

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

COLONEL FLEMING SEES RIGHT OF ROUTINE INSPECTION UPHOLD

Supreme Court Lets Wage-Hour Subpoena Decision Stand

Refusal of the United States Supreme Court today to review a decision upholding the right of the Wage and Hour Division to subpoena the Montgomery Ward Company's payroll records was cited by Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, United States Department of Labor, as validation of the Division's right to inspect all payroll records of covered employees.

"There can be no excuse for any employers refusing access to payroll records to Wage and Hour Division inspectors," said Colonel Fleming, "in view of the court's refusal today to review the Montgomery Ward decision. The opinion of the Seventh Circuit Court of Appeals (Chicago) in the Montgomery Ward case upheld the right of the Division to inspect the payroll records of all employees of a covered firm, whether or not complaints were filed; that is, a firm engaged in interstate commerce or in the production of goods for interstate commerce. This clearly upheld the right of the Division to make routine inspections as we have been doing.

"The Wage and Hour Division's power of investigation is contained in Section 11 of the Fair Labor Standards Act (Federal Wage and Hour Law), 'The Administrator or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act.'

"The Administrator's subpoena power, which is incorporated from the Federal Trades Commission Act, implements this right of inspection in cases where inspection is not voluntarily permitted."

The subpoena power of the Administrator is being contested in four cases in the lower Federal Courts involving the Cudahy Packing Company and three newspapers -- The Lowell (Mass.) Sun, The Easton (Pa.) Free Press and the Easton (Pa.) Express.