



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

August 28, 1978

AO 1978-32

T. Rogers Wade, Chairman  
Talmadge Campaign Committee  
6 Potomac Court  
Alexandria, Virginia 22314

Dear Mr. Wade:

This responds to your letter of May 19, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the receipt of political contributions by Senator Talmadge and the Talmadge Campaign Committee ("the Committee").

Your letter states that Senator Talmadge is frequently requested to make speeches and appearances before gatherings sponsored by various individuals or by separate segregated funds (PAC's) of corporations and labor unions. The sponsors of these events may indicate that they wish to give the Senator an honorarium or make a political contribution in support of his reelection to the Senate; however, Senator Talmadge would never require that a political contribution be made as a condition for his speech or appearance. You explain that the sponsoring political action committee or individual may, in conjunction with the Senator's appearance, offer: (1) to pay the Senator an honorarium without contributing to the Committee, (2) to make only a contribution to the Committee without offering to pay an honorarium to the Senator, (3) to make a political contribution to the Committee as well as pay an honorarium to the Senator, and (4) to make a contribution to the Committee or, in the alternative, to pay an honorarium to Senator Talmadge.

You ask for an opinion confirming your interpretation that in the first situation Senator Talmadge would be "in receipt of an honorarium within the meaning of the Act and regulations" if he accepted the payment offered by the sponsoring political action committee or individual in consideration of his speech or appearance. You also ask for an opinion confirming your interpretation that in the other three situations the Committee would be regarded as receiving a contribution, as defined in the Act, whenever it receives any payment from a sponsor which the sponsor states is for the purpose of supporting the Senator's reelection and not as a payment (i.e. honorarium) for his appearance.

As you realize, the Act regulates both contributions made for purpose of influencing the nomination or election of any person to Federal office and honoraria accepted by elected or appointed officers of the Federal government. Contributions as defined in 2 U.S.C. 431(e) are subject to disclosure, limitation, and in some cases are prohibited under the Act.<sup>1</sup> The Act limits the amount of honoraria which may be accepted for each speech or appearance and also limits the total that may be accepted in any calendar year.<sup>2</sup> It is also provided in 2 U.S.C. 431(e)(5)(I) that the term "contribution" does not include any honorarium within the meaning of 2 U.S.C. 441i. Therefore, payments accepted by Senator Talmadge as honoraria subject to limitation under 2 U.S.C. 441i would not be regarded as contributions to the Committee or Senator Talmadge as a candidate for Federal office.

The Commission agrees with your interpretation that, as a general rule, receipts of the Committee may be treated as contributions when the sponsor making the contribution states that it is for the purpose of supporting Senator Talmadge's reelection and is not a payment (honorarium) for the Senator's appearance. The Act defines "contribution" as including a gift of money or anything of value made for the purpose of influencing the nomination or election of any person to Federal office. If a contributing person, whether an individual or political action committee, makes an oral or written representation contemporaneously with their contribution indicating a purpose to influence Senator Talmadge's nomination or election to Federal office, that representation would indicate the donor is making a contribution as defined in 2 U.S.C. 431(e). Accordingly, it would be proper for the Committee under those circumstances to treat any gift as a contribution for purposes of disclosure and limitation under the Act and Commission regulations. Obviously, all circumstances incident to the making and receipt of a gift of money, or other thing of value, are relevant on the question of whether the gift is intended as a political contribution or as an honorarium.

In the absence of specific facts involving a particular situation, the Commission may not conclude categorically that every receipt of the Committee which the Committee regards as a contribution would not be considered an honorarium. The Act and Commission regulations do not preclude a principal (or other authorized) campaign committee of a candidate from receiving payments which are personal funds of the candidate, rather than contributions from other persons. Moreover, candidates for Federal office may make unlimited campaign expenditures from personal funds including any salary and other earned income from bona fide employment. 11 CFR 110.10. A candidate's authorized committee which receives personal funds from the authorizing candidate if required to report the receipt of those funds. See 11 CFR 101.3.

The Commission emphasizes that all receipts and disbursements of the Committee, whether or not they qualify as "contributions" or "expenditures" are subject to disclosure under the Act. 2 U.S.C. 434(b) and 11 CFR 104.2(b). Furthermore, all contributions made to and received by the Committee are subject to the limits and prohibitions of the Act. The Commission notes also that appearances by Senator Talmadge, as a candidate for Federal office, before corporations and labor organizations are subject to 2 U.S.C. 441b and Commission regulations at Part 114. See in particular 11 CFR 114.3(c)(2) and 114.4(b).

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<sup>1</sup> See 2 U.S.C. 431, 432, 434, 441a, 441b, 441c, 441e, 441f, 441g.

<sup>2</sup> 2 U.S.C. 441i, as amended by Public Law 95-216, enacted December 20, 1977, copy enclosed.

The Commission may express no opinion as to the possible application of Senate Rules or any tax ramifications in connection with the situations set forth in your request, since those issues are outside the Commission's jurisdiction.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens

Chairman for the

Federal Election Commission