congress as its representative for a quarter of a century with a very liberal voting record. His secret may be a determinedly low profile and he's keeping it that way. Few can recall the last time he said more than three words in succession in a legislative debate. Second in seniority among the Democrats, he would become chairman if anything happened to Rodino.

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**E** PLURIBUS UNUM. Out of many, it is Rodino who must knit some sort of impeachment fabric from the diverse strands of the committee, the inquiry and the process — restraining any rambunctious impeachment zealots, reassuring the skeptical Presidential partisans, directing the investigative efforts of a

104-member staff, explaining the mystical impeachment process to a troubled nation and trying to fulfill the White House demand to impeach Mr. Nixon or get off his back.

To be sure, there are other key members of the Judiciary Committee, but it is Rodino who bears the pressures—political, physical, psychological — of the Congressional attempt to pass judgment on the President.

Small wonder that a constitutional collision between two theoretically equal branches, the executive and the legislative, frightened the 64-year-old committee chairman who was asked to manage it. Americans have come to equate a President, any President, with the government.

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**G**IVEN THE chance, Rodino would have been satisfied to be remembered in history as the author of immigration law reforms and the sponsor of the measure establishing Columbus Day as a national holiday — another Italo-American who made good in government, and whose memorabilia were the statue of suckling Romulus and Remus, the bronze bust of Justinian and the copy of the literary works of Leonardo da Vinci.

No, Rodino instead has become, to his constant distress the symbol of a Congress investigating a president. A lady accosted him on a street in Newark one day to warn, "You're losing your popularity over this." His constituents, among the nation's poorest, have told his staff, "I want gasoline — the hell with Rodino and impeachment."

For a long time, Rodino missed meals and sleep; his doctor clapped him into Bethesda Naval Hospital for a rest and ordered him to take it easy. But he can hardly do that.

"I just want to do a good job. I've got to do this job. That's it," he says in his raspy, Gene Kelly voice. He shrugs his shoulders, shakes a head topped with silvering hair. "None of us is perfect. I know we're sometimes political, but I really believe this is an instance when we

can demonstrate that the system does work."

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**I**T IS NOT in the nature of Congress to choose between good and evil, hot and cold, black and white. Congress is the place where vested interests perpetually collide — urban against rural, liberal against conservative, management against labor, free trade against protectionism — and issues are resolved in the slow waltz of compromise.

It is by design and good fortune, the indecisive branch of the national government, the one place where the best and the worst of us are represented, where each clamorous voice can be raised before a majority chorus can be assembled to sing a song of consensus.

But there is no middle ground, no center option in impeachment. It is a choice between stark alternatives. Has the President committed an offense for which he should be removed from office, or not? And thus it is a frightening decision for men and women who more often follow than lead public opinion, who are addicted to Gallup polls, who look for portents in the entrails of their mailboxes, who develop an expertise at saying nothing with style.

No one can counsel them on this historic judgment. Inundated with advice, they are unable, in the end, to rely on it. They are a lonely crowd.

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WHEN THE inquiry began, Tom Railsback, an Illinois Republican, used to toss at night wondering how to define the grounds for impeachment. "Now," he says, "I have become more calloused and resigned to this responsibility."

He found "one easy answer: Do what you think is right." He considers it unfortunate, but is certain that this one decision will outlive anything else he has done or will do. "People are going to look back at my career and not think of the work I did on juvenile delinquency or penal reform, or even of the highways I got for my district. They're going to remember how Tom Railsback voted on impeachment."