For Release Tuesday,
January 14, 1941

R-1248

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

WAGE-HOUR BENEFITS TO REACH PUERTO RICO SUGAR MILL WORKERS UNDER FIRST CIRCUIT COURT DECISION

All employees of Puerto Rican sugar mills except those engaged in planting, cultivating and harvesting of sugar cane are entitled to the benefits of the Wage and Hour Law, the First Circuit Court of Appeals at Boston held in an opinion received today by Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor.

The case in which the opinion was rendered was that of Bowie et al versus Gonzales et al, in which Bowie and other trustees for the Eastern Sugar Associates brought suit for declaratory judgment against Pablo Gonzales and other employees and a Puerto Rican representative of the Wage and Hour Division to prevent the application of the law to their employees.

The Eastern Sugar Associates operates four mills in Puerto Rico and is the fourth largest producer of sugar on the island, its output being about 11 per cent of the total.

The issues passed upon by the court will affect all other sugar mills similarly.

The appellate court in an unanimous opinion went beyond and enlarged on the decision of Judge Robert A. Cooper, Federal District Court of San Juan, Puerto Rico.

The basic rate paid employees of the sugar mill during the grinding season of 1939 was about $1.00 to $1.25 for an eight-hour day. The minimum under the Fair Labor Standards Act at that time called for 25 cents an hour or $2.00 a day. It is now 30 cents an hour. Field workers, exempt from the Wage and Hour Law, received $1.00 a day under another act of Congress.

(6987)

Eastern Sugar Associat4s during the grinding season of 1939, lasting from the beginning of February to the end of May, employed approximately 1,800 workers in its four sugar mills and railroad facilities. During the balance of the year, known as the "dead season", between 500 and 1,000 employees continued to work in repairs and maintenance activities. One of the contentions of the mill owners was that these employees working during the "dead season" were not entitled to the benefits of the Act. The Circuit Court's decision denied this contention and, in addition, has the effect of overruling subsequent decisions of Judge Cooper declaring that workers employed during the "dead season" were not entitled to the benefits of the Act.

The mill owners also contended that their sugar mill and transportation employees were not covered by the law by virtue of the exemptions contained in Sections 13(a)(6) and 13(a)(10) of the Act. Section 13(a)(6) exempts employees engaged in agriculture and Section 13(a)(10), among other things, exempts employees engaged in the preparation of an agricultural commodity for market in its raw or natural state "within the area of production."

The sugar mills' further contention that the Administrator was under a duty to define an "area of production" for the processing of sugar cane into sugar also was rejected.

The Court's opinion interprets Section 7(c) of the Act which grants an exemption from its overtime hours provision to the processing of sugar cane into sugar, as affording the key to the applicability of the Act to mill and transportation employees of the sugar companies, and states in its opinion that this Section "is ample evidence of the fact that Congress had sugar processing in mind and knew how to include it when it so desired." Consequently, Sections 13(a)(6) and 13(a)(10), were not intended by Congress to exclude mill and transportation employees of the sugar company from the wage provisions of the Act.

"It is our conclusion," said the court, "that Section 6 of the Fair Labor Standards Act applies to the employees here in question and that they are entitled to the minimum wages provided in the statute. Among the appellants' employees only those engaged in planting, cultivating and harvesting of sugar cane are exempt. It is further clear that those employees engaged in the transportation of molasses from appellants' mills should be included in paragraph 2(b) of the declaratory judgment. The Administrator contends that all the appellants' employees who assist in the delivery of the colonos' cane to the appellants' mills, should be included in the category of those entitled to the benefits of the Act. While it appears to us that the judgment of the District Judge is broad enough to include them, we can find no objection to ordering their specific inclusion in paragraph 2(c), which should be modified to read as follows: 'All employees of complainants engaged in transporting sugar cane of independent growers for grinding at complainants' mills, or in any necessary incident thereof.' Moreover, an addition to the judgment should be made specifically including the employees who, in the dead season, are engaged in the repair and maintenance of the milling and transportation facilities of the appellants."

Senior Circuit Judge Calvert Magruder, first General Counsel of the Wage and Hour Division, did not participate in consideration of this case.

The case was tried in the lower court and argued in the Circuit Court by John J. Babe', Principal Attorney of the U. S. Department of Labor, acting as personal attorney for the employees and as counsel for the Administrator who appeared as amicus curiae.

###

(6987)