ADAM SCHIFF

# MIDNIGHT IN WASHINGTON

## HOW WE ALMOST LOST OUR DEMOCRACY AND STILL COULD

"If there is still an American democracy fifty years from now, historians will be very grateful for this highly personal and deeply informed guide to one of its greatest crises. We should be grateful that we can read it now."
—TIMOTHY SNYDER, #1 *New York Times* bestselling author of *On Tyranny*

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For truth is truth
To the end of reckoning.

—William Shakespeare, *Measure for Measure*

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# PROLOGUE

## WHY SHOULD I?

The Senate chamber was so much smaller than I remembered. I had tried an impeachment case against a federal judge ten years earlier and hadn't been on the Senate floor since. In the House, I could see members on the other side of the chamber, but only dimly, their faces indistinct in the distance. Some of the Republican members of the House have been there for years, but sit in the far corner and are not on any of my committees, and if I passed them at the airport, I wouldn't know them from a stranger. Indeed, I *have* passed them at the airport and not known who they were until they stopped and introduced themselves. But as I walked onto the Senate floor again after so long, I couldn't get over how intimate it was—how closely I could observe each of the senators and their expressions, faces so familiar to me even if I had never worked with them, or spoken with them, before.

During the trial, with one glance I could tell how closely they were paying attention, or not paying attention—frowning, thoughtful, drifting off, engaged, moved, angered, or, worse, indifferent. You could see when their eyelids got heavy after lunch or long argumentation, or when their eyes glistened with emotion. We had twenty-four hours, spread out over three days, to make our case for the impeachment of a president, which didn't seem like much, which wasn't much, to sum up all of the reasons why Donald J. Trump posed a continuing danger to the Republic. We had spent two of those days making what I thought

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was a powerful case, my talented colleagues and incredible staff having put together a series of compelling presentations, integrating the testimony of the witnesses, documentary records, constitutional sources, and all of the powerful argumentation we could muster—but before the last argument of the day, one of my staff put his hand on my arm and stopped me.

"They think we've proven him guilty. They need to know why he should be removed."

I didn't have time to ask my staff who "they" were. We had been getting feedback during the course of the trial, sometimes directly from senators who would walk past us in the small lobby behind the Senate floor, going to and from lunch, or on a break, or who would wander up to our small table on the Senate floor when the day's presentations were done. But the best sources of information came from Senator Schumer's staff, passed on to my staff in whispers and handwritten notes. Were these questions coming from Democratic senators, like Joe Manchin from West Virginia, Kyrsten Sinema of Arizona, or Doug Jones of Alabama? If so, we were in trouble.

Or was this feedback coming from Republican senators, several of whom had kept their cards close to the vest? If the Republican senators were asking, that meant their minds were still open to conviction, and that was good, even though at this point in the trial they had yet to hear the defense case.

And still, what were "they" really asking? If senators believed that we had proven Trump guilty of withholding hundreds of millions of dollars of military aid from an ally at war in order to coerce that nation into helping him cheat in the upcoming election, wasn't that enough? Had the bar become so high with this president that *that* wasn't enough? It was like a juror in an extortion case involving the president asking the judge, "Okay, he's guilty, but do we really need to convict? Can't he just go on running the country?"

But as I walked to the lectern, I suddenly understood, in a way I hadn't fully appreciated until that moment, that this was the central question: Why should he be removed? He was the

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president of their party. He was putting conservative judges on the court. He was lowering their taxes. Why remove him? I had watched during breaks in the trial as the president's Senate defenders took to the airwaves to proclaim his innocence, and I had believed them—not their claims about the president's conduct, but that *they* believed what they were saying, that *they* believed there had been, to quote the president's mantra of defense, no quid pro quo. But I could see now that that wasn't it at all.

I should have known better. For the past three years, Republicans had confided, to me and to many of my Democratic colleagues, their serious misgivings about the president. Some would go on Fox News and bash me, only to urge me privately to keep on with the investigation. And it became clear that many Republicans felt someone needed to do it, someone needed to put a stop to it all, even if they couldn't, or wouldn't. And the question wasn't so much "Why should he be removed?" as "Why should I be the one to remove him? Why should I risk my seat, my position of power and influence, my career and future? Why should I? Why should *I*?"

There was only half an hour left of our case that day when I pulled my thoughts free of my staff to make those seven short paces from the House managers' table to the lectern, and I had no idea how I was going to answer that question. I had prepared to go through the record of the president's call again, the one in which he says "I want you to do us a favor, though"—because I had discovered there was so much more to that transcript, so much more now that we understood the whole scheme, and I had planned to go through it, line by line. It had become a practice of mine, during the hearings in the House, to do a kind of impromptu summary at the end of each proceeding, to try to distill the importance of what we had heard or learned, to try to express simply the significance of something that had struck me as particularly powerful or telling. It didn't even have to be all that important in its own right, as long as it spoke to something larger, something that shed light on the bigger issue, on what

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was at stake. But the call record now seemed insignificant, compared to the question: *Why should I?*

I needed time to think, and so I did go through the call record with the senators, pulling out a line here or there to explain its new significance. Most of the senators were listening politely after a long day, but not all, and their concentration was wandering, and so was mine. I was doing a kind of extreme multitasking, reading and speaking about the call but thinking about the question I needed to answer, and all the other questions that it presumed: What made this man so dangerous? What had he done to the country? How, in three short years, had he been able to so completely remake his own party, get it to abandon its own ideology, get my friends and colleagues to surrender themselves to his obvious immorality? How had he caused us to question ourselves, our values, our commitment to democracy, what the country even stood for? How had he been able to convince so many of our fellow citizens that his views were the truth, and that they should believe him no matter how obvious the lies?

When I was finished going through the call record, when I could delay no longer, I told the senators,"This brings me to the last point I want to make tonight." At the end of the trial, I said, I believed that we would have proven the president guilty—that is, he had done what he was charged with doing. But it was a slightly different question, I acknowledged, whether he really needed to be removed. Still, I was wondering, even as I was saying the words, how do I answer the question? In the few minutes I have left, what do I say? And all of a sudden, every senator seemed to be watching, alert and keenly interested in the answer. The moment stretched on in silence. "This is why he needs to be removed," I said at last, and did my best to tell them....

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In the year and a half since that day, I have thought a lot about what I might have said differently, or done differently, to

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persuade the senators of what a danger the now former president posed then, and poses still. Whether there was any course we might have taken, not just in the trial but in the years that preceded it, to prevent what was coming: a violent insurrection against the Capitol, a wave of antidemocratic efforts aimed at the heart of our democracy, and a full-out assault on the truth.

There is now a dangerous vein of autocratic thought running through one of America's two great parties, and it poses an existential danger to the country. In this we are not alone. All around the world, there is a new competition between autocracy and democracy, and for more than a decade, the autocrats have been on the rise. This trend toward authoritarianism began before Donald Trump and will not have spent its force when he steps off the political stage for good. The experience of the last four years will require constant vigilance on our part so that it does not gain another foothold in the highest office in our land.

The actions of our government, like the broader sweep of history, are not taken on their own, they are not the product of impersonal forces operating without human actors and agency. We made Donald Trump possible. We the voters, yes, but we in Congress even more so. He would not have been able to batter and break so many of our democratic norms had we not let him, had we not been capable of endless rationalization, had we not forgotten why we came to office in the first place, had we not been afraid. How does that happen? How do good people allow themselves to be so badly used?

As the pandemic hit and I was forced into seclusion, along with the rest of America, I set out to write a book about what I witnessed at that very human level, about the friendships I lost with colleagues on the other side of the aisle that I had long worked with and admired, about their failings and my own, about the heroism of people I had never met but who would enter my life and change it, sometimes with only a few words, like "Here, right matters." I tried to draw on my experience, not only in Congress, but growing up in a close-knit family that

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valued its immigrant history, as a prosecutor handling cases like espionage, and living overseas in a country broken up by the same kind of xenophobic populism we would see unleashed here.

Midnight is the darkest moment of the day, everywhere in the world. But it is also the most hopeful, because everything that comes after holds the promise of light. America has a genius for reinvention, and we must use it. As Lincoln said, we must "disenthrall ourselves" to save our country. From the same forces of bigotry that divided and nearly defeated the country in the Civil War, yes, without a doubt, but from something new to the American landscape as well, from a dangerous experimentation with a uniquely American brand of authoritarianism. We must all play our part. We must all confront the question—Why should I?

Here is my answer.

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# PART ONE

# AGAINST OUR WILL COMES WISDOM

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# 1

# INSURRECTION

"Please grab a mask!" a Capitol Police officer shouted from the well of the House floor. Up until this point, I still wasn't sure what was happening outside the chamber and whether we were at serious risk. There were rioters in the building, that much I knew. How many of them, or how great a threat they posed, it was impossible to tell. I looked around at my colleagues to see if they were as perplexed as I was, and besides, what were we supposed to do in an emergency? I suddenly wished I had been paying more attention at freshman orientation twenty years earlier.

Sensing our confusion, the officer continued: "Be prepared to don your mask in the event the room is breached." He told us that we did not need to put the masks on yet, but tear gas was being deployed, so we should get them ready. "Be prepared to get down under your chairs if necessary. So, we have folks entering the Rotunda and coming down this way.... Just be prepared. Stay calm." I pulled a rectangular canvas pouch from under my seat and unzipped it. Inside was a strongly sealed plastic container with no obvious opening. I flipped it from side to side and upside down, trying to open the damned thing. Finally figuring it out, I helped the members around me open theirs, and we removed the plastic hoods. These hoods didn't resemble the gas masks you see police wearing during a riot; instead, they were a large polyethylene bag that you pulled over your head, with a small motor attached to circulate and filter

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the air. As you removed the hood from its packaging, the motor began running, and suddenly there was a din of dozens of these hoods buzzing, which only added to the growing sense of alarm.

"When you put on the hood," one of my colleagues and a former Marine, Ruben Gallego of Arizona, shouted, "breathe slowly." Ruben was standing behind me, and he could see the panic spreading from member to member. "Take slow, steady breaths. Your impulse will be to hyperventilate, but you need to breathe slowly." This was very helpful advice. I have a bit of claustrophobia, and the idea of pulling a bag over my head already had my pulse quickening. I resolved to wait until the last moment before I had to don the thing, since I wasn't smelling tear gas, not yet. "Breathe slowly when you put it on," Ruben intoned again, "or you will pass out. That is how people can die from wearing these." Okay, that wasn't so helpful.

"This is because of *you!*" yelled Representative Dean Phillips of Minnesota from the gallery at Representative Paul Gosar, who had been at the microphone. "Shut up!" came the Republican reply. "Call Trump, tell him to call off his revolutionary guards," screamed Representative Steve Cohen of Tennessee. He was also in the gallery, above me and to the right, his face red with anger. Other members tried to settle things down and not allow the recriminations to spread, but Phillips wasn't wrong. We were here for what should have been the ceremonial certification of the 2020 presidential election results, but instead we were now in danger. For months, GOP members of Congress had propagated the president's big lie about the elections, and you could draw a direct line between those lies and the threat we all now faced. Because of the pandemic, Phillips, Cohen, and other members had been required to wait in the gallery before their chance to speak, and they were the most exposed. Down on the House floor, we could barricade ourselves in, but upstairs there are multiple doors to the gallery and little to prevent the rioters from entering.

"Lock the gallery doors!" someone shouted from down below, but it wasn't clear to police upstairs which doors in the gallery

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remained open. "Not those doors—*those* doors!" came another excited shout. "Those doors over there!"

A police officer returned to the well again: He told us that they had secured an escape route and he wanted us to exit the chambers and proceed immediately down the stairs. Now. There are two sets of double doors behind the Speaker's chair and raised dais, and the doors to our right were pulled open. Members and staff quickly moved toward the exit and I was suddenly aware of just how many people had been on the floor, in the cloakroom or elsewhere, as they crowded by the exit and created a real logjam. I waited by my seat, still feeling relatively calm and wanting to give other members and staff a chance to go first. Besides, so many of the Republican members were not wearing masks, I wasn't eager to be jammed in with them shoulder to shoulder on my way out the doors. Eventually, I wandered over to the GOP side of the chamber and waited there alone, several rows above the well, until a young staff member approached me, perplexed why I wasn't leaving.

"Are you okay, Mr. Schiff?" she asked. I was astonished. She was all of about twentysomething and she was asking me if I was okay. What a remarkable calm amid the chaos. "I'm fine," I said, "just don't want to add to the melee. Thought I would let others go ahead." And then, as an afterthought, I asked her—"Are you okay?" She nodded.

Suddenly I could hear the crowd of insurrectionists outside the chamber. They had migrated from the Senate side of the building and were approaching the House floor from Statuary Hall, on the opposite side of the chamber from where members were exiting. And from the noise, it sounded like a lot of them.

Just then came a tremendous *thud*—something had been thrust against the doors not twenty yards away from me, battering them. *Thud.* A moment later, again: *thud.*

"You need to get out!" a police officer shouted. "*Move!*"

I made my way down to the well and joined the remaining members and staff filing out, looking back at the doors being hammered to the rear of the chamber, glass now shattering.

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Police officers pushed large cabinets in front of the doors and would soon draw their weapons.

"You can't let them see you," a Republican member said to me. "He's right," another Republican member said. "I know these people, I can talk to them, I can talk my way through them. You're in a whole different category." In that moment, we were not merely members of different political parties, but on opposite sides of a much more dangerous divide. At first I was oddly touched by these GOP members and their evident concern. But by then, I had been receiving death threats for years, and that feeling soon gave way to another: If these Republican members hadn't joined the president in falsely attacking me for four years, I wouldn't need to be worried about my security, none of us would. I kept that thought to myself.

As I made my way out of the back of the chamber, I took another look at the Republicans walking out with me. One had grabbed a wooden post with a hand sanitizer dispenser attached to it and was carrying it like a club, in case he needed it to defend himself against the rioters. "Are you that worried?" I asked him, as we began filing down the stairs from the Speaker's lobby and through the corridors below the Capitol. "Yes," he said agitatedly. "I think I just heard gunshots." He was right—only fifty feet away from the stairs, on the other side of the lobby, Ashli Babbitt, a fourteen-year veteran of the Air Force, had just been shot to death by a Capitol Police officer. In all the commotion, I had just assumed it was a tear gas canister.

"How long have you been here?" I asked the Republican.

"Seventy-two hours," he replied.

"What?"

"I was just elected. I replaced John Ratcliffe. I'm Pat Fallon."

I looked him in the eye and said: "It's not always like this."

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Now down in the tunnels below the complex, Capitol Police were directing us to a secure location. I was taking my sweet time about it, because I still couldn't fully accept what was happening.

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There had been plenty of surreal moments over the last four years, but nothing like this. Could the U.S. Capitol really be under attack, and by our own people? I suddenly noticed there weren't many members ahead of me or behind. Where had they all gone? Representative Fallon was a few yards in front, and I was now walking with Sean Patrick Maloney of New York. He noticed the hand sanitizer post that Fallon was carrying and said, "Either that guy is really worried about his safety, or he's just really devoted to hand hygiene." I couldn't help but laugh.

"Hurry up, please," a police officer commanded. "You need to move." That brought us back to reality. I picked up my pace. The sudden air of crisis had me thinking back to September 11, during my first few months in Congress, and all the chaos that surrounded that day. September 11 had been a terrible tragedy, and it had brought Congress and the country together; this was going to be very different.

Months before the joint session of Congress, I had suggested to the Speaker that we assemble a small group of members to try to anticipate any postelection challenges to the vote, to the electors, or whatever else Donald Trump and the Republican Party might have in mind to overturn the results if we were successful on election day. She had agreed, and periodically we would conference with Representatives Zoe Lofgren, Jamie Raskin, and Joe Neguse on the multitude of contingencies that could result if the Electoral College was tied, or states designated more than one slate of electors, or the vice president refused to recognize a slate, or, God forbid, the election went to the Supreme Court to decide. We were determined to avoid the Court at all costs, and deal with any challenge to electors in the House, and not on a one state, one vote basis, but through the majority vote we controlled. Still, there were a dizzying array of possibilities, and we knew we could easily end up in uncharted territory.

But by early January 2021, the Electoral College results were settled, and the Trump campaign's endless legal challenges were over, so our rump group turned its focus to a far simpler task—

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organizing the opposition to GOP efforts to fight the electors of six states during the joint session of Congress at which the Electoral College results were to be counted and certified. Normally a sedate and purely ministerial event, the joint session would provide a last opportunity, however improbable, for Trump and his supporters to challenge the election results. Upon a written challenge to a state's electors that was signed by at least one House and Senate member, we would separate from the joint session into the House and Senate chambers to debate the challenge to that state's results.

During these individual sessions, the four of us planned to begin each debate period with broad, thematic opening statements, to be followed by House members from the state in question who could drill down on the bogus nature of the particular challenges to that state's election. Originally, I proposed an opening address that placed these challenges to the electors in the broader context of Trump's attacks on our democratic process, but the Speaker rejected the idea, and she was right. "Let's not make this about him," she said. "This is about our democracy, about the peaceful transition of power. Let's keep this very high-level, very dignified, befitting the seriousness of what we are engaged in."

The Speaker arranged multiple Zoom meetings each day with different state congressional delegations, where we discussed the arguments that Republicans would make to disqualify the electors from those states—false claims of fraud, or dead people voting, or Dominion voting systems, or decisions of elections officials that they would argue were in contravention of state law—and the members from each state would rebut them. I recommended to the state delegations that they avoid amplifying the president's false claims by repeating them if it wasn't necessary, and to wait for the Republicans to make certain arguments before shooting them down.

By the time that the morning of January 6 arrived, we thought we were well prepared for anything that could happen. I would be doing six opening arguments—assuming all six states

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we anticipated would be challenged by the Republicans—and six rebuttals, as would my three colleagues. I had written half of these opening statements and one rebuttal, and the rest I was prepared to do on the fly. I had no idea how ill-prepared we would turn out to be for what was coming.

Shortly after the joint session began with the reading of the first states, dozens of Republican House members, joined by several GOP senators, objected to counting the electors from Arizona, and we divided into our respective houses to debate the matter. When I spoke on the House floor in opposition to this challenge to the votes of millions of Arizonans, I wanted to emphasize that these Republican objectors were violating their oath to defend the Constitution, regardless of the outcome of their objection to the count, and doing grave damage to our democracy:

"Nor can we console ourselves with the intoxicating fiction that we can break that oath without consequence because doing so will not succeed in overturning the election. An oath is no less broken when the breaking fails to achieve its end," I said. Any who sought to overturn the election would do injury to our constitution, whatever the result. "For just as the propagation of that dangerous *myth* about this election made this moment inevitable, our actions today will put another train in motion. This election will not be overturned, but what about the next? Or the one after that?"

My original draft used the word *lie,* not *myth,* but I was mindful of the Speaker's injunction to make our arguments about the Constitution and not Trump, and I didn't want to risk the Republicans seeking to "take down my words"—an arcane legislative procedure used to take issue with a member's language on the floor. The president could lie for weeks about the election, but to say so was objectionable. And so I continued to focus on the danger of these bad-faith Republican challenges in more neutral terms, on how they were undermining our democracy and the work of the House in particular: "What shall we say when our democratic legacy is no more substantial than

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the air, except that we brought trouble to our own house, and inherited the wind?"

Although I did not know it, there *was* another train in motion. Nearby at the Ellipse on the National Mall, the president of the United States had incited a crowd of his supporters, repeating his big lie about the election, applauding the campaign to "stop the steal," telling them to "fight like hell" and that if they didn't fight, they wouldn't have a country anymore. He asserted that the vice president could overturn the results of a free and fair election in which over 155 million Americans had cast their ballots, if only he would be strong. And then he implored this mob to go to the Capitol and do something about it.

And they did.

I wasn't paying attention to what was going on down the Mall, as I was fixated on the speeches I was giving, the arguments the Republicans were making, and the need to rebut them. I was only dimly aware that people were gathering outside the building, and then I noticed other members increasingly on their phones watching television footage. "Do you know what's going on?" I asked another member, momentarily turning my focus away from the Republican who was speaking. "There are a bunch of people marching here from the rally," he said. I nodded, and thought little of it.

The first time I noticed that something was seriously amiss was when I looked up and noticed that the Speaker was not in her chair on the dais. I knew from our preparations that she planned to preside from start to finish, no matter how many hours the joint session went on, and so I assumed she was coming right back. A moment later, however, two Capitol Police officers rushed onto the floor, grabbed the Democratic majority leader, Representative Steny Hoyer of Maryland, and moved him so briskly out of the chamber that I recall thinking I had never seen Hoyer move that fast. Even then, I had been in Congress long enough to have witnessed lots of false alarms, when a plane

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mistakenly wandered into the airspace above, or suspicious packages had been left unattended.

I went up to the Speaker's chair, in which Representative Jim McGovern of Massachusetts was now presiding.

"Thank God," I told him, "we finally have someone disposable in the Speaker's chair." He looked at me and smirked—I clearly thought it was more amusing than he did. In fact, McGovern would be among the last to leave the chamber that afternoon, and in cellphone video taken by one of the rioters outside the Speaker's lobby, he can be seen through the glass doors only minutes before Ashli Babbitt was shot.

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By the time I arrived at the secure location, the large room was already packed with members and staff, and several Capitol Police officers were guarding the entrance. "Please do not tell people where we are sheltering," we were instructed. "We don't know if rioters are in this complex, and we don't want them to know where you are." Members were soon buzzing about how one of our colleagues was nevertheless live-tweeting from the room. I was appalled that someone would so quickly disregard what they were asked to do for our collective security, but then again, I wasn't surprised. Frankly, given the changes in Congress I had seen over the previous few years, the real surprise would have been to discover that no one had been tweeting about our location.

I am embarrassed to say that only then did I call my wife, Eve, to tell her that I was all right. She sounded fine and had been out running errands, getting home only when the breach of the Capitol was beginning. She ran to the television to watch and started getting texts from friends and family asking if I was okay, which worried her all the more. My daughter, Lexi, twenty-two, called, more on edge, and we merged the calls. I assured Lexi that I was fine and in a safe place. They wanted to know where I was, and I told them we were not supposed to say. *Never mind,* my son, Eli, eighteen, told the family. "I know where he is."

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Apparently, he used the "find my phone" feature to pinpoint my location.

I took a seat and exchanged glances with several of my colleagues. We were all stunned about what was happening, and a kind of sorting out was taking shape—Republican members and staff sought out their Republican colleagues, and Democrats did the same. Fear was receding and anger at the president was quickly taking its place. One of my Democratic colleagues came up to me and was the first to say what I would hear versions of for weeks to come:

"You said this would happen," she said.

"Well, I didn't say *this* would happen."

"You warned that he would try to cheat again."

"It didn't require any great clairvoyance," I replied, and then I added: "Someone really should have impeached that son-of-a-bitch."

In fact, several of my colleagues were already discussing the need to impeach Trump again for inciting this attack. For my part, I was more fixated on returning to the floor and finishing the joint session. "We really need to go back in and get this done. We can't let them stop us even for the day." My colleagues nodded. This was the universal sentiment in the room—we were not about to let the insurrectionists succeed or allow them to draw this out any more than they already had. Both our caucus chair, Hakeem Jeffries, and the Republican chair at the time, Liz Cheney, confirmed that we would return to session just as soon as police had cleared us to do so.

Meanwhile, the room had every hallmark of becoming a Covid-19 superspreader event, packed into tight quarters as we were, with no windows and lots of Republican members and staff not wearing masks. I recognized one GOP member who had been diagnosed with the virus only a couple of days before. She looked pale and unwell, and I couldn't imagine what she was doing at work that day, but having ignored the need to quarantine, she was now sheltering in place with a couple hundred of us.

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Three hours later, we were still sheltering in place and hunger was starting to get the better of me. I realized I hadn't eaten anything since early that morning, and my stomach was complaining. We had not been given an all-clear, but I noticed the room was thinning, and I thought I might make a jail break. I had some food back in my office in the Rayburn Building, and I approached three of the police officers at the door. "Am I allowed to go back to my office?" I asked.

"We can't stop you," was his careful answer. It wasn't a green light, but it wasn't red either, so I decided to walk back to my office. During the pandemic, most of my staff had worked from home, but I had asked one of my staff to be present that day in case I needed anything on the floor. He did not feel comfortable remaining in my office alone, given the target I'd had on my back over the last four years, so he had been waiting in the neighboring office of Representative Carolyn Maloney. By this point, however, around six in the evening, I was glad to learn that he had been able to leave the building and go home. I locked the door to the office, turned on the television, then went to the window and gazed at Independence Avenue and the myriad national guardsmen, police officers, and police vehicles outside. My phone buzzed almost immediately with a text from Capitol Police. It read: "Capitol: Internal Security Threat: move inside office/lock doors, seek cover, and remain silent. USCP."

I turned off the television and forwarded the message to my staff. "I just left the secure location and went back to the office. Is this a new alert, or an old one?" I asked, although I already knew the answer: "It's new." Shit. I had picked a bad time to leave safety, but at least I had some food. I scrounged a few things out of my office refrigerator and wolfed them down, turned the television back on but kept the volume off, and waited.

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A COUPLE OF hours later, I received a message that it was safe to return to the Capitol, and I walked back to the House floor. As

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the session recommenced, we voted down the objections to the Arizona electors, but an alarming number of Republicans still sought to overturn the results. It was incredible to me that after all this, after seeing the clear and violent implication of their conduct, with blood literally on the floor outside the chamber, these members were not finished with their oath breaking.

Late in the evening, I spoke again on the House floor. Remarking on the fact that Franklin Roosevelt had given his Four Freedoms speech in our chamber exactly eighty years earlier—highlighting the dangers of "poisonous propaganda" to our democracy—I called on Republicans to stop. I emphasized the need to come together in the face of the attempted insurrection and a pandemic that was killing thousands of us every day:

> This is the urgency that our new president must address, a virus that will claim more American lives than all our casualties during World War Two. To meet that moment will require unity, not discord, will require an abiding faith in our country, in our democracy, in our government's ability to function and provide for the needs of its citizens. The Members of this body cannot continue to challenge the merits of an election that was fairly conducted, and overwhelmingly won by Joe Biden. It must stop!

But it didn't stop. As the night gave way to morning, the objections continued and tempers began to flare. The most important speech, and the most surprising, came from Representative Conor Lamb, a conservative Democrat from western Pennsylvania. Gone was the caution he usually displayed. And, in light of the day's events, gone too was any sensitivity over the language we would use to push back against the continuing assault on the peaceful transition of power. He began by alluding to what he had planned to say, how he had planned to talk about how well the election was conducted in Pennsylvania, and how it was a Republican bill that had established the voting procedures that Republicans now complained about. He said that he had intended to address these

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issues as a sign of respect for his Republican colleagues, because that was how he was raised, to show respect—but that was now impossible.

"These objections don't deserve an ounce of respect," Lamb continued. "Not an ounce. A woman died out there tonight, and you're making these objections. Let's be clear about what happened in this chamber tonight. Invaders came in for the first time since the War of 1812. They desecrated these halls and this chamber and practically every inch of ground where we work. And for the most part they walked in here free. A lot of them walked out free. There wasn't a person watching at home who didn't know why that was—because of the way they look."

Republican members began muttering their disapproval, and Speaker Pelosi gaveled them down. "The House will be in order," she declared.

"We know that that attack today," Lamb went on, "didn't materialize out of nowhere, it was inspired by lies, the same lies you're hearing in this room tonight. And the members who are repeating those lies should be ashamed of themselves, their constituents should be ashamed of them."

It was a searing indictment, and Republican resentment started to boil over. GOP representative Morgan Griffith of Virginia soon interrupted Lamb, demanding recognition from the Speaker. "The gentleman said that there were lies on this floor here today, looking over this direction, I ask that those words be taken down."

"Get out of here," a Democratic member yelled in response, and shouts echoed around the chamber. The Speaker broke in and ruled the objection out of order as not timely. One of the Republicans shouted in frustration that the words should have been taken down, and the Speaker cast him aside, all too accurately: "Yeah look, you say that about me every single day, so just hold your tongue."

"The truth hurts," Lamb continued. "It hurts. It hurts them. It hurts this country. It hurts all of us." Republican lawmakers moved toward our side of the aisle and Democrats moved toward

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theirs, and there was a real risk of a brawl on the House floor. "Sit down," a Democrat yelled. "No, you sit down!" Representative Andy Harris of Maryland called back. "There will be order in the House," the Speaker insisted, banging the gavel. "There will be order in the House!" Democratic congressman Colin Allred of Texas, a former linebacker for the Tennessee Titans, moved toward the scrum. He was not someone you wanted to mess with. "Are you serious, man?" he asked. "Haven't you had enough violence for today?"

"The gentleman will clear the chamber," the Speaker ordered. "The gentleman will clear the chamber!"

"The truth hurts, but the fact is this," Lamb said, talking over the Republicans. "We want this government to work more than they want it to fail. And after everything that has happened today, we want that more than ever. We will make it work. They will not make it fail." When Lamb was finished, I leaped to my feet, as did most of the Democrats present, and we gave him a standing ovation. Conor Lamb, a former Marine, had shaken off his detached demeanor and said what we all wanted to say: that our colleagues' lies had brought us to this terrible end.

At around three in the morning, we voted on the baseless objections to the Pennsylvania electors. One hundred thirty-eight Republican members of the House, including a large majority of the Republican conference and their leadership, as well as seven Republican senators, voted to reject the votes of millions of Pennsylvanians. Impervious to logic, Republican members still maintained that the ballots were fraudulent even though they themselves had been elected on the very same ballots. As I pointed out during the debate, consistency mattered very little when it was weighed against ambition and the desire to keep power.

The following day, I felt a mixture of sadness over what our country had gone through, embarrassment at how we appeared in the eyes of the world, anger at the irresponsible actions of my colleagues who had spread lies about the election for months and brought this on themselves and the nation, and fury toward

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a president who had instigated the rebellion. But more than anything else, I was shaken by fear over what this meant for our future and a recognition of how long and difficult lay the road ahead.

Donald Trump bore responsibility for the mayhem that took place at the Capitol that afternoon. And every day that he would remain in office, he represented a clear and present danger to our democracy. But what took place inside our chamber, with the challenge to the electors, was every bit as much an attack on our democracy. The assault on our constitutional order was inspired by people wearing suits and ties and cloaked in the genteel language of congressional debate, but their purpose was no less ominous. We can fortify the defenses of the Capitol. We can reinforce the doors and put up fences. But we cannot guard our democracy against those who walk the halls of Congress, have taken an oath to uphold our Constitution, but refuse to do so.

That weekend, I remained in Washington, but many members of Congress traveled back home aboard the same planes and trains as the insurrectionists who had stormed the Capitol. As I watched footage of Democratic representative Lou Correa of Orange County, California, being shouted at and harangued at the airport, with angry maskless Trump supporters getting right in his face, I could not help but be struck by the conviction of these insurrectionists; they really believed the election had been stolen, they were completely taken in by the president's big lie. That is how powerful the words of a president are—relentlessly repeated and amplified by a complicit right-wing media. It infuriated me all the more that many of the Republicans in Congress continued to push that lie, because, unlike the insurrectionists, my colleagues had to know it was a lie. In that way, they were as culpable as anyone for the tragic events of January 6, and I wondered how I was ever going to work with them again. Prior to the Trump years, I cherished the relationships I had with many of the GOP members and worked

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closely with them on a range of issues and bills. Now it would be hard to even look them in the face.

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## 2

# THE ONE THING THEY CAN NEVER TAKE AWAY

If the presidency of Donald Trump had turned me into a liberal lightning rod in a disastrously fractious country, I certainly didn't start out that way.

In a sense, I was born bipartisan. My family straddled the political divide. On my father's side was a long line of Democrats in the "yellow dog" tradition—so devoted to the Democratic Party that they would rather vote for a yellow dog than a Republican. I once asked my father, Edward, to explain this, and he said it was the product of our family's immigrant experience, and the hardships of growing up in Boston during the Great Depression. His grandparents Jacob and Bessie were Jewish immigrants from Lithuania who had come to the United States at the turn of the century after living in England for a few years. They were fortunate to leave Lithuania when they did; few countries suffered a greater loss of its Jewish population during the Holocaust, when more than ninety percent of its Jews were murdered.

Jacob and Bessie somehow managed to open a kosher butcher shop in South Boston while raising ten kids. They were Orthodox Jews, deeply grounded in their faith. When the oldest of their sons, Henry, was out delivering meat to a customer on his bicycle and held on to the back of a truck to be pulled along, he lost his balance and fell, hitting his head on the ground. He went to bed that night without eating, complaining of a headache, and the next morning he was dead. Henry had been only thirteen. My

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great-grandparents were grief-stricken, but rather than be embittered, Jacob thanked God for giving him thirteen years with their son. I admire that kind of faith, and envy the ability to look at the world that way, for the joy and love that it brings and not for what it takes away, even as I must acknowledge that my reaction to such loss would have been very different.

Their third-oldest son, Frank, was my grandfather. Without the resources to attend pharmacy school, he taught himself the trade, and by the time my father was born, in 1928, Frank had opened a small pharmacy of his own, just a few miles from the family's butcher shop. When the Depression hit, my father, his siblings, and their cousins worked around the clock to keep the pharmacy afloat. They kept the doors open twenty-four hours a day, seven days a week, knowing how lucky they were to have work. Even in the darkest years of the economic calamity, they provided medicine and supplies to families who couldn't pay. They were also profoundly grateful for the New Deal programs of the Democratic Party under Franklin Roosevelt. To them, the Republican Party didn't concern itself with working people. As my father told me simply, if pointedly, "The Democrats offered opportunity. The Republicans offered shit."

My mother's family was equally devoted to the Republican Party, notwithstanding a very similar immigrant experience. The Glovskys immigrated from Russia and Poland around the turn of the century, likewise to escape the pogroms that predated the Holocaust by a few decades. My mother's father, Harry, was a short and genial man, and he adored his wife, Marcie. I don't think I ever saw them walk together when they weren't arm in arm, her hand draped around his forearm as if they were reprising their walk down the aisle. My grandfather called her *mein gantze leben,* Yiddish for "my whole life."

My grandmother, Marcie, was a sweet and soft-spoken woman. She would watch us quietly at family gatherings, patting us on the hand or kissing us gently on the head, enjoying her grandchildren through our interaction with others. I did not get to know her charm, wit, and sense of humor until after my

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grandfather passed away, when she seemed to emerge, as if from behind a door. They too were products of the Depression, who lived in the same Newton, Massachusetts, apartment their entire adult lives, never really traveled, and saved what little they had in fear of being a burden to their children. When Harry passed, my mother was heartbroken to find that her parents had saved $300,000 and could have spent more than they did on themselves.

My mother's family was drawn to the Republican Party because in New England at the time, the party was home to many social progressives and moderates like the Rockefellers and the Lodges. Harry was actively engaged in politics, and when he joined the Massachusetts Republican Party, it was far more welcoming of Jews than the Democratic Party. As it was, I don't recall him ever having anything very positive to say about the Democrats, who welcomed some ethnicities but were strongly biased against others. When he did refer to the opposite party, it was always in the form of an alliterative epithet: "Those damn Dems."

By the early 1950s, my grandfather had become chairman of the GOP in Berkshire County and an elector for Dwight D. Eisenhower. I have an old black-and-white photograph from that period hanging on the wall of my office in Washington. In it, my grandfather is standing beside President Eisenhower and Republican senator Henry Cabot Lodge Jr. They are bathed in sunlight on a crisp day, a crowd around them, and my grandfather is wearing an enormous WIN WITH IKE button on the lapel of his suit. He appears to be introducing Eisenhower to someone, probably a local dignitary. As a kid, I used to carry that photo in my wallet, and I would look at its folded and tarnished image, trying to imagine how he felt that day: the son of Jewish immigrants from Europe standing beside the president of the United States.

My parents would maintain their parents' party loyalties, but politics would be no impediment to their falling in love. They met at a party in Boston, when my mother was dating one

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of my father's friends. She was what they called at the time a real "head turner," and looked so much like the actress Suzanne Pleshette that she would get stopped on the street and asked for her autograph. She had beautiful dark silken hair, round cheeks, a playful smile, and a sense of fashion that she made up her own name for—*deg-re-zais*—a French-sounding invention connoting the height of couture. When my father saw her, politics was the last thing on his mind, and he was smitten. For her part, my mother was not so impressed by the self-assured clothing salesman making fifty dollars a week in the *schmata* business. At the time, my dad wasn't even really a salesman, only the "lumper"—the guy who carried the bag of swatches for the salesman. My mother also said that he was "geographically undesirable," since he was living in Boston and she still lived in the small Western Massachusetts town of North Adams. But as she would always tell us, "He wore me down."

After marrying, they settled in the Boston suburb of Framingham, where my brother, Dan, was born in 1958, and I followed two years later. My parents' political affiliations remained strong, but I don't remember them ever fighting over politics, and when the subject came up, it was characterized more by good-natured ribbing than anything else, with my father playing on the Boston Brahmin pretensions of my mother's family.

It was a childhood with lots of kids my age on our street, a protected woods adjacent to our house large enough to get lost in, ample trees to climb, backyards to sled in, and porches to jump off. My father was still on the road a lot, by then a traveling salesman for a large clothing manufacturer out of El Paso called Farah. Dan and I would play baseball in the street and go on long bike rides to a penny candy store called the Wayside Inn in neighboring Sudbury, baseball cards pinned to our spokes to make that nice *flap, flap, flap* sound as we pedaled. My mother stayed at home to raise us, hosting Cub Scout meetings, ordering pizza and KFC on special occasions, and dressing to the nines to go out with my dad on the weekends. My

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brother and I would disappear for hours at a time, admonished by our mother to "go out and play," and though we lived in a suburban neighborhood, she would summon us back for dinner with a cowbell. Because my father would be gone for long stretches on his sales routes, when he was home, my brother and I followed him from room to room or out in the garden just to be around him. When we were much older and had plans of our own, my dad would lament the loss of his "two shadows."

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If my parents spent little time debating politics, neither did they lecture us on issues of morality. They were not pedagogic in that manner, and I can recall no bromides about right and wrong. They preferred instead to teach us by their example, and on the few occasions when they did discuss matters of morality, it was generally framed in terms of our faith and our family. "We stand on the shoulders of those who went before," my father would tell us, and "we have an obligation to the next generation to leave things better off." They were particularly solicitous of strangers, since, as we learned during Passover, we were once strangers in the land of Egypt.

I did not always follow their good example, about strangers or about Egypt. A few doors down from our house, a family moved in and erected a tall metal fence around their property. Their yard became overgrown with large weeds and shrubs and took on a deeply forbidding air. The family, immigrants from Egypt, had two daughters who attended the same public elementary school that I did, and we all rode the same bus. On more than one occasion, the kids on the bus would sing a hateful nursery rhyme about those two little girls, huddled next to each other on a seat as if trying to ward off the hostile world, which they were. I regret to say that I joined in that ugliness, knowing it was wrong and only glad the song was not about me. When I think back on those bus rides, more than fifty years later, I still feel the shame.

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My father had a certain stoicism that was true to his generation, but also part of his upbringing. My grandparents complained little, touted their accomplishments even less, and tolerated no idleness or self-pity. When Frank lay dying in the hospital with pancreatic cancer, they cut him open, found the cancer widespread, and closed him back up—my grandmother, Martha, never told him what they found. As a pharmacist, Frank was worried that he might become addicted to the morphine they were giving him, but my grandmother knew that he would not live long enough for that to be a problem. As she and my father left the hospital room, Frank's life ebbing away, my father started to cry. His mother slapped him across the face.

"There will be plenty of time for that later," she said.

My folks were insistent that their children get a good education, and they reminded us that "this is the one thing they can never take away from you." Left unsaid was who *they* were, or why *they* would want to take things from us, but we surmised my parents were referring to the pogroms and the Holocaust that followed. When the topic did turn to politics, my parents took pains to emphasize the value of hearing each other's opinions. Neither political party, they told us, has a monopoly on good judgment, and it was essential to exchange ideas with curiosity and respect.

When I was nine, my father was promoted to a management position in Scottsdale, Arizona, so we packed our bags and relocated to the edge of the Sonoran Desert. To cushion the blow, my parents bought motorcycles for Dan and me, which we learned to ride on the arid landscape nearby, getting airborne over small dirt hills and finding arrowheads on the ground when we paused to catch our breath. Two years later, another promotion took us to California, where we settled in the East Bay, about an hour from San Francisco.

We joined a Reform synagogue, having been members of conservative shuls in both Framingham and Scottsdale, completing the transition like so many Jewish families from Orthodox to Reform in a single generation. Unlike our

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neighborhood on the East Coast, we lived in a predominantly Christian community in Northern California. I recall telling my friends on a county all-star soccer team that I could not play in the championship game because of Yom Kippur, and seeing their blank and uncomprehending faces. This was not a principled decision on my part, but an edict set out by my parents that I was powerless to disobey. We had only eleven players, and if I didn't show up, the team would be one short. I didn't play, and the team lost.

I had decidedly mixed views of my religion, any religion, growing up. I was proud of being Jewish, and of the accomplishments of so many Jewish people in the arts, sciences, medicine, law, practically every field of endeavor. But I was also conscious of how pride in one's faith can be paired with prejudice against those of other faiths, and acutely aware of how much violence and warfare was born of religious differences. It would not be until I was much older that I could reconcile these conflicting impulses and would come to view faith as a uniformly positive force, and the turmoil, tragedy, and torment of religious conflict as a bastardization of faith.

My parents were conscious of anti-Semitism but never consumed by a fear of it. They seldom brought up the subject, and I did not grow up feeling that it would hold me back, let alone pose a physical threat to me, even as I would encounter its ugly face from time to time. This was not the universal view in my family. One cousin and my father's dear friend, Ken Rapley, had been on one of the last Kindertransports out of Germany in 1939, never to see his mother again. Born Kurt Rosenfeld, he and his sister, Lotte, would leave Judaism behind, convinced that it could "happen again" and that no one should be fooled into complacency by America's melting pot. Germany too, Lotte would remind the grandchildren, had been the most civilized of nations.

I remember my father getting emotional on the subject of anti-Semitism only once, when I was in high school and chastised him for telling a Polish joke. At the time, we were watching the

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keep the West Germans out, but to keep their own citizens in. West Germany had prospered under a system of freedom and capitalism, while East Germans were living in a police state, unable to express themselves freely, unable to choose their own leaders, and suffering from a poor economy and worse health. If there was ever a living proof of the dehumanization of Communism, this was it. In the United States, it was easy to engage in a partisan battle between Democrats and Republicans, secure in the knowledge that our differences were substantial but not foundational to our democracy and governance. But here, in the face of a Soviet-style dictatorship, I understood how lucky I was to live in a country where both political parties shared a commitment to the rights and dignity of the individual.

As my classmates and I returned to West Germany and continued our travels, the memory of Berlin haunted me. All of my reading about the Soviet Bloc, in newspapers and political science classes, had not prepared me for the visceral reality of a country in which everyone was imprisoned. I wanted to see more of the Communist system, and when my classmates were ready to return home, I decided to go back to the Soviet Bloc alone.

I made my way to Athens, and then Istanbul, meeting other travelers along the way. On a bus across the Turkish border, I met a group of Iraqi Kurds who shared their food and their aspirations for a homeland as one of the largest ethnic groups in the world without a country of their own. On a thirty-two-hour train ride, I sat beside an Iranian man, and we discussed the violent revolution that was under way in his country. Religious radicals in thrall to the Ayatollah Khomeini had recently seized power from the American-backed shah, and they were holding dozens of American citizens hostage in the U.S. embassy in Tehran. The man spoke limited English, and he was reluctant to talk about the standoff, but ultimately he made his views clear: "The shah was a killer-man," he said gravely, before adding, "Khomeini, also killer-man. No change."

At last I crossed behind the Iron Curtain into Bulgaria, arriving at its capital, Sofia. I had no plans, no one to contact,

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and nowhere to stay, but I was determined not to spend money in the downtown hotel operated by the Soviet government. I found a seat on the steps of a small factory, began eating some of the bread and cheese that had become my constant diet, and took out a map to explore what few options I had. After a few minutes, a man came out of the factory, sat beside me, opened his lunch, and without a word handed me a beer. We drank in silence for a minute or two, then he tried speaking to me in Bulgarian. I didn't understand, so I responded in English, which he didn't understand. Somehow we settled on French, which neither of us spoke well but we both spoke well enough. The beer helped.

His name was Michel Dusak, and he lived with his mother, Anastasia, and a young cousin. He invited me to join them for dinner, and having no other plans, I accepted. He returned to work, and I met him there again when he emerged at the end of the day. As we walked to his house, he pointed out the unmarked cars of the secret police, and I began to get a sense of the surveillance state he was living in.

Michel's family was warm and intimate, and our conversation was a mixture of politics and history. I spoke French with him and his mother and English with his cousin, and as the dinner drew to a close, I invited them to come visit me in the United States. The conversation then grew quiet, as they explained that wouldn't be possible; they were not members of the Communist Party, and travel outside the Eastern Bloc was a privilege reserved for party members.

Suddenly the front door swung open. The conversation immediately stopped, and the sense of alarm was palpable. Had someone been listening? We waited, but no one came in. Michel closed the door, and we gradually settled back down. Still, I began to wonder whether my visit might be endangering Michel's family. Getting up, I thanked them and returned to the train station for the night, lying down on the floor with my head on my backpack. I thought about how alien the Communist system was, how suffocating and demoralizing. "There is nothing

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like travel to make a patriot out of you," my father had told me before I left for Europe, and I could now see the wisdom of his words.

Back in the United States, I was certain I wanted a career in which I could be of service, but I wasn't sure how or even what field. I had developed an interest in medicine as well as government, and I enjoyed classes in physics and biology. In medicine, the public good was tangible, and it was brought about in a collaborative way, with doctors, nurses, and hospital staff all working toward the unmitigated good of saving lives. Politics could bring about systemic change, improving the lives of scores of people and on a scale that seemed far greater, but it was also contentious, messy, and sometimes corrupt. I procrastinated as long as I could, and when I decided on law school, my parents could not hide their disappointment.

My mother's family was already well populated with lawyers, and she was hoping, like all Jewish mothers, that her son would become a doctor. She knew I was interested in public policy, but she harbored a deep-seated distrust of politics and thought it was a dirty business. Part of this was born of her father's bitter experience after being promised a judgeship and passed over, a heartbreak she ascribed to anti-Semitism. The idea that her son might immerse himself in a world that had left her father so devastated was deeply troubling to her.

"As long as you are good at what you do," my father had once told me as a child, "there will always be a demand for you." This was a very liberating idea—that all I needed to do was focus on being good at my chosen profession and the rest would take care of itself. My brother would go on to become a playwright, no doubt encouraged by the same sound advice. But that was when we were young and the future seemed far off. Now my father likewise could not conceal his disappointment with my decision: "You say you are interested in law, and I would think that certain aspects of corporate law would be fascinating. But you say that you are interested in politics; that just makes me nauseous."

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But my course was set. Months later, I arrived at Harvard Law School, excited to be back in the state of my birth. I sought out one of the most powerful legal minds on campus, Laurence Tribe, taking his class in constitutional law and serving as one of his research assistants. Tribe was a god among the Harvard faculty, enormously bright, fantastically articulate, and a frequent presence before the Supreme Court. I admired the way his mind worked, his ability to analyze and dissect an issue, to keep an organizational structure in his head, and to express complex thoughts in an erudite but digestible manner. I had no doubt that his training as a mathematician had something to do with his keen analytical ability, and he is one of the most gifted thinkers and orators I have ever met. I sat in awe of Tribe as a student, never imagining that we would remain in touch. To this day, he is one of the first people I call for advice on complex questions, as do so many of my colleagues. No law professor would play more of a role in shaping policy on a broad range of topics, from campaign finance reform to civil rights and freedom of speech. And there was certainly no one I would turn to more often when navigating the difficult waters around the shoals of impeachment.

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## 3

## TAKE OUT YOUR ROLODEX

Law school doesn't teach you how to try a case, or even how to investigate one. And it certainly doesn't teach you how to tell a story, how to take a complex set of facts and weave them into a coherent and engaging narrative. And while you may learn how to present an argument to an appellate judge, there is nothing in the curriculum about speaking to a jury of your peers, and the heavy burden that accompanies asking someone to deprive another human being of their liberty. I learned those skills in Los Angeles, fresh out of a federal district court clerkship and a short stint in private practice, when I joined the United States Attorney's Office for the Central District of California in 1987.

I moved to Venice, California, after law school and found a rental on a quiet street near the beach. If you are going to live in Southern California, why would anyone choose to live anywhere but the beach? At least that was my thinking, and I loved breathing in the cool ocean air, people-watching along the boardwalk, and hanging out at the Rose Café. For a prosecutor, Los Angeles in the mid-1980s was a challenging place to be, with no shortage of serious crime, from carjackings and drug trafficking to defense contractor fraud and police corruption. The Central District included more than twelve million people, and the U.S. Attorney's Office consisted of over a hundred prosecutors who would handle any of the serious federal crimes that were committed in the region.

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to Svetlana for her KGB handler, a senior officer out of the San Francisco Russian consulate named Aleksandr Grishin.

At some point, Miller's colleagues at the FBI discovered that he had been meeting with Svetlana and not reporting it. Suspicious, they started following him shortly before Miller was to fly to Vienna to meet with a general in Russia's military intelligence unit, the GRU. As a counterintelligence agent, Miller was trained to detect surveillance and recognized that he was being followed by his fellow agents. Before he could be arrested, he went to his supervisor's office at the bureau and laid out what would prove to be a difficult defense to overcome—he had been secretly meeting with Svetlana as part of his efforts to infiltrate the KGB, in what he described as a "double-agent scenario."

Miller was charged with providing classified and national defense secrets to the Soviets, including the FBI's own manual on its counterintelligence needs, methods, and requirements. The matter was of such significance to the Department of Justice that the U.S. attorney himself, Robert Bonner, would try the case. After a monthslong trial, the jury deadlocked, with some jurors believing that investigators had "browbeaten" Miller during interrogations and forced a partial confession. His second trial was overturned by an appeals court that objected to the prosecution's use of a failed polygraph test as evidence. By the time the case was returned to our office for a third trial, Bonner had accepted a position on the federal bench, and he needed to assign the case to someone else.

When I had interviewed with Bonner for a position in the office three years earlier, I had much less experience than most of the other applicants. "How long have you been in private practice?" he asked me after I had survived earlier rounds of interviews and scrutiny.

"Three months," I responded.

"That long!" he replied. "Why don't you stay in private practice awhile and get some trial experience. That way you won't be so eager to go back to the private sector after joining our office." I told him that I would get more trial experience in

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the U.S. Attorney's Office in three months than I would in a big firm in three years, and I asked him to take a chance on me. He did. But hiring me was one thing; entrusting me with the Miller case was another. This would be the last trial for the government and for Miller. Either the national security interests of the country would be vindicated, or he would walk. Bonner took another chance on me, and I was assigned to try the case.

With testimony from two prior trials and the grand jury, and thousands of exhibits, there was a mountain of evidence with which I had no familiarity. To prepare, I would need to spend months immersing myself in the record and interviewing Miller's former colleagues in the FBI. His private defense lawyers, Joel Levine and Stan Greenberg, were extremely capable and had the advantage of representing him during all of the prior proceedings. They were deeply skilled at drawing out inconsistencies in prior testimony and would be formidable opposing counsel.

By then I had tried many cases with the bureau, but nothing like this, and it brought me into close contact with dozens of agents working long hours to prepare for trial. I was impressed that these agents never tried to minimize Miller's conduct or hide the deficiencies in the bureau that his betrayal had exposed, and I developed a profound respect for the organizational culture that encouraged agents to pursue corruption in their own ranks. Dozens of them spent countless hours walking me through the details of their investigative process, explaining how the effort to ensnare Miller fitted into a larger pattern of Russian tradecraft. I came to understand how the Kremlin exploits the most basic human vulnerabilities: preying on those who feel unappreciated and resentful, who are fixated on money and success, who have a history of dishonesty and are prone to infidelity.

The case was assigned to Judge Robert Takasugi, a progressive judge who had been interned during the Second World War and who was known for his skepticism of the government and prosecutors. Levine and Greenberg wasted no

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time in waiving their right to trial by jury and allowing Takasugi to be the trier of both the facts and the law.

When the trial began, I pointed out that Miller's brand of espionage, like that of most spies, was not ideological, but was rather a crime of dollars and cents, of lust, of dissatisfaction, even of boredom. I emphasized why Miller was vulnerable to recruitment and why the Soviets would target him. The defendant was isolated from his church when he was excommunicated for adultery, and he was isolated from his wife and family. He was also isolated at work, with his field assignments taken away, relegated to endless hours of listening to wiretaps, and suspended without pay for failing to meet the bureau's weight standards. When an agent was suspended, it was a bureau tradition that other agents would take up a collection for his family, but none did. Miller not only was broke but felt betrayed.

One aspect of Russian tradecraft involves luring in a potential target by seeking incremental compromises that will eventually ensnare the victim. In Miller's case, it began with clandestine meetings with Svetlana against the explicit warning of his supervisor, enough to get Miller disciplined again if he was caught. Then sex with her, a firing offense, then small amounts of cash, a criminal matter, and finally the dangle of $50,000 worth of gold for classified information, a potential capital crime. She began by seeking the names of other Soviet defectors who were residing in Los Angeles that she could report to her KGB handlers. And later, she sought something even more significant, the Positive Intelligence Reporting Guide outlining the FBI's counterintelligence strategy.

In October 1990, after a seven-week trial, Judge Takasugi found Miller guilty on all six counts, sentencing him to twenty years in prison. I was proud to have helped the Department of Justice and the FBI finally deliver justice in the case, but I was also deeply concerned by what it revealed. While Miller was the first FBI agent convicted of spying, I knew that he wouldn't be the last. Indeed, during the same year in which Miller's spying

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came to an end, another FBI agent, Robert Hanssen, began a decades-long clandestine relationship with the KGB, something the Justice Department would come to call "possibly the worst intelligence disaster in U.S. history."

Our government is filled with patriotic and honorable public servants, but there will always be a small number who are vulnerable to foreign entreaties—and I now understood how determined the Russian government was to find them. Perhaps it was naïve of me at the time, but I little imagined that people of moral turpitude could occupy the highest positions of our government and make themselves targets of Russian tradecraft. But when an unscrupulous businessman later ran for president and surrounded himself with fellow grifters, I recognized both the target-rich environment it provided for Russian intelligence and the unmistakable hallmarks of their compromise. And the most terrible realization was not far behind: that a president of the United States could be so easily manipulated to serve the interests of our adversaries.

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My decision to run for office came after the Miller trial. I loved my work in the office, the late nights and camaraderie, the war stories and strategizing over difficult cases. I won every case I brought, not because I was a good lawyer—there were many good lawyers—but because I was a careful one, only seeking indictment where I could prove guilt beyond a reasonable doubt, never overcharging a case, reasonable in plea negotiations, and honest with my judges and juries.

Still, my job as a prosecutor had its limitations. In a courtroom, I could deliver justice, but only after the fact. I started to take a strong interest in the juvenile justice system, in all the factors that led someone into a life of criminal conduct, and in the revolving door of our prison system. And I wondered whether it would be possible to exert a deeper influence on criminal justice through the political process. After three years as a prosecutor, I decided to leave the U.S. Attorney's Office in

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the hope of obtaining a new position that would allow me to be more proactive.

If the arc of my career was about to change, it was nothing as profound as what was taking place in my personal life. Two people would enter my life and change it indelibly. One would be a seven-year-old child living in nearby Inglewood and the other was a beautiful young woman I met on a tennis court.

When I moved to Los Angeles, I planned to stay for just the year of my clerkship, and wasn't sure that I liked the City of Angels. It was large and sprawling, with a downtown that most people avoided at night, and as dry as the desert that it was. What's more, it was confusing to hear Bruce Springsteen's version of "Santa Claus Is Coming to Town" when it was 85 degrees out. And it was even more disorienting to go to a Dodgers game and see half the stadium empty out before the game was over so people could beat the traffic. Diehard Red Sox fans would never dream of such a thing. But Los Angeles has a way of grabbing hold of you, and soon enough I found that I loved living in a community as diverse and vibrant as this one, with lots of unique neighborhoods, a fascinating history, exotic cuisine, and beaches and mountains only a short drive away.

Once I decided to settle in Los Angeles, I fulfilled a promise I had made to myself years earlier and walked into the office of Big Brothers of Greater Los Angeles. One of my law school classmates had been a Big Brother, and I vowed that I would do the same when I was living in one place long enough to make the commitment. The staff at Big Brothers told me that there was a long waiting list of little brothers in Los Angeles hoping to be paired, and that it was particularly long, several years long, for Black kids. They asked me how I would feel about being paired with an African American little brother, and I told them I thought that I would benefit from the experience. I was then given three little brother applications to look over, and I was immediately struck by one of them.

On the application, little brothers were asked what three things they wished for. Normally, a child would list the material

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When I got home I took out my Rolodex, and it didn't take me long to realize that my numbers were never going to add up to that amount or anything like it. But I pressed on anyway, and for the next two months, Eve and I walked through the district from morning to night, with me on one side of the street and Eve on the other, knocking on doors and introducing ourselves. And when my campaign coffers dwindled a few weeks before the election, I cashed out my retirement savings to keep the campaign going.

After the polls closed on election day, I not only lost, but finished eleventh out of fifteen candidates. It was a humiliating end to my first political campaign. As cynical as his advice had been, Richard Katz had been right. I couldn't raise the money and I didn't run a credible campaign.

When you win an election, it is an exhilarating experience. The phone rings constantly, and there is all the excitement of being sworn in, hiring your staff, and planning your agenda. Your victory also comes to have a certain inexorable character: "Well, of course he won, he did everything right." But when you lose, and lose badly, it takes on an equally obvious and debilitating tenor: "What on earth was he thinking?"

As I lay in my apartment, sun streaming through dirty window blinds and dancing on particles of dust in the air, the stillness was disorienting. The last two months had been a whirlwind of activity. Now, nothing. The phone was silent, my friends had moved on, Eve was at work, and I was alone to contemplate my loss and the future. I was disappointed, of course, but what really bothered me as I surveyed the election results was the realization that each of the candidates had placed in about the same order as their level of fundraising.

I didn't have long to stew on it—I was now broke and out of work. I spent a few days making phone calls to thank my friends and supporters, then I dialed the number of the U.S. Attorney's Office to see about getting my job back. As it turned out, there was a new and exciting opportunity for a senior prosecutor that immediately caught my interest. It was through a program

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Richter's blacklisting, became the minister of education. "Do not be fooled by the façade," he warned when I described the warm greeting the minister had given me. "A man may change his clothes, but he is still the same man."

I was invited to tour the prisons in Slovakia, and discuss offender rehabilitation with the Ministry of the Interior. I soon discovered that prison officials were not in the habit of sharing coffee; they drank hard liquor, and at any hour. I remember pulling up to a prison one morning at 9 A.M., when the warden cheerfully invited me into his office and poured two shots of Slivovitz—a strong plum brandy with enough alcohol to get a campfire started. One shot was for my health and the next for his. Then he poured a third round—I'm not sure whose health that was for!

After a tour of the facility, I left in a daze, and I still had two more prisons to visit that morning. I found the same welcoming ritual at each. By the time I went to lunch with prison officials, at a table laden with beer and wine, I had already drunk nine shots and my head was reeling. I somehow made it back to my apartment to lie down, watching the walls and ceiling spin around me. In the weeks to come, I learned to deflect many of the drinks I was offered, as I had but one liver to give for my country.

But the most intense phase of my immersion into Slovak public and private life would be the time I spent with judges and parliamentarians. This required me to travel frequently from Bratislava to Prague, which meant crossing the invisible line that separated Slovakia from the Czech Lands. The two regions had been combined into a single nation after World War I, but they were separated by ethnic and religious differences that proved difficult to overcome—and easily exploited for political gain. In the years leading up to World War II, as Hitler rose to power in Germany, he deliberately stoked those divisions to weaken the country. In 1939, with Hitler's encouragement, Slovakia broke away to declare its independence. The end of World War II brought the two nations back together in 1945, and

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color, and the terrible persistence of systemic racism. Our country too was in a period of economic transformation, and for many of our political leaders, the temptation to exploit the divisions it was causing was proving irresistible.

In 1992, many seemed to believe that the decline of the Soviet Union would lead inexorably to the spread of representative government around the world; one of our country's foremost scholars had just published a book describing liberal democracy's ascendance as "the end of history." The titanic struggles of the twentieth century were over, and, the political scientist Francis Fukuyama theorized, fascism and Communism had been defeated, liberal democracy and free markets had won, and there would be no going back. Standing among the ghosts of Panevezys and Vilnius, after six months in a crumbling Czechoslovakia, and having witnessed my own city of Los Angeles riot and burn, it was difficult to share his confidence that mankind had made such dramatic progress.

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TWO YEARS AFTER my return from Czechoslovakia, I ran for the state legislature again and would encounter my own challenge in confronting the power of xenophobic populism. My opponent was James Rogan, a former prosecutor in the Los Angeles County District Attorney's Office and later a state court judge. With a thick shock of brown hair combed to the side, a broad forehead, and sharp features, Rogan had a harsh aspect and spoke with the stridency of an angry pastor. He was smart, hardworking, articulate—a formidable opponent. And I was not just running against Rogan; I also had to contend with a xenophobic measure that Republicans placed on the ballot in 1994 to boost turnout.

Proposition 187 was a populist response to the 1990 recession, which sought to blame immigrants for the rise in unemployment and other societal ills. It required schools to verify and report the legal status of students and their parents, and it denied access by undocumented immigrants to all public services except emergency care. It was wildly popular in

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unexpected.

"I know why he's calling," I said, "and I don't want to take up his time. I have just started practicing law again, and I'm not interested in running."

"Just meet with him," Cathy said.

"I really don't want to waste his time."

"Just hear him out."

As the president pro tempore of the Senate, Bill Lockyer was the most powerful Democrat in the state. Of medium height, a solid girth, and equally quick to mirth or temper, he was an imposing figure. I met him at the AIDS Service Center in Hollywood, where he was touring the facility, and we found an office where we could talk privately. "I've done my research," he told me, "and you're the best person to run for this seat. You did well in your assembly race in a terrible year. 1996 will be a better year and we think you're the one who can win."

"I appreciate that," I responded. "But I just ran for the assembly and got no help from legislative leadership. I had to do everything on my own. I understand the reason, but even so, it left me to fend for myself. How serious are you about this race?"

"There aren't many competitive senate seats in California," he replied. "This is one of only two or three. I'm going to put a million dollars into this race whether I have a good candidate, a bad candidate, or no candidate at all."

I could tell that he was serious, and I told him I would think it over and get back to him. "Don't take too long," was all he said.

Anyone who has met Eve knows that I married well. She is supportive of my work without being subsumed by it. She jealously guards her privacy and her own identity, independent of mine. She is impressed by my work, but not too impressed, and keeps me grounded. She is more conservative than I am, less politically correct than I am, and less gregarious than I am. She doesn't like it when we are at receptions together and I offer to go get us drinks at the bar because she knows it may take half an hour for me to return, if I am able to break away from others at all. And she has always wanted me to pursue my passion for

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service, even after losing two campaigns in a row, and even though politics was not the career she would choose for me or the life she would choose for us, if it were left to her alone.

"If this is what you want to do," she said, "then do it."

So I did. And this time, I won, defeating a well-funded incumbent legislator named Paula Boland by seven percent.

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THE CALIFORNIA ASSEMBLY had a detailed orientation for new members, but the state senate did not—presumably because nearly all of the senators came from the ranks of the assembly. I had none of that preparation, so I would have to make do on my own. I was simply shown to my office and told "Get to work." I was still just thirty-six years old, and looked younger. Constituents would often come by the office and ask if the senator was in. I would tell them that he was, and explain that he wouldn't go anywhere without me, and then I would introduce myself.

Two years into my tenure in the legislature, I became chair of the Senate Judiciary Committee. I wanted the committee to be deliberative and nonpartisan, so I began by changing some of the old rules. I allowed members to sit where they liked, not segregated by party, in the hope that they would develop better relationships, regardless of party. I also arranged for votes to be cast in alphabetical order, not by seniority, and I decided to cast my vote last so it wouldn't have undue influence on other members of my party. Finally, I felt it was important to consider every bill that was referred to our committee, whether it came from a Democrat or a Republican. This would give every member a chance to be heard, a reflection of my parents' conviction that neither party had a monopoly on good judgment.

The nonpartisan ethos I brought to my work was rewarded. In the four years that I served in the legislature, under governors of both parties, I wrote dozens of bills that became law each year. Those bills included measures to reform the child support system, create a patient's bill of rights, lengthen the school year,

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