

For Release Friday,
January 10, 1941

R-1246

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

TEXAS JUDGE HOLDS WAGE SCALE MANIPULATION, "ADDITIONAL
COMPENSATION" PAYMENTS DO NOT COMPLY WITH WAGE-HOUR ACT

A plan placed in operation by a Fort Worth, Texas, feed mill by which employees' wage rates were manipulated and payment of "additional compensation" was made in order to meet minimum wage and overtime compensation provisions of the Fair Labor Standards Act has been declared illegal in U. S. District Court at Fort Worth, according to information reaching the Wage and Hour Division, U. S. Department of Labor, in Washington.

The plan called for payment to employees of the minimum wage rate of 25 cents an hour then in effect and the overtime compensation of one and a half times that rate, regardless of the wage scale prevailing when the Wage and Hour Law became operative. The company then would pay its employees an additional amount which would make the total compensation equal to that received by them prior to the effective date of the act.

Officials of the company, the Bowley Mills, of Fort Worth, were warned by Wage and Hour Division representatives in Texas that they were not complying with the act, and agreed to make the necessary settlements. In the meantime, however, certain employees brought suit, and settlement was made with all except one, the one exception being on the ground that the employee was not engaged in interstate commerce. In upholding the claim of the excepted employee to wages and overtime compensation due him in accordance with the Wage and Hour Law, in addition to an amount due as penalty or liquidated damages, totalling approximately \$378, Federal Judge James C. Wilson held that the employee was covered by the Act and that the plan of wage payments adopted by the company

merely had the appearance of being in compliance with the law, "but in its aggregate substance was not."

"Without elaborating," Judge Wilson declared, "that conclusion appears to me to be obviously correct because the time and a half for overtime paid under that 25 cent minimum pay would not be on the basis of the actual hour wages of those men under that arrangement, but on a fictional basis, you might say, of a minimum of 25 cents per hour."

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