

U. S. DEPARTMENT OF LABOR
Wage and Hour Division
Washington

FLEMING DENIES BANKERS' PLEA FOR CHANGE IN EXEMPTION

A proposal by the American Bankers Association that the definition of "administrative" as this term is used to describe exempt employees under the Wage and Hour Law, should be changed to permit the exemption of persons getting less than \$200 a month in small communities, was rejected today by Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor. The definition, which became effective on Thursday (October 24, 1940), requires that "administrative" employees must receive at least \$200 a month to be exempt. Mr. A. L. M. Wiggins of Hartsville, S. C., Chairman of the Committee on Federal Legislation of the American Bankers Association, had proposed that the \$200 be reduced on a differential basis according to population so that some bank employees receiving \$80 a month could be exempt. He also suggested that small banks employing less than seven employees be entirely exempted.

Colonel Fleming's letter to Mr. Wiggins follows:

"Dear Mr. Wiggins:

This will acknowledge your telegram of October 14, 1940, protesting the new definitions of "executive," "administrative," and "professional" as applied to small banks and banks in small communities.

"As you undoubtedly know, four separate hearings, at which there was wide representation of both employer and employee groups, were held prior to the redefinition of these terms. The new definitions are based on a careful study of the evidence presented at these hearings and an investigation of the experience of the Division in applying the old definitions. At the hearing held on July 9 and 10 your Association was afforded full opportunity to present such evidence and testimony as you desired in support of the amendments proposed. It is believed that the testimony presented by your witnesses does not disclose hardship of a nature to justify a separate classification and treatment for small banks. The salary tests included in the definitions are an approximation of what will best effectuate the purposes of the Act. Differentials based upon industry classifications or population would entail serious difficulties in enforcement and would make it necessary to define and delimit the scope of the

differentials. Moreover, numerous letters have been received from employers approving the salary qualifications without differentials. One of these states that "it would be very unfair . . . to handle this thing on the basis of population of cities and towns . . ."

"In your telegram you also ask for a reconsideration of the entire problem. The new definitions represent the result of months of study in which full consideration was given to the views of employers and employees. I do not believe that the question should be reopened at least until we have had an opportunity to study the practical effects of the new definitions.

"Sincerely yours,

Philip B. Fleming
Administrator"

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