



# CONGRESSMAN'S REPORT

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## Some Lessons from the Case of Adam Clayton Powell

In his book, *Kennedy*, Ted Sorenson reports that our late President once startled Mrs. Kennedy after reading her his favorite passage from the Book of Ecclesiastes ("For everything there is a season and a time ... a time to weep and a time to laugh... to mourn and to dance...") by adding his own irreverent corollary: "and a time to fish and a time to cut bait."

After a largely sleepless night two days before the opening of the 90th Congress I came to the painful conclusion that such a time had arrived for your congressman -- that someone had to act decisively and constructively in the case of Adam Clayton Powell, and that the *someone* was Morris K. Udall.

The result was a hectic and dramatic 48 hours for me. I should like to review these events for you.

### NOT ONE PROBLEM, BUT TWO

The Powell case involved not one problem, but two:

- 1) Powell's committee chairmanship, and
- 2) His seat in Congress.

In my judgment the two problems required different answers, and my soul-searching led me to take the following actions:

\*\* On Monday, January 9, in the Caucus of the 248 House Democrats, I made the motion and led the successful fight to deny Mr. Powell his chairmanship of the important Education and Labor Committee, a move unprecedented in modern times. My view was simply this: a chairmanship is not a right; it is a privilege. It is an office of party and national responsibility which the majority party can bestow or deny. Mr. Powell's abuse of that chairmanship had brought discredit upon his party, and his unfitness to hold it had been demonstrated to my complete satisfaction.

\*\* On Tuesday, January 10, before packed galleries gathered to watch the opening ceremonies of the new Congress I offered House Resolution No. 1, which would have allowed Mr. Powell to take his seat *temporarily and conditionally*, pending an investigation by a select House committee of seven Members. My view was this: except for a person convicted of treason or a felony, the people of Harlem have a right to elect the congressman of their choice (even a bad one) and have him seated in the House *until and unless* he is expelled by proper legal procedures after a fair and impartial hearing. But these 450,000 people have no right to insist that their congressman be a chairman for you and me and the rest of the country.

To the average newspaper reader my Monday motion seemed drastically anti-Powell, Tuesday's very pro-Powell. It seemed to me that both actions were based on right and justice and fair play. While I didn't expect instant and universal acclaim, I was somewhat surprised on Wednesday to observe these three strange results.

\*\* *I was being damned by civil rights groups.* Here are some typical letters I received:

"Space limits my ability to express my disgust at what is being done to Powell by 'Democrats' with you as the maker of the motion... I'm a lifelong Democrat who has supported you and your brother, but never again!"

"Of all the sanctimonious hypocrites, you are it ... apparently it is right for the white man to cheat the taxpayer, but wrong for the black man."

\*\* *I was feeling the sharp sting of white backlash.* One person wrote:

"Louse. Louse. Powell's Louse..."

\*\* *I had strained my relations with the House Democratic leadership.* It happens that the leadership was largely opposed to depriving Mr. Powell of his chairmanship and/or his seat.

Hundreds of letters, pro and con, flowed into my office. As I write this report I am still receiving mail from all over the country on the Powell case. Yet, in retrospect, I believe I did the right thing on both occasions. And I believe there are lessons for all of us who want the Congress to be an effective, honorable body able to fill its role as the people's voice in a troubled era.

#### GREAT PROMISE - GREAT DISAPPOINTMENT

Mr. Powell and his defenders have charged that he was "lynched" because of personal dislike, his private life, and, most of all, his race. These factors may have motivated some - this is not for me to judge - but these things had nothing to do with my action.

The Rev. Adam Clayton Powell, B.A., M.A., D.D., LL.D., minister of the Abyssinian Baptist Church (one of the nation's largest congregations), is a most engaging and almost unforgettable person. I know him well. For three years he occupied an office - on his occasional visits to the Congress - just two doors from mine. He always treated me with courtesy and charm.

He is a study in contrasts: brilliant, but erratic; a self-styled "poor parish priest" but living like a member of the jet set; working hard for a few days to finalize a major bill, then flitting off to Europe or the Bahamas for weeks; a hip, magnetic leader for the Negroes, but rarely their warrior when their battles were fought. At a dramatic confrontation in the Caucus, I looked him in the eye and said: "You are a gifted man; I envy the intellect, eloquence, and personality you have been given. Indeed, I have always believed that had your gifts been used in other ways you would have been one of the great men of our time."

The Powell story is a tragedy, most of all because of what might have been. Adam Clayton Powell equals Martin Luther King in magnetism, in intellect. But King has something Powell has not: exemplary character and moral force. But more important, Powell had something King could never hope to have: cold political power beyond that ever held by a Negro. His lack of King's character threw this magnificent potential away.

I know little and care less about Adam Powell's private life; few members of Congress are so pure that they would want to cast the first stone. But I was and am concerned about his public life, specifically his acts as congressman and as chairman of a major committee. Here is some "chapter and verse":

\*\* Congressional rules - I regret to say - permit hiring of a Member's wife or other relatives. But a recent amendment I helped write provides a staff member may not draw salary unless he works either in Washington or the Member's district. Despite this restriction, Mr. Powell placed his estranged wife on the payroll at \$20,000 (though she lives in Puerto Rico), endorsed her checks, and apparently kept the money.

\*\* Numerous times he used public money to pay for private trips to Miami, the Bahamas, and elsewhere.

\*\* Many of these trips were made on tickets probably obtained through the use of false names and false vouchers.

\*\* A New York court in 1963 rendered a \$164,000 judgment against Powell for libeling a Negro woman. While this was a civil action, in subsequent collection proceedings he was found guilty of criminal contempt of New York courts; an outstanding warrant for his arrest makes him a fugitive in his own district, unable six days a week - except on Sunday - to meet with the people he represents.

\*\* As congressman and committee chairman, he has displayed a notorious record of absenteeism - and a contemptuous and cavalier attitude toward his colleagues and the elected leadership.

These public acts and omissions are matters of record, most of them documented by a House subcommittee. However, this subcommittee's authority was limited to payroll and travel auditing; it had no power to study or recommend his qualifications for taking his seat, nor did it draw up specific charges for him to answer.

### THE RACIAL BUGABOO

For years Mr. Powell successfully answered all criticisms with cries of "bigotry" and "racism". Predictably, these cries have been raised again. Indeed, on nationwide television, he attacked me as being, by implication, some kind of racist. On the other hand, the New York Times referred to me as "a militant advocate of civil rights legislation."

I have attempted to live my life and construct my philosophy of life so that I could look straight at any person and speak my mind without worrying about possible racial or ethnic overtones. I believe I earned the right to do just that with Adam Clayton Powell.

My constituents know I have always been strongly and forthrightly in favor of civil rights. My last opponent cost me votes among real estate people and others by attacking my vote for open housing. I would gladly compare my own civil rights record with Mr. Powell's.

It's easy to talk a good civil rights game; it's harder to do the painstaking, grubby, day-by-day chores in Congress when a big bill is up. During the last two civil rights fights, I had the 14-hour-a-day job of keeping civil rights forces on the House floor. Martin Luther King sent me a personal wire of appreciation and thanks after one of those 10-day battles. Adam Clayton Powell neither appeared to utter a word in debate nor walked through the teller vote line on a single amendment; this "champion of the Negro" did not even deign to leave his fishing boat to vote for passage of a historic bill to help emancipate his people after 100 years of subtle slavery.

Adam Clayton Powell isn't the only Negro in Congress. There are six others, including Senator Edward Brooke of Massachusetts, Rep. William Dawson of Chicago (chairman of the House Government Operations Committee), Rep. Bob Nix of Philadelphia (who is my competent chairman on a subcommittee), Rep. Charles Diggs of Detroit (who worked endless and effective hours on civil rights bills). If the Powell case was motivated by "racism," then it is hard to explain why these stalwart and upright men took their seats and chairmanships without question, and why they are treated with respect and affection by their colleagues.

### THE CHAIRMANSHIP ISSUE

Each of the 435 House members casts his vote for the District he represents. But if one becomes chairman of a committee, he wears two hats. Powell's second hat was a mighty big one; the decisions he made and the actions he took - or didn't take - were those of a national officer. He

was not chairman of education and labor merely for Harlem. He also was chairman for Tucson and Tombstone, Sioux Falls and Seattle, Boston and Birmingham.

The chairmanship is a powerful post bestowed by a house of Congress for the whole country. It is the business of the House itself; it involves no constitutional rights. As congressman from Harlem, Mr. Powell had but limited power. The abuses of power charged to him were almost exclusively things he did as chairman. The Congress, acting for the country, could - and I felt should - take away his power as chairman. Thus the denial of his chairmanship struck directly at the abuses and made sure they were halted here and now. In my judgment the action was clearly called for and long overdue.

### THE SEATING ISSUE

Let me make it clear: Adam Clayton Powell is not my idea of an ideal congressman. Were he running in Arizona, I'd vote against him. I doubt that he could be elected in California, Illinois, or Connecticut --, or perhaps anywhere but Harlem.

Nevertheless the people in Harlem are entitled to the congressman they want and 74 per cent wanted Adam Clayton Powell. Knowing about his whims and his shortcomings, they elected him not once but 11 times.

The Constitution (Article I, Section 5) provides "each house shall be the judge of the elections, returns and qualifications of its own members." Constitutional lawyers do not agree whether a house can - or should - go into such matters as "moral character," attendance, and the rest. For example, it might be said I could be excluded because I want to "destroy the Grand Canyon;" the Mississippi members for advocating defiance of Negroes' constitutional rights; members who oppose the Viet Nam war could be rejected for "aiding the enemy," etc. These examples are more or less ridiculous, but they pose the kind of problems which could be raised if a member is disqualified without a hearing. It was of more than passing interest to me that the last Representative-elect denied a seat on moral or personal grounds was Brigham Roberts, a Mormon polygamist, duly elected by the people of Utah, whom the Congress rejected in a burst of public indignation in 1899.

### DUE PROCESS - EVEN FOR POWELL?

Should Congress, in judging the Powell seating, have gone beyond the basic constitutional qualifications of age, residency, and citizenship? I simply didn't have time before Congress opened to resolve this basic issue. But even if we could and should judge his moral fitness, there was another and more compelling reason why he should have been tentatively and conditionally seated. This reason is named "due process."

Sometimes how you do something is just as important as seeing that it is done. A man may have committed a brutal crime for which he should be punished. It makes a big difference whether the punishment is administered by a mob breaking down the jail, or by officers of the law after a fair trial.

"Due process" is a fundamental part of American liberty with deep roots in our system. Volumes have been written on its meaning. It boils down to this: due process says that a man's life, his property - or his seat in Congress - cannot be taken away unless four steps are followed:

1. He is given a specific set of charges, or bill of particulars.
2. Those charges are heard before a court or tribunal properly empowered to hear them and take action.
3. The party charged has notice of the charges and the trial.
4. He is given a fair chance to appear and defend himself.

On January 10, Mr. Powell had not had a single one of these four rights. This is why I moved to permit him to take his seat pending an investigation in which due process would be followed.

It may be that the forthcoming "trial" for Mr. Powell will result in his exclusion - the same action the House took January 10, without a hearing. The end result thus may be the same; if so, the sacrifice of due process will have accomplished nothing.

My own thoughts on this issue were summed up as I closed the debate on January 10. I said: "I must have had 400 letters, complaining 'You have got to do something to punish Adam Powell.' But I have not had a single letter that says, 'You have got to punish Adam Powell's constituents' . . . if we do not let him be seated, as we have always done under the precedents of the House, we are going to punish not him but his constituents . . . . we will do great damage to the great American tradition of due process of law if we follow this course."

## LESSONS

I think there are lessons for all of us in the Powell matter.

Unfortunately, there have always been dishonest and unscrupulous people in Congress. The renowned Daniel Webster openly asked the Bank of the United States for an additional "retainer" if he were to continue to press for its legislation in Congress. Such conduct today probably would bring instant disciplinary action. Standards of conduct have slowly improved over the decades. But we have a long way to go. Congress needs to improve and revitalize itself even further. I believe we must take permanent action to guarantee high standards of conduct and to guard against future Powell cases.

The Powell case impresses me with three lessons:

1. *A standing committee on standards and conduct is needed.* In the 89th Congress, for the first time, the Senate and the House established ethics

committees. I supported the move in the House. But the House committee was only temporary, and as finally established, its teeth were pulled so that it could merely study and make general recommendations; it had no power to investigate specific cases. I am part of a movement to reestablish the committee on a permanent basis. It should have power to establish and publish rules and regulations governing standards of conduct, conflicts of interest, and other trouble areas. It should be able to investigate specific allegations of improper or unethical conduct and make reports. I favor a procedure modeled after that of the legal profession in which initial complaints would be investigated quietly to avoid unfair damage to reputations from false charges, but in which, once wrongdoing is found, charges are filed and reported publicly to the House, with recommendations for punitive action.

2. *We should have a system of public disclosure of Members' outside business and financial interests.* It is one thing for me to work and vote and lobby for radio and television legislation if I secretly own large blocks of television stock and hold office in broadcasting companies. It is another thing for me to do these things if my constituents and the public know my pocketbook is involved. I have advocated previously and reintroduced this year as House Bill 1412 legislation requiring Members of Congress to declare their income and holdings. On the opening day of the 90th Congress, I voluntarily listed my assets and business holdings in the Congressional Record. Only a handful of congressmen have done this.
3. *The seniority system needs revision.* Mr. Powell's abuses were possible, in large part, because the nearly-impregnable seniority system guarantees a committee chairman almost unlimited power with virtually no supervision or control. If committee chairmen were selected by any democratic method, chairmen would be compelled to act responsibly and honorably - or face removal. In my judgment, the Powell case would never have occurred if he had not been protected all these years by the shield of rigid seniority rule.

#### "FISH OR CUT BAIT"

on the House floor almost any working day you hear speeches decrying growth of the President's power at the expense of Congress. There is truth in these assertions. But in the judgment of this Member, the Congress itself is largely to blame. We Members - and the public - should insist that Congress modernize its procedures and internal controls. These issues - ethics, conflicts of interest, standards, and abuses of power - have been dramatized by the Powell case; but they are larger and more important than Adam Clayton Powell.

It is time, it seems to me, for Congress to "fish or cut bait."



