

vate agreements in the future for the leasing of automobiles, Senators should not accept any favorable terms and conditions that are available to them only as Senators.⁽²⁰⁾

Investments

§ 8.4 The House reprimanded a Member for certain conduct occurring during prior Congresses involving conflicts of interest (in violation of a generally accepted standard of ethical conduct applicable to all government officials but not enacted into permanent law at the time of the violation), as well as failure to make proper financial disclosures in accordance with a House rule then in effect, but declined to punish the Member for other prior conduct under the circumstances of the case.

On July 29, 1976,⁽²¹⁾ the House agreed to a resolution adopting the report (H. Rept. No. 94-1364) of the Committee on Standards of Official Conduct which reprimanded a Member (1) for failing to disclose, in violation of Rule XLIV (requiring financial disclosure of Members) his ownership of certain stock; and (2) for his in-

20. *Id.*

21. See the proceedings relating to H. Res. 1421, 94th Cong. 2d Sess.

vestment in a Navy bank while actively promoting its establishment, in violation of the Code of Ethics for Government Service. The report also declined to punish the Member for his sponsorship of legislation in 1961 in which he had a direct financial interest, since an extended period of time had elapsed, and the Member had been continually re-elected by constituents with apparent knowledge of the circumstances.

§ 9. Abuses in Hiring, Employment, and Travel

The Code of Official Conduct provides that a Member may not retain anyone on his clerk-hire allowance who does not perform duties commensurate with the compensation he receives.⁽¹⁾

By statute, employees of the House may not divide any portion of their salaries or compensation with another,⁽²⁾ nor may they sublet part of their duties to another.⁽³⁾ Violation of these provisions is deemed cause for removal from office.⁽⁴⁾

1. Rule XLIII clause 8, *House Rules and Manual* §939 (1973).

2. 2 USC §86.

3. 2 USC §87.

4. 2 USC §90.

No employee of either House of Congress shall sublet to or hire an-

Professional staff members of standing committees may not engage in any work other than committee business, and may not be assigned duties other than those pertaining to committee business.⁽⁵⁾

A statute prohibits the employment, appointment, or advancement by a public official of a relative to a civilian position in the agency in which the official is serving or over which he exercises jurisdiction or control.⁽⁶⁾ This statute, sometimes called the antinepotism law, became effective on Dec. 16, 1967; it has no retroactive effect and is inapplicable to those appointed prior thereto.⁽⁷⁾

other to do or perform any part of the duties or work attached to the position to which he was appointed. 2 USC § 101.

5. Rule XI clause 29 (a)(3)(B), *House Rules and Manual* § 737(a) (1973).
6. 5 USC § 3110, Pub. L. No. 90-206, 81 Stat. 640 (1967).

“Public official” includes a Member of Congress. “Relative” means an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister. 5 USC § 3110(a).

7. Pub. L. No. 90-206 § 221(c), 81 Stat. 640 (1967).

Campaign Activities and Clerk-hire Guidelines

§ 9.1 Guidelines have been issued relative to the use of clerical personnel in the campaign activities of Members.

In 1973, the Committee on Standards of Official Conduct promulgated an advisory opinion establishing clerk-hire guidelines. It stated in part:⁽⁸⁾

This Committee is of the opinion that the funds appropriated for Members' clerk-hire should result only in payment for personal services of individuals, in accordance with the law relating to the employment of relatives, employed on a regular basis, in places as provided by law, for the purpose of performing the duties a Member requires in carrying out his representational functions.

The Committee emphasizes that this opinion in no way seeks to encourage the establishment of uniform job descriptions or imposition of any rigid work standards on a Member's clerical staff. It does suggest, however, that it is improper to levy, as a condition of employment, any responsibility on any clerk to incur personal expenditures for the primary benefit of the Member or of the Member's congressional office operations. . . .

The opinion clearly would prohibit any Member from retaining any person from his clerk-hire allowance under ei-

8. 119 CONG. REC. 23691, 23692, 93d Cong. 1st Sess., July 12, 1973.

ther an express or tacit agreement that the salary to be paid him is in lieu of any present or future indebtedness of the Member, any portion of which may be allocable to . . . campaign obligations, or any other nonrepresentational service.

In a related regard, the Committee feels a statement it made earlier, in responding to a complaint, may be of interest. It states: "As to the allegation regarding campaign activity by an individual on the clerk-hire rolls of the House, it should be noted that, due to the irregular time frame in which the Congress operates, it is unrealistic to impose conventional work hours and rules on congressional employees. At some times, these employees may work more than double the usual work week—at others, some less. Thus employees are expected to fulfill the clerical work the Member requires during the hours he requires and generally are free at other periods. If, during the periods he is free, he voluntarily engages in campaign activity, there is no bar to this. There will, of course, be differing views as to whether the spirit of this principle is violated, but this Committee expects Members of the House to abide by the general proposition."

Misusing Travel Funds

§ 9.2 A party caucus removed a Member from his office as chairman of a committee based on a report disclosing certain improprieties concerning his travel expenses as well as an abuse of clerk-hiring practices.

In 1967, a party caucus removed a Member⁽⁹⁾ from his position as Chairman of the Committee on Education and Labor after a subcommittee of the Committee on House Administration had reported improprieties in certain of his travel expenses during the 89th Congress, and in the clerk-hire status of his wife.⁽¹⁰⁾ Subsequent to the report of the subcommittee and prior to the organization of the 90th Congress, the Democratic Party Members-elect, meeting in caucus, voted to remove him from his office as Chairman of the House Committee on Education and Labor.⁽¹¹⁾

§ 9.3 In an attempt to curb the misuse of travel funds, the cancellation of all airline credit cards which had been issued to a committee was ordered by the Committee on House Administration.

In September 1966, as the result of protests made by certain Members on the Committee on Education and Labor, the Committee on House Administration, acting through its Chairman, directed the cancellation of all air-

9. Adam Clayton Powell (N.Y.).

10. H. REPT. NO. 2349, 89th Cong. 2d Sess.

11. H. REPT. NO. 27, 90th Cong. 1st Sess.

line credit cards which had been issued to the Committee on Education and Labor and notified its Chairman⁽¹²⁾ that all future travel must be specifically approved by the Committee on House Administration prior to undertaking the travel.⁽¹³⁾

The reason for the action was set forth in a report prepared by a select committee in the 90th Congress:⁽¹⁴⁾

During the 89th Congress open and widespread criticism developed with respect to the conduct of Representative Adam Clayton Powell, of New York. This criticism emanated both from within the House of Representatives and the public, and related primarily to Representative Powell's alleged contumacious conduct toward the courts of the State of New York and his alleged official misconduct in the management of his congressional office and his office as chairman of the Committee on Education and Labor. There were charges Representative Powell was misusing travel funds and was continuing to employ his wife on his clerk-hire payroll while she was living in San Juan, P.R., in violation of Public Law 89-90, and apparently performing few if any official duties.

§ 10. Communications With Federal Agencies

Guidelines relative to communications that may properly be

12. Adam Clayton Powell (N.Y.).

13. H. REPT. No. 27, 90th Cong. 1st Sess.

14. *Id.* at p. 1.

made by a Member to a federal agency on behalf of a constituent have been issued by the Committee on Standards of Official Conduct:⁽¹⁵⁾

REPRESENTATIONS

This Committee is of the opinion that a Member of the House of Representatives, either on his own initiative or at the request of a petitioner, may properly communicate with an Executive or Independent Agency on any matter to:

Request information or a status report;

Urge prompt consideration;

Arrange for interviews or appointments;

Express judgment;

Call for reconsideration of an administrative response which he believes is not supported by established law, Federal Regulation or legislative intent;

Perform any other service of a similar nature in this area compatible with the criteria hereinafter expressed in this Advisory Opinion.

PRINCIPLES TO BE OBSERVED

The overall public interest, naturally, is primary to any individual mat-

15. The Chairman (Melvin Price [Ill.]) of the Committee on Standards of Official Conduct inserted in the *Congressional Record* an advisory opinion, promulgated by that committee pursuant to Rule XI clause 19(e)(4), establishing guidelines for Members and employees in communicating with departments and agencies of the executive branch on constituent matters. 116 CONG. REC. 1077, 1078, 91st Cong. 2d Sess., Jan. 26, 1970 [H. Res. 796].