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It would be easy, in discussing the coverage of the Fair Labor Standards Act, to perform like a medieval monk discussing the nature of ultimate reality. No doubt some of you who have had occasion to discuss coverage problems with officers of the Wage and Hour Division have been convinced that we delight in splitting hairs and being very technical about complex problems.

However, the truth is that the fundamental principles which determine coverage under the Fair Labor Standards Act are not difficult to grasp, and I believe that they can be stated with some degree of clarity. It is only when discussion shifts to borderline cases that we are likely to become involved in what may seem to many lawyers to be a novel conception of interstate commerce. Even in this field it has been our experience that the novelty of the conception involved is almost wholly explained by the fact that many practicing lawyers think of interstate commerce in terms of the conceptions which judicially determine the scope of the Interstate Commerce Act of 1887.

The Wage-Hour law represents something new in action by the federal government. In the broadest sense, it is social legislation designed to meet problems growing out of increasing industrialization Even before the act became effective, the offices of the Division in Washington were deluged by inquiries from all parts of the country, from employers and lawyers seeking information concerning the scope of the act and the application of the act to their interests. At that time there were two alternatives for the Division. The officers might have sent to each inquirer a copy of the act, and told him, "Here it is, Brother—figure it out for yourself." That is the policy pursued by many governmental agencies. On the other hand, the officers of the Division could give to people asking questions their best opinion. The latter policy was adopted for a number of reasons.

In addition to writing individual answers to thousands of inquiries, the offices of the Wage-Hour Division have issued statements known as Interpretative Bulletins. These bulletins were simply compilations of answers to questions most frequently asked. They do not have the effect of law, but are simply a statement of the construction of the Fair Labor Standards Act which guides the Administrator in the performance of his enforcement duties. These basic interpretative documents are now

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being supplemented and in some instances corrected or extended by the decisions of courts. In the last analysis, the scope of the act must be determined by the courts, for the Administrator must apply to the court for appropriate action whenever, in his opinion, the act is not being complied with.

The general scope of the Wage and Hour law may be stated in a few words. Every employee engaged in commerce or in the production of goods for commerce shall be paid by his employer for his labor not less than thirty cents an hour (or a higher rate fixed by wage order, up to forty cents an hour) and if he is employed for more than forty hours a week, he shall be paid for the excess hours at the rate of time and one-half his regular rate of pay.

Unlike some other acts, the Wage-Hour law applies on an individual basis. It does not apply to specified industries or types of businesses. It may apply to individual employees within a plant or office who are working side by side with other individual employees who are not within the coverage of the act. Furthermore, if an employee is engaged in any work in interstate commerce, or in the production of goods for interstate commerce, the employee will be within the general coverage of the act regardless of the percentage which such work bears to all the work performed by him, or the percentage which such work represents of the total business of his employer. As was stated in Interpretative Bulletin No. 5, which was originally issued in December, 1938:

> "There is no justification for determining the applicability of the act to a particular employee on the basis of the percentage of the goods he produces, or of his employer's goods, which move in interstate commerce. * * * If in any work week an employee produces goods for commerce and also produces goods for local consumption or performs work otherwise outside the coverage of the act, the employee is entitled to both the wage and hour benefits of the act for all the time worked during that week. The proportion of the employee's time spent in each type of work is not material."

This position, which originally was simply an expression of the opinion of the Administrator, is now supported by a number of court decisions, including a decision rendered in the case of the *United States v. Darby*[1], by the Supreme Court early this year. In this case the court was asked to rule on a demurrer to a criminal indictment. The indictment charged that the defendant was engaged in manufacturing lumber in Georgia with an intent to ship a part of such lumber into other states. In a decision which firmly establishes the constitutionality of the act, the court adopted the view previously taken by the Administrator in

[1]312 U. S. 100, 61 S. Ct. 451, 85 L. ed. 609, 132 A. L. R. 1430 (1941).

these words: "While manufacturing is not of itself interstate commerce, the shipment of manufactured goods interstate *is* such commerce, and the prohibition of such shipment by Congress is indubitably a regulation of the commerce * * *." Further, the court said, "Production for commerce * * * includes at least production of goods which at the time of production the employer, according to the normal course of his business, intends or expects to move in interstate commerce although, through the exigencies of the business, all of the goods may not thereafter actually enter interstate commerce. * * *" The court concluded that Congress, by this act, "adopted the policy of excluding from interstate commerce *all* goods produced for the commerce which do not conform to the specified labor standards." While there is undoubtedly more to be said concerning the scope of the act, this opinion appears to firmly establish its basic constitutionality.

The United States District Court for Louisiana, in the case of *Abadie v. Cudahy Packing Company*,[2] held that Congress, to obtain its objective, has made no distinction as to the volume or amount of shipments or of production for commerce which will subject any particular shipper or producer to the substantive provisions of the act. The case of *Hart v. Gregory*[3] reaches a similar conclusion concerning the unimportance of the percentage factor, as do other cases which have now been decided in practically every circuit in the United States.

It has been indicated by some courts, however, that while it is generally true that the percentage of goods produced or shipped is not the determining test in coverage problems, there may still be instances in which the courts will apply the maxim, *de minimis non curat lex*.[4] It may be said, however, that even in these cases the courts have said that the coverage of the act is not to be determined on a percentage basis. They have simply held that in particular circumstances individual employees were engaged in interstate commerce in such a trifling or occasional fashion that the court would not concern itself with the problem. For example, in the case of *Goldberg v. Worman*,[5] the court called the production of goods sold outside the state to the extent of $18 per week out of a total business of $588 as trivial, infinitesimal, and inconsequential. Also, in the case of *Gerdert v. Certified Poultry and Egg Company*,[6] the federal District Court in Florida held that isolated transactions which are not a part of the usual course of business do not bring a wholesaler within the act. In this case the court indicated that the test, which should be applied to determine coverage, would be "the general course of business." It might be observed parenthetically that much of the

[2]C. C. H. 3 Labor Cases, ¶60, 314 (D. C. La. 1941).
[3]16 S. E. (2d) 837 (N. Car. 1941).
[4]The law does not regard trifles.—ED.
[5]37 F. Supp. 778 (D. C. Fla. 1941).
[6]38 F. Supp. 964 (D. C. Fla. 1941).

reasoning of the court seems less cogent if we recall that the act applies on an individual work-week basis and that it has never been contended that an act performed this week in interstate commerce or in the production of goods for interstate commerce will bring an employee within the act for any number of subsequent work weeks.

In the case of *Collins v. Kidd*,[7] an ice distributor located at Texarkana in Texas sold approximately ten per cent of his ice across the border in Arkansas. The court emphasized the fortuitous circumstances and the influence of geography, and held that in such a case the sales in Arkansas were inconsequential and trivial. In the case of *Whitson v. Wexler*,[8] an employee of a lumber yard who occasionally made pickups or deliveries outside the state in which his employer maintained the lumber yard was held not entitled to the benefits of the act. The court found the extra-state trips to be "infrequent and purely incidental, inconsequential, and insufficient" to show commerce.

In the case of *Lamb v. Quality Bakery Company*[9] the defendant was found to be selling one per cent of the goods produced in interstate commerce, and the court held that these facts "do not show the defendant engaged in interstate commerce in any substantial or real sense."

All of these cases indicate that an employer probably would be unwise to feel secure in the belief that the law did not apply to his operations simply because a very minor part of his activities were in interstate commerce. Certainly the cases which have applied the *de minimis* doctrine to the problem of coverage are to be limited to the unusual facts and circumstances existing in those cases. The Supreme Court itself, as previously indicated, has stated that Congress in the act has, "adopted the policy of excluding from interstate commerce *all* goods produced for the commerce which do not conform to the specified labor standards."[10]

With these general questions out of the way, then, we may turn to a consideration of the bases for the application of the act. The act applies to employees in commerce. Commerce "means trade, commerce, transportation, transmission or communication among the several states or from any state to any place outside thereof." Typically, this is interpreted by the Administrator to mean that the act applies to employees in the telephone, telegraph, radio, and transportation industries. It also is interpreted to mean that the act applies to clerical workers and to other employees engaged in maintenance, repair, or reconstruction of essential instrumentalities of commerce. Thus, all employees in any way contributing to the maintaining, repairing or reconstructing of railroads, ships, highways, bridges, pipelines, navigable waters, or other essential

[7] 38 F. Supp. 634 (D. C. Tex. 1941).
[8] C. C. H. 3 Labor Cases, ¶60, 283 (Tenn. Ch. 1941).
[9] C. C. H. 3 Labor Cases, ¶60, 042 (Tenn. App. 1940).
[10] *Supra* note 1.

instrumentalities of commerce, are deemed to be within the coverage of the act.

The extent to which this general position will eventually be sustained by the courts is as yet uncertain.

It has also been the consistent position of the Wage-Hour Division that employees engaged in the interstate distribution of goods, or who are a part of the "stream of interstate commerce," are to be included in the phrase "engaged in commerce." For example, employees of a warehouse whose storage facilities are used in the interstate distribution of goods are thought to be within the coverage of the act. Also employees of a wholesaler who is engaged in making sales in interstate commerce are thought to be within the coverage of the act. This position has been applied as extending the benefits of the act to employees engaged in wholesale distribution of goods within a single state, if the goods are obtained from outside the state.

Perhaps no point of coverage has been more often disputed than the coverage of employees wholesaling within the state goods obtained outside the state. In *Gerdert v. Certified Poultry and Egg Company*[11] and in *Jewell Tea Company v. Williams*[12] the federal courts have taken a view of coverage which does not harmonize with the opinion expressed by the Administrator. Both of these cases should be examined carefully with respect to the exact facts involved, and it should also be noted that they were employee suits in which the Division did not participate. In the case of *Fleming v. Alterman Bros.*[13] the position of the Division concerning coverage of wholesalers was upheld by the federal District Court for the northern district of Georgia. This case is now pending on appeal to the Circuit Court.

It has uniformly been held by the Administrator that the act applies to newspapers if the newspapers use the instrumentalities of commerce in gathering and preparing news. This position was upheld by the court in the case of *Fleming v. Lowell Sun Company*[14] and it was stated that in such a case the interstate circulation of the newspaper will not be determinative of coverage.

The Administrator has believed that certain financial institutions are engaged in interstate commerce, and has therefore indicated that efforts will be made to enforce the act against banks, savings and loan associations, and insurance companies. As yet, however, no court decisions are available in contested cases in this field. A number of decrees enjoining violations of the act have been entered by consent in cases

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[11] *Supra* note 6.
[12] 118 F. (2d) 202 (C. C. A. 10th. 1941).
[13] 38 F. Supp. 94 (D. C. Ga. 1941).
[14] 36 F. Supp. 620 (D. C. Mass. 1940). *rev'd* 120 F. (2d) 213 (C. C. A. 1st. 1941).

involving such institutions and at present it appears likely that litigation may develop from investigations currently being made.

The second principal basis of coverage under the act is employment in the production of goods for commerce. This term is a novel one, and appears not to have been employed in any previous statutes enacted by Congress. Section 3 (j) of the Fair Labor Standards Act defines the term "produced" as meaning "produced, manufactured, mined, handled, or in any other manner worked on in any state; and for the purposes of this act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods or in any process or occupation necessary to the production thereof, in any state."

The Wage-Hour Division takes the general position that an employee is engaged in the production of goods for commerce when he is working on goods which his employer knows, intends, or has reason to believe will move in interstate commerce. A very similar interpretation was applied by the Supreme Court in the *Darby* case.[15] As indicated in the passage I have previously cited, the court stated that production for commerce includes at least production which "at the time of production the employer, according to the normal course of his business, intends or expects to move in interstate commerce."

In other decisions the courts have indicated that great importance will be attached to circumstances which indicate that the employer should be "charged with knowing" that the goods produced by him will move in interstate commerce. It has been held, for example, that an employer cannot argue that he does not know what will become of his goods and that he has not produced them for commerce if he sells them to a purchaser within the state in which they were produced. The act is not concerned with the ownership of goods sent into the channels of interstate commerce, nor with the identity of producer and shipper. In *Fleming v. Enterprise Box Company*,[16] decided early this year in the United States District Court for Florida and now on appeal to the Fifth Circuit, it was held that an employer engaged in the production of cigar boxes in the city of Tampa was engaged in the production of goods for commerce, even though he sold all the cigar boxes to purchasers within the state of Florida. The court found that the manufacturer should be "charged with knowing what he should have known." Similar decisions have been made with respect to oil produced and sold to refiners in the state of production, and to the production of metallic ore sold to smelters within the state in which it was mined.

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[15] *Supra* note 1.
[16] 36 F. Supp. 606 (D. C. Fla. 1940).

Perhaps the most elastic phrase used in the law is the phrase "necessary to production." It is said that production includes "any process or occupation necessary" to the production of goods. In the very first interpretative bulletin the Administrator pointed out that coverage "is not limited necessarily to employees who are engaged in actual physical work on the product itself * * *," but that the "benefits of the statute are extended to such employees as maintenance workers, watchmen, clerks, stenographers, messengers, all of whom must be considered as engaged in processes or occupations 'necessary to the production' of the goods." "Enterprises," said the Administrator, "cannot operate without such employees. If they were not doing work 'necessary to the production' of the goods, they would not be on the payroll." The Administrator concluded that "except for the special categories of employees within the exemptions of Section 13, all the employees, in a place of employment where goods shipped or sold in interstate commerce were produced, are included in the coverage, unless the employer maintains the burden of establishing, as to particular employees, that their functions are so definitely segregated that they do not contribute to the production of the goods for interstate commerce as these terms are broadly defined in the act." The courts appear to have accepted this interpretation, and decisions on this point almost without exception have indicated that the word "necessary" means "appropriate" and not "indispensable." In numerous cases the courts have held watchmen, firemen, carpenters, electricians, engineers, mechanics, janitors, porters, handy men, telephone operators, messengers, clerical workers, and other similar employees to be engaged in processes or occupations necessary to the production of goods for commerce. Implicit in these holdings is the recognition that the scope of the activities embraced within Section 3 (j) is not to be measured by a standard of absolute indispensability.

For such a construction of the act there is abundant authority in cases construing and applying similar remedial labor legislation. For example, in *National Labor Relations Board v. Mackay Radio and Telegraph Company*,[17] supervisors and clerks of telegraph agencies have been included within the scope of the Labor Relations Act, as have editorial employees of a news gathering and distributing agency in *Associated Press v. National Labor Relations Board*,[18] and repairmen, clerks, and others in other cases. I believe it may now be said to be the law that employees are engaged in "production"—that is, in any process necessary to production—if their employer at the time of the employment intends or has reason to believe that the employment will contribute even indirectly to the production of goods for commerce.

[17] 1 N.L.R.B. 201 (1936), *aff'd* 87 F. (2d) 611, 92 F. (2d) 761 (C. C. A. 9th, 1937), *rev'd* 304 U. S. 333, 58 S. Ct. 904, 82 L. ed. 1381 (1938).

[18] 1 N.L.R.B. 686 (1936), *aff'd* 85 F. (2d) 56 (C. C. A. 2nd, 1936), *aff'd* 301 U. S. 103, 57 S. Ct. 1650, 81 L. ed. 953 (1937).

So much for coverage. But usually this is only half the story. Employees, even though they are engaged in interstate commerce, may be specifically exempt.

Recently, in an address delivered to the California Bar Association, General Fleming illustrated the exemption problem in the following remarks:

> "By way of illustrating the exemptions perhaps we may think in terms of a large auditorium with a wide-open front door. Over the door is the legend, 'Enter here, all ye who are employed in commerce or in the production of goods for commerce.' Through this door march employees of American industry, many millions of them.
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> "But the auditorium has a back door, several side doors, and several windows through which some of the employees may escape. We have even caught some of them trying to crawl up the chimney. One door is labeled 'Agriculture,' another 'Retailing,' another 'Servicing,' another 'Executive,' and so on.
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> "And once having marshaled our employees into the auditorium we are invariably confronted with the necessity of opening a door here, or a window there, so that some of them can squeeze through and out."

Certain exemptions are blanketing in their effect, and exempt employees from both the minimum wage and maximum hour provisions of the act. Employees engaged in agriculture are thus completely exempt and agriculture is defined to include, among other things, dairying, the cultivation, growing, and harvesting of any agricultural commodity, the raising of livestock and poultry, and any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations.

Also, the act completely exempts employees in a "bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator)." This exemption differs from most of the others in that express authority is fixed in the Administrator to define its scope. Presumably, if the Administrator's position is not arbitrary, his definition will be upheld by the courts. As yet there have been no conclusive court tests of the validity of the definitions issued by the Administrator.

Also, employees engaged in air transport, in sea-going ventures, in the operation of street railways, in the operation of switchboards in small telephone exchanges, and in the production of weekly or semi-weekly newspapers with a circulation of less than 3,000, the larger part of which is within the state of production, are exempt from both the minimum wage and maximum hour provisions of the act.

However, perhaps the most important and certainly the most troublesome exemption from both the minimum wage and maximum hour provisions is that provided for "any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce." This exemption is peculiar in that it relates specifically to the establishment rather than to the individual employee. It has given rise to several difficult questions of interpretation which the Division has tried to resolve in the notorious Interpretative Bulletin No. 6.

It is not entirely clear what Congress meant by the term "service establishment." We have had correspondence with banks, insurance companies, engineering firms, detective agencies, strike-breaking firms, advertising agencies, toll bridge companies, public utility companies, radio broadcasting stations, legal firms, dental supply houses and many others, all claiming to be service establishments and therefore entitled to the exemption. It is noteworthy, however, that Congress coupled this exemption for employees of service establishments with the exemption for the employees of retail establishments, and it would seem that it must have had in mind establishments similar to retail establishments, such as barber shops, neighborhood laundries and beauty parlors, which sell service direct to the private consumer. Certainly Congress could not have intended to include as service establishments telephone companies or small weekly newspapers.

Another difficult question is what constitutes a retail establishment. Some establishments engage in manufacturing or processing as well as selling at retail, others conduct a wholesale business in connection with retail selling. It seems clear that a factory, even though it does some selling at retail, is not a retail establishment within the meaning of the exemption.

The Administrator has attempted to find a workable solution of these difficulties. In so doing it has been determined that if a substantial amount of the sales of the establishment are non-retail sales, it may not be classified as a retail establishment within the meaning of the exemption. A "substantial amount" is deemed to be more than twenty-five per cent of the gross dollar volume of the total sales. Also, the Administrator has developed a doctrine of segregation by which it is held that if an establishment has some employees who are exempt and some who are not exempt, the employer may take steps to see that he is not deprived of the exemption for at least some the employees. For example, if an establishment sells both at retail and wholesale, it is believed that the employer may segregate in a physically separate establishment those of his employees engaged only in local retail selling. However, if there is no segregation and employees work in both departments of the business, the employer will lose the exemption.

In addition to these complete exemptions from both the minimum wage and maximum hour provisions of the act, there are other exemptions which apply only to the maximum hour provisions. Thus, for example, employees of a railroad or motor carrier whose hours of service are regulated by the Interstate Commerce Commission are exempt from the forty-hour week. The reason for this exemption appears to be that Congress wished to avoid giving to government agencies conflicting authority with reference to the regulation of hours of work.

Also, employees engaged in the first processing of milk, the ginning and compressing of cotton, and the processing of sugar beets are completely exempt from the hour provisions of the act.

Limited exemptions from the hour provisions of the act are available for employees engaged in industries determined by the Administrator to be seasonal in character and also to employees engaged in the first processing, canning, or packing of fresh fruits and vegetables, and in the handling and slaughtering of poultry and livestock. Furthermore, learners, apprentices, messengers, and handicapped workers may, under appropriate circumstances, be employed at less than the minimum wage prescribed in Section 6.

You will of course appreciate that each exemption to which I have referred so glibly will in itself contain many problems. The variety of problems arising from the application of these exemptions is amazing, and after two years of continuous thinking about them, I have not yet ceased to find a new problem each day. I often have the feeling that employers and their attorneys feel that the administration of the law involves the making of many fine distinctions, and that apparently we make some of these fine distinctions simply for the fun of it. I can assure you that this is not the case. We feel that it is our duty to enforce the law, and we are trying to do it according to our best understanding of what the law means and what we believe the courts will hold it to mean. In connection with this general problem of exemptions, attention should be called to the language used by the Circuit Court of Appeals for the Eighth Circuit in the case of *Fleming v. Hawkeye Pearl Button Company.*[19] The court said, "The manifest declared purpose of the statute was to eradicate from interstate commerce the evils attendant upon lower wages and long hours of service in industry. Accepting this as the declared purpose of the act, exemptions would tend to defeat its purpose. The statute is remedial, with a humanitarian end in view. It is, therefore, entitled to a liberal construction * * *. In such circumstances the exemptions should be construed strictly."

In conclusion, I call your attention to the fact that it is important to think clearly of the problems of coverage and exemption which I

[19] 113 F. (2d) 52 (C. C. A. 8th. 1940).

have discussed, not only because they represent the law which the Wage and Hour Division of the Department of Labor will undertake to enforce, but also because the law confers upon individual employees the right to bring suit to recover wages legally earned but withheld. There are many interesting legal problems which arise in connection with these employee suits.

It seems to me that we are now concluding the first episode in the administration of the Wage-Hour law. During the past three years we have been feeling our way and we have had few judicial decisions to serve as guideposts. Much of our reasoning in regard to the application of the act has had to stem from our understanding of the purpose of Congress in enacting it. We are now entering a period in which we will reach more mature development. Already the courts are stripping away the areas of doubt and we may expect, I think, a rapid clarification of the troublesome coverage problems.

Thirteenth Judicial Bar Held Annual Meeting

The Thirteenth Judicial Bar Association held its annual meeting at Fort Morgan on December 19 with approximately forty lawyers in attendance. The chief speaker at the meeting was W. W. Platt, who spoke on the work and program of the Colorado Bar Association.

Officers elected for the new year were Webb Martin of Yuma, president, C. C. Rickel of Fort Morgan, vice-president, and Charles Kreager of Sterling, secretary-treasurer.

The annual banquet was held in the Fort Morgan Country Club, with Stoton Stephenson of Fort Morgan, retiring president, presiding. Among those who gave short talks that evening were Judge J. Foster Symes, Judge Norris Bakke, G. Dexter Blount, Wm. Hedges Robinson, Jr., John Coen, and Thomas E. Munson. It is rumored that nearly every member of the bar association responded with an impromptu toast during the course of the evening.

Junior Bar Section to Entertain Newly Admitted Lawyers

Twenty-six persons took the bar examination during the first part of January. Probably some of them will pass, and to these the Junior Bar Section of the Colorado Bar Association will give a dinner following the admission ceremonies. All members of the bar are urged to attend, not only to show their welcome, but also because the Junior Bar Section promises an enjoyable evening. Because the date of the admission ceremonies has not yet been set, the date of the dinner cannot be given, but it is suggested that you watch for future announcement and plan to be present.

Quicquid Judicis Auctoritati Subjicitur, Novitati non Subjicitur, or Is It?

Pueblo lawyers quite frequently come across the following item when examining abstracts of title. We are indebted to Robert S. Gast for copying the document and sending it to us for publication. He has not yet requested a ruling from the committee on uniform title opinions, but indicates that they should be prepared for that eventuality.

Territory of New Mexico }
County of Mora } ss.

Before me, one of the Justices of the Peace of Precinct No. 1 (one) of said County, appear in person Mess. Eugenio Nolan and Jose Maria Barela, to me personally known, and said, The first that sell to the second a piece of land containing one hundred and fifty yards of land, situated in the Canado del Terromote, and also all his rights that he has or may have for Inheritance in the goods and property of his dead Father, Don Gerbacio Nolan, and all those claims that may be, as in Money, Lands, Grants or personal property, and also, all the profits that to my said buyer may result of my said Inheritance of all which I do trespass for the value of one mare and saddle, one gun, one mule, one waggon and a yoke of oxen and Sixty-eight dollars in cash making the sum of three hundred and twenty-eight dollars with which he was pleased and satisfied paid, and if worth more or may worth more he made a present and Donation of the surplus to him and his heirs forever, and free of any disturbance, and if any shall make any trouble, I request to the authorities not to attend him, neigther in just nor out of it, and for constacy, I sign it together with the Seller and two witnesses in the Town of Santa Gertrudis this fourteenth day of September, A. D. 1862.

Witness: Miguel Lucero and Francisco Trugillo

Seller: Eugenio Nolan

I witnesseth it all, Ignacio Alvino Valdez, Justice of the Peace.

Territory of New Mexico }
County of Mora } ss.

I, the undersigned Clerk of the County Court and ex-officio Recorder in and for said County of Mora and Territory of New Mexico, as aforesaid, that the instrument that appear is a correct copy taken from the Register in this office from Book 1 (one) Page 75 of said Book.

In faith of which, I have set my hand and official seal of my office in Mora, this fourth day of May, A. D. 1889.

Agapita Abeyta, Jr.
Clerk of the County Court and ex-office Recorder of Mora County, New Mexico.

(No Seal)