

ADVISORY OPINION 1975-77

Whether Royalties Are Subject to Limitations on Acceptance of Excessive Honorariums

This advisory opinion is rendered under 2 U.S.C. §437f in response to a request for an advisory opinion which was submitted by J. Brian Smith, Press Secretary, for Congressman John J. Rhodes, which was published as AOR 1975-77 in the October 1, 1975, Federal Register (40 FR 45295). Interested parties were given an opportunity to submit written comments relating to the request. No comments were received.

The request asks whether royalties from the publication of a book by a Congressman would be limited by the provisions of section 616 of Title 18, United States Code. It is provided in 18 U.S.C. §616 that:

"Whoever, while an elected or appointed officer or employee of any branch of the Federal Government--

(1) accepts any honorarium of more than \$1,000
* * * for any appearance, speech, or article; or

(2) accepts honorariums * * * aggregating more than \$15,000 in any calendar year; shall be fined not less than \$1,000 nor more than \$5,000."

This provision clearly limits honoraria accepted for any appearance, speech, or article. The question then arises as to whether, for purposes of this section, a royalty received for the publication of a book should be treated as identical to an honorarium accepted for an article. As 18 U.S.C. §616 is a criminal statute, the canons of statutory construction require that its language should be strictly construed so that each word will be given only its plain meaning in the absence of strong evidence to the contrary. Thus in this case the Commission concludes that the word "article" should be read narrowly and not interpreted as meaning "any publication."

This view conforms with the explicit intent of Congress with regard to this section:

"Mr. HUGH SCOTT. * * * I have been asked by one Senator to raise a question as regards publication of books as distinguished from magazine articles. There is a limitation here on honoraria of \$1,000. I believe there is an exception that does permit Members of Congress to publish books and to receive compensation for that purpose. Is that correct?"

“Mr. CANNON. The intent is that the publishing of a book does not constitute an honorarium under the Language used in the bill. * * *”

120 Cong. Rec. S18526 (daily ed., Oct. 8, 1974)

"Mr. FRENZEL. [Presenting comments for the House of Representatives on the Conference Report.] * * * The conference substitute limits honorariums to \$1,000 per appearance and a total of \$15,000 per calendar year. I concur with the discussion by Senators Scott and Cannon

* * *."

120 Cong. Rec. H10334 (daily ed., Oct. 10, 1974)

Accordingly, it is the opinion of the commission that royalties from the publication of a book by a Congressman would not be affected by the provisions of 18 U.S.C. §616.

This advisory opinion is issued only on an interim basis pending the promulgation by the Commission of rules and regulations of general applicability.

Date: October 30, 1975

(signed)

Thomas B. Curtis
Chairman for the
Federal Election Commission