

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

DENIAL OF INTERSTATE COMMERCE NO BAR TO INSPECTION, SAYS FLEMING

Employers cannot refuse inspection of their payroll records by claiming they are not engaged in interstate commerce, General Philip B. Fleming, Administrator of the Wage and Hour Division of the U. S. Department of Labor, said today in citing the decision of the Fifth Circuit Court of Appeals in New Orleans, handed down Saturday April 19, upholding the Division's right to subpoena the records of the Cudahy Packing Company of Louisiana, Ltd.

"The Cudahy Packing Company of Louisiana," General Fleming said, "endeavored to distinguish its position from that of the Montgomery Ward Company. The latter company resisted subpoena but lost its case in the District Court and the Circuit Court of Appeals and the U. S. Supreme Court refused to review it. The packing company held that it presented a different situation to the Court in that Montgomery Ward and Company had conceded that some of its activities were in interstate commerce whereas the packing company claimed that all of the activities of its Louisiana branch were intrastate.

"The Circuit Court of Appeals refused to recognize this distinction and held that its prior decisions were controlling. These prior decisions held that investigating agencies 'would not be bound by the denial of any person . . . that he was engaged in interstate commerce' and that the agency 'has the right to make its own investigation to determine that fact.'"

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