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STUDENT NOTE

COMPUTATION OF "OVERTIME" PAY UNDER THE *Bay Ridge* CASE.—Since the enactment in 1938 of the Fair Labor Standards Act, employers engaged in business affecting interstate commerce have, with varying degrees of success,[1] sought to apply correctly section 7 (a) of the act which states:

"No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or the production of goods for commerce . . . (3) for a workweek longer than forty hours after expiration of the second year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."[2]

Confronting the employer was the perplexing problem of what constitutes the regular rate which the act makes the basis for computation of wage payments for work in excess of forty hours. The statute contains neither a definition of regular rate nor a rule

[1] See Notes, 140 A. L. R. 1263 (1942), 152 A. L. R. 1030 (1944), 169 A. L. R. 1307 (1947).

[2] 52 STAT. 1060, 29 U. S. C. A. § 207 (a) (1940).