

The Shlaudeman Nomination

THE NOMINATION of Harry Shlaudeman as assistant secretary of state for inter-American affairs raises some exceedingly difficult questions about the obligations and duties of professional civil servants. Mr. Shlaudeman is a respected foreign service officer. An old hand in Latin America, he was No. 2 man at the American embassy in Chile in 1969-73—while the United States was working its will in a rich variety of unsavory and underhanded ways against Salvador Allende, the leftist who was elected president in 1970 and killed in a coup in 1973. It is hard to believe Mr. Shlaudeman did not know what the CIA was up to. He says he supported American policy at the time and that he still does, in retrospect. Rep. Michael Harrington (D-Mass.) is spearheading opposition to his nomination on grounds that he participated in the "destabilization" of the Allende government and, later, "deceived" Congress about it. In an article on the opposite page today, John Marks urges the Senate to reject the nomination in order to demonstrate that Congress will not allow itself to be lied to by officials in the executive branch.

The easiest part of the question has to do with whether Mr. Shlaudeman should be rejected because of his association (the extent remains unknown) with American policy in Chile. We find that insufficient cause. The Nixon-Kissinger dirty tricks in Chile were, as we have repeatedly stated, indefensible. But we do not think it can rightly be held against a career civil servant that he followed the policy of the administration he served. His superiors at the time, after all, have not been similarly penalized for their role in that affair. At the time, moreover, the Congress, by its institutionalized permissiveness, contributed to the policy. The Congress has since decided to be less permissive. This is fine. It should help ensure that there will be "no more Chiles." But for the Senate to apply its new judgment retroactively, and to take hostage the career of a bureaucrat who acted under the old ground rules, and within a framework of congressional dereliction of duty, strikes us as manifestly unfair. If "accountability" is the issue, then it applies as well to the Congress as to civil servants.

A much more difficult question is raised by the charge that Mr. Shlaudeman "deceived" the Senate in past testimony—testimony that can now be checked against the Senate Intelligence Committee's public report on covert American activities in Chile. On the face of it, it is not nearly so easy to defend Mr. Shlaudeman on this charge. Certainly at the least he engaged in tightrope-walking and wordplay that had the effect, intended or not, of diverting legislators from the trail of CIA activities in Chile.

But he was, as even his critics concede, between a rock and a hard place. He was a bureaucrat pledged to secrecy about an operation that, if it was to be undertaken at all, not only had to be undertaken se-

cretly but had to remain a secret. The issue here is not the nature of what the United States was doing, however reprehensible one may think it to be; the issue turns on the ability of the United States to deal in confidence with foreign governments or with particular elements or individuals within a foreign country.

As a general rule, and leaving aside instances where the executive may have acted contrary to the expressed will of Congress, if the word of American representatives abroad is to stand for anything, promises of confidentiality offered to foreigners by the executive branch under one set of circumstances, when the Congress is figuratively out for lunch, cannot be lightly broken in open congressional hearings simply because circumstances have changed, and the Congress has decided to discharge its oversight responsibilities, belatedly, retroactively—and publicly. The senators were demanding that Mr. Shlaudeman spill the beans, in violation not only of his own oath not to reveal classified information but of the American government's promise of confidentiality to the Chileans it was dealing with.

That the United States is now widely perceived to have been dealing in the wrong way with the wrong Chileans does little to ease the hard choice that confronted Mr. Shlaudeman on the witness stand; the covert subsidies and other activities of which he conceded knowledge, however they may appear today, had been generally regarded in responsible quarters, including the office of the President and the chambers of congressional oversight committees, as entirely acceptable for a good many years before they came to be employed in Chile. And so Mr. Shlaudeman squirmed; he repeatedly asked his interrogators to go into executive session or to summon someone "more qualified" than himself to address their suspicions of CIA misdeeds. His requests were denied. We do not condone his dissimulation, but we are not unsympathetic to his dilemma.

The answer, we believe, lies in common acceptance of a procedure by which Congress can gain in secrecy, and before the fact, information about acts that it is willing to permit to be conducted in secrecy. The country is in the process of switching over to such a system. It is hoped that what will evolve in the end will be a fundamental change in the working relationship between the two branches—a change that will provide for the sort of continuing, conscientious oversight that would bring responsible officials of the executive branch to the witness chair in executive sessions of congressional oversight committees before the United States commits itself to confidential, covert activities overseas instead of years after the fact. Mr. Shlaudeman has been caught up in the early stages of this reform—and in the powerful emotions that accompany it. We do not think that he should be victimized by it.