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 Watchman in the Night

By Anthony Lewis

ABROAD AT HOME

WASHINGTON, July 31—In what it did not do, as in what it did, the House Judiciary Committee conveyed a reassuring sense of constitutional order. Even those most critical of the secret Cambodian bombing and of the President's tax returns may have found reason, in the debates, to accept that those wrongs were not proper grounds for impeachment.

On Cambodia, the decisive argument was made succinctly by Representative John Seiberling of Ohio. He detested the war and the bombing, Mr. Seiberling said; Kent State was in his district. But "we should not use our impeachment power" when "other Presidents have taken the same sort of action and... Congress bears a very deep measure of responsibility."

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 Many members felt that Mr. Nixon had set "a very sorry example" in his tax returns, as Wiley Mayne of Iowa put it. But the prevailing view was expressed by Ray Thornton of Arkansas: "This committee is not a tax court or a criminal court." Its duty was to deal with offenses "affecting the security of our system of government."

In rejecting those two articles, therefore, the committee was giving further content to the majestic phrase, "high crimes and misdemeanors." The offense must be the particular responsibility of the President accused. And it must rise above the level of common wrongdoing: must be, as Hamilton Fish Jr. of New York said, "an offense against the political process or the constitutional system of our country."

In the search for standards, members returned often to the clause of the Constitution requiring the President to "take care that the laws be faithfully executed." The point of the "take care" clause, as they saw it, was that it imposed an affirmative duty — a duty breached if a President condoned or was indifferent to the corrupting lawlessness of his subordinates.

Thus William Cohen of Maine said he had voted for Richard Nixon as "the best man to lead this country." But he would vote for impeachment, Mr. Cohen said, because the President had "by act or acquiescence allowed the rule of law and the Constitution to slip under the boots of indifference and arrogance and abuse."

None of us who watched the 38 members of the committee wrestle with evidence and conscience and political loyalties over six nights and days will soon forget them. They did their job, on both sides, with much passion but little rancor. Again and

again they brought old principles to life in new words. They taught us.

Paul Sarbanes of Maryland brought home the significance of a break-in at a psychiatrist's office to get the files on one of his patients. "I ask every doctor and lawyer and every insurance agent and accountant in this country," Mr. Sarbanes said, "what kind of a land you would be living in if a group of hired hands have the power to come into your office in the dead of night..."

Lawrence Hogan of Maryland, a former F.B.I. agent who had been a solid Nixon supporter, spoke about the anti-war protesters who a few years ago used violence "because they felt their cause was just. They felt that they were above the law. Most of them had long hair and beards and dressed as nonconformists..."

"Inside the White House at the same time," Mr. Hogan continued, there were other men with "well-tailored business suits, close-cropped hair... flag pins in their lapels... they felt that because their cause was just they too were above the law. And for several months we have had a chronicle of all [their] illegalities and crimes..."

"Both of those groups of people were wrong. Both should be held accountable."

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 James Mann of South Carolina also spoke of accountability. "Americans revere their President," he said, "and rightly they should... We would strive to strengthen and protect the Presidency. But if there be no accountability, another President will feel free to do as he chooses. The next time there may be no watchman in the night."

Mr. Mann quoted Thomas Paine: "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it." By its deliberations the Judiciary Committee renewed confidence that Congress accepts that burden. But will Congress accept a restored responsibility in government generally?

Walter Flowers of Alabama made that point. "I agree that Congress should exert itself," he said. "That is what we are doing here. But we will and should be judged by our willingness to share in the many hard choices that must be made for our nation, such as allocation of scarce resources... I want my friends to know that I will be around to remind them when some of these hard choices are up, and we will be able to judge then how responsible we can be with our newly found Congressional power."