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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

MAR 21 1978

In reply refer to
B-191044 (BRP)

Subject Code

Thomas C. Brennan, Chairman
Copyright Royalty Tribunal
1111 20th Street, N.W.
Washington, D.C. 20036

Dear Mr. Brennan:

Further reference is made to your letter of December 28, 1977, in which you seek clarification as to the legislative intent of Public Law 94-553, October 19, 1976, 90 Stat. 2541, a law for the general revision of the copyright law, which, among other things, established the Copyright Royalty Tribunal (CRT) as an independent agency in the legislative branch of the Federal Government. In this regard, you ask whether the provisions of the Annual and Sick Leave Act of 1951, as amended, and as presently codified in chapter 63, title 5, United States Code, are applicable to the Commissioners of the CRT.

By letter dated January 27, 1978, you forwarded a copy of a letter dated January 10, 1978, addressed to you from the Honorable Robert W. Kastenmeier, Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, House of Representatives, United States Congress. Mr. Kastenmeier states, in essence, that as Chairman of the House Subcommittee which drafted the revised structure of the CRT and as Chairman of the House conferees, it was his intent that the Commissioners should be equal in all matters, including compensation and personnel benefits. He feels that a holding that the Leave Act applies to the Commissioners would be inconsistent with the intent of section 802 of Public Law 94-553 since it would result in the leave time of the Commissioners varying on the basis of prior creditable Federal service, if any. He further points out that if the Leave Act applies to the Commissioners, employees of the CRT could receive more leave time than the Commissioners, a situation that presently exists within the Tribunal. Mr. Kastenmeier concludes by stating that he did not intend such a result, nor in

90 MAR 25 1978

B-191044

his opinion is that result required by a reasonable construction of the relevant language of chapter 8 of Public Law 94-553.

90 Stat, 2594

While we are cognizant of the salient points made and the conclusion reached by Mr. Kastenmeier, our preliminary research leads us to believe that the Commissioners of the CRT are included within the provisions of the Annual and Sick Leave Act of 1951, as amended. This is based on our review of the legislative histories of the Annual and Sick Leave Act of 1951, as amended, and Public Law 94-553; the pertinent court decisions; decisions of the Comptroller General of the United States; regulations issued by the United States Civil Service Commission; and informal contact with officials of the Commission. If the Commissioners are to be excepted from coverage under the Leave Act, we believe that legislative action would be necessary.

We would be happy to discuss this subject with you or, if you prefer, issue a formal opinion in the matter.

Sincerely yours,

Paul G. Dembling

Paul G. Dembling
General Counsel