

Proceedings of Meeting No. 15
of the
SPECIAL INDUSTRIAL RECOVERY BOARD

held in
The Conference Room, No. 5842
Department of Commerce
September 25, 1933

PERSONAL AND CONFIDENTIAL

Copy No. 6

For Hon. Frances Perkins

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ATTENDANCE AT MEETING NO. 15

September 25, 1933

Hon. Daniel C. Roper, Secretary of Commerce, Chairman

Hon. Harold M. Stephens, Representing the Attorney General

Hon. Henry A. Wallace, Secretary of Agriculture

Hon. Frances Perkins, Secretary of Labor

Hon. Alvin Brown, Assistant Administrator

Hon. Charles H. March, Chairman Federal Trade Commission

Mr. Walter L. Rice, Assistant to Judge Stephens

Hon. John Dickinson, Executive Secretary

Mr. E. W. Jensen, Assistant Secretary

Mr. B. P. Foote, Reporter

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September 25, 1933

2:33 P. M.

CHAIRMAN ROPER: I went out to the hospital to see General Johnson and was delighted to see him looking so well and in such fine spirits. He told me he was planning to get up today. I told him I thought he ought to stay there until he is entirely himself again. Have you heard from him today, Mr. Brown?

MR. BROWN: I understand he is getting along very well.

CHAIRMAN ROPER: I think we ought to proceed. Are there any corrections in the minutes?

COMMISSIONER MARCH: I move that they be approved.

CHAIRMAN ROPER: Without objection we will check them as approved.

The next item relates to discussion with General Johnson concerning major activities. We will ask Mr. Brown to report on that item.

MR. BROWN: I haven't very much to report, Mr. Secretary. The activity of greatest interest during the last week, of course, was the Retail Code, of which the last draft was made public in order to get the public's reaction to it. I do not think there is any difference of opinion to speak of regarding the proposed hours and wages. The discussion centers around the price provision which was proposed to require dealers not to sell at less than 10 per cent above the wholesale cost which, of

course, does not by any means create a profit. It simply limits the amount of loss they can take on a particular item. Some drug stores and some department stores who use nationally advertised products as leaders at cut prices objected to that provision. They have reached no determination yet as to just what to propose to the President.

SECRETARY PERKINS: Has the committee on price-fixing reported yet?

MR. BROWN: I have not heard that they have. The other activities would be characterized as routine under the codes and hearings going forward. Several have been placed in condition for presentation to the President.

SECRETARY PERKINS: The newspapers are full of stories about the reorganization. Of course I know that newspaper stories are not always correct, but these go into some detail.

MR. BROWN: It is simply this: the General has had sixteen Deputies working on the building of codes. He feels that he needs to have fewer men and the work gathered into larger divisions. He has chosen four of his Deputies to administer four divisions.

SECRETARY PERKINS: What are the four divisions?

MR. BROWN: Of course, it is impossible to divide industry into four sections. It simply does not divide. Generally speaking, one man will have extraction of metals and coal; another will have construction and machinery; another will have what may be called light manufactures; and another trade, service and the textile industry. I think the General proposes, ultimately, to have six or seven, but he has four men in whom he now has enough confidence to delegate a large part of this responsibility.

SECRETARY PERKINS: Who are those four?

MR. BROWN: Muir, Simpson, Whiteside and Williams. I should say, Mr. Chairman, that this is all informal, internal and no public announcement is being made and no irrevocable step is being taken because the General wants to discuss this with the President before the final step is taken. It is in the course of planning.

CHAIRMAN ROPER: That is not the phase of it that you had in mind, is it?

SECRETARY PERKINS: Yes, it was, because I thought we ought to be assured. I wanted to be reassured as to the extent to which it had proceeded and the line along which it was proceeding.

MR. BROWN: He is also proposing to set up three new divisions--one for liaison, with other government departments; another on the matter of compliance, and a third on trade associations. The purpose of the third is to discover means of getting industries into trade associations so that they may formulate and present codes.

SECRETARY PERKINS: How many more codes are there in the hopper, so to speak?

MR. BROWN: That is very difficult to say. We have nearly 3,000 filed but all but about 500 are local codes. Even in respect to the 500 you find that several, perhaps a great many, will be consolidated in one. For example, the Aluminum Code hearing which is scheduled for this week, has three codes, but there can not more than one come up.

SECRETARY PERKINS: Is there any program for stepping up some of the smaller codes and getting them out of the way?

MR. BROWN: I think General Johnson is very much impressed with the importance of having these codes written as soon as possible. I think he feels that four men instead of sixteen will facilitate it.

DR. DICKINSON: Is it the plan to take the sixteen Deputy Administrators and put them into groups of four, each one being under an intermediary between those four and General Johnson?

MR. BROWN: That is the idea. The four men who have been chosen tentatively to head these divisions are Deputies. The Deputies will still exercise the same responsibilities.

CHAIRMAN ROPER: Mr. Brown, I have been asked to substitute for General Johnson in a talk tomorrow before the representatives of the Chamber of Commerce of the United States who will be in session tomorrow and he said to me the other day that he would like very much to impress upon those people the service that they could render in getting industries into trade associations. I would like to present that in the way in which he would like to have it presented. I wonder if you could give me a memorandum on that.

MR. BROWN: I will do my best.

COMMISSIONER MARCH: Mr. Brown, in those 3,000 codes, do most of them come in with the approval of a large part of the industry?

MR. BROWN: The answer to that varies from one extreme to the other. Some come with almost complete approval of the whole industry; some come with fragments of the industry. For example, there was one code that we found had been printed through error which was submitted by three manufacturers of a single construction material located in St. Louis.

COMMISSIONER MARCH: Do they keep a record of those when they come to you--those appearing at their meeting to agree on the code?

MR. BROWN: Yes, sir.

COMMISSIONER MARCH: What percentage of the codes do you require before you consider them?

MR. BROWN: I cannot give an unqualified answer to that. In the case of industries which are well organized and cohesive, I think generally about 75 per cent representation is required. On the other hand, we had one industry the other day which consisted of scattered groups throughout the country in which we felt that 29 per cent representation was as good as could be had. We went to the hearing on that. That was the hotel industry.

CHAIRMAN ROPER: The general hotel business?

MR. BROWN: Yes, sir. Of course all the large hotels are represented in the trade associations, but the small hotels scattered all over the country--obviously their adherence to the association and adherence to the code could not be secured.

COMMISSIONER MARCH: I suppose the percentage in connection with the Retail Code would be very small.

MR. BROWN: Yes, sir, very small.

CHAIRMAN ROPER: That may be worth mentioning in that memorandum.

Judge Stephens, do you have a question?

JUDGE STEPHENS: I have to go in about five minutes to meet with the Attorney General and Secretary Woodin, and would appreciate it if we could next take up the discussion of the compliance and enforcement organizations, in which Secretary Perkins is also interested.

SECRETARY PERKINS: You asked the committee consisting of the Secretary of Labor, General Johnson and Judge Stephens to consider the whole question of methods of securing compliance with the agreements under the codes, and we met at the close of our last meeting here for about an hour--General Johnson, Mr. Stephens and myself--and came to some rough conclusions. The next day General Johnson asked me to confer with General Hammond, and we also went over the same material and came to some clearer ideas along the same lines. I put this material in written form and took it up with General Johnson Saturday afternoon and he has given his approval of this plan of operation. I think, however, that he would be very glad to have the tentative approval of this Board, with the understanding that if any changes are made in this plan it be reported back to the Board. Judge Stephens has studied this and I understand that through him the Attorney General has also been over it. I think it gives us the picture of the organization.

(Secretary Perkins then passed copies of the chart and the typewritten memorandum to different members of the Board. See Appendix A for complete and connected copy of the memorandum and copy of the chart.)

CHAIRMAN ROPER: I would suggest that you read your statement as we inspect the chart.

SECRETARY PERKINS (reading): Under the NRA two main types of adjustments will arise: (1) securing compliance with the fair trade practices in the codes and (2) compliance with the labor sections of the codes. Complaints of labor violations will sometimes be associated with stoppages of work, and the adjustment of violations will constitute one phase of settling labor dis-

putes. Agencies, therefore, must be set up to deal with fair trade practice violations, labor violations, and to deal with labor disputes arising out of such violations in routine cooperation with the National Labor Board.

As the central figure in a scheme for securing general compliance with the permanent codes, a National Compliance Officer shall be appointed by the Administrator of the NRA, with the advice and consent of the President.

That is the most dangerous spot in the whole plan.

He shall be a part of the NRA and shall report to the Administrator. (He should be a person of distinction and prominence.)

CHAIRMAN ROPER: Is that the first contact we make with the Code Authority?

SECRETARY PERKINS: He has established the fact and has given the man a public hearing before a local board, and they have either recommended or failed to recommend prosecution, as the case may be. You have that all taking place locally out in the field, so to speak, and then before there is any punitive measure taken or any special treatment given, in order to make sure that it is not a matter which would put this man in an unfair competitive advantage over the general trade you have given them a chance to be heard in a consultative relationship. Here, for instance, is a macaroni manufacturer in Oshkosh. He seems to the Board to be entitled to a variation, but in order to make sure that such variation would not upset the general scheme of things, the trade association is consulted before the variation is granted in order that they may advise what the competitive situation is, and whether this variation establishes a precedent.

CHAIRMAN ROPER: The only thing we ought to keep in mind, it seems to me, is that no law under our form of government can be satisfactorily administered by just officers. We must get back to those who are really to make or create the public sentiment and who rightfully have responsibility in the matter. This Code Authority should be, it seems to me, willing to assume responsibilities with regard to this whole proposition and the more willing they are to do that the safer will be the Administrator.

SECRETARY PERKINS: I would agree with you there, except for the fact that it becomes so terribly centralized under that situation. You are getting the industrialists bound in the code and it is proper that they should be. In regard to trade practices we have taken an entirely different line of adventure. These are just labor; they are not labor disputes. If you look at this chart you will see that the procedure with regard to trade practice goes directly to the Code Authority. In other words, the Code Authority is technically equipped to deal with what are, after all, purely practices. We are taking a different course with competitive practices that involve human beings. In many cases, these complaints will prove not to be founded and your Code Authorities would be swamped with the determination of facts and you would never get a clearing house.

JUDGE STEPHENS: May I interrupt, Mr. Secretary? I have to meet Secretary Woodin and the Attorney General at 3 o'clock.

I have gone over the chart and have talked over the matter with General Cummings. We are in general accord with Madam Secretary's recommendations, except that we think there should be inserted between the final action of the Administrator and the Attorney General the facilities of the Federal Trade Commission.

COMMISSIONER MARCH: That has been done on this copy of the chart.

JUDGE STEPHENS: I think that is the only comment we had to make, except that I wanted to refresh my recollection as to whom that will consist of in general.

SECRETARY PERKINS: It consists of representatives of industry with whom the Deputy Administrator of the NRA sits.

JUDGE STEPHENS: It seems to me it is important to have some government official.

DR. DICKINSON: It seems to me I have seen a chart prepared indicating that there has not been any uniformity in the preparation of the codes. I think in some codes the government is given direct representation in addition to the Deputy Administrator and in some it is not. That is one matter that might very well be given some thought in the NRA as to whether or not the Government should be given some representation in the Code Authorities.

MR. BROWN: The General has said he thinks one of the first tasks should be to work out a uniform arrangement of Code Authority. I think it is true in all cases that they provide for some government official. I think that is vital.

SECRETARY PERKINS: I assumed there would be some government official in every Code Authority.

SECRETARY WALLACE: Do you have an estimate as to about how many salaried people would be necessary to carry this out?

SECRETARY PERKINS: Yes, sir, relatively few. You would have to have a salaried or sworn officer in each of the districts. It might be occasionally a dollar-a-year man. This local Compliance Officer would be a very active and thoroughly equipped person.

JUDGE STEPHENS: Subject to the comment I made, we are in general agreement with this plan. I leave my assistant, Mr. Rice, to act in my place.

SECRETARY PERKINS: We planned on a very considerable number of investigators drawn from the various state and Federal inspection services. Those will be paid for. There will be no additional salary to them. There would be a number of panels of other investigators to be established and those, for the most part, would have to be salaried persons.

CHAIRMAN ROPER: The local Compliance Officer would have to be paid?

SECRETARY PERKINS: Yes, sir.

CHAIRMAN ROPER: How many of them would there be?

SECRETARY PERKINS: One for every state or every judicial district.

DR. DICKINSON: In a large state like New York there would need to be more than one.

SECRETARY PERKINS: You would have to split it up. In a large state you would also get very much better state organization with which to work. In the state of New York you could call

upon the trained personnel of the State Health Department, the State Labor Department and possibly some of the building inspectors who are trained and competent people, so that you would have a fairly good system whereby the state could cooperate with the Federal Government and thus you would miss this very unfortunate thing of sending Federal people to do something that the state is already doing partially and thereby getting the ill-will of the state.

DR. DICKINSON: Madam Secretary, you assume that the state officers would be willing to do this voluntarily. Of course there might be some unwillingness in some states.

SECRETARY PERKINS: Yes, I used the words "where the service was not adequate" by which I meant inadequate in number, willingness, skill or competence. You will find in some states they have no intention of helping. You would find them inadequate and appoint others.

When the National Compliance Officer receives a report after a hearing has been held before the local Board of Compliance and before he takes any action, he will consult with the Code Authority of the appropriate industry in which the violation has occurred. It may be possible to adjust the case through the trade association and the trade association should be given the opportunity to approve or disapprove a recommended exemption. I think that is quite important, but the trade association should not, at this point, be given the opportunity to veto it if it seems reasonable to the rest of the community.

CHAIRMAN ROPER: I was wondering whether an approach at this time to the Code Authority might not avoid a good many investigations.

SECRETARY PERKINS: That may develop over a long period of time, but I think at this stage it would be highly unfortunate. The Code Authorities are really an unknown quantity. We do not know what real authority they will develop. We do not know what integrity they will have in themselves, what their ideals and purposes are. We do not know to what extent they are truly representative of all the people in the United States of America, without regard to whether they manufacture macaroni or work in a bank or in a mine. In other words, they have nothing in their constituent arrangements that are any guarantee to the people that they are serving public policy, and it would seem to me that at this point the reference should be made of violations and the system of finding violations should be made to some central body that has no interest in the particular industry. We must do more than receive complaints. Independent investigations will be initiated to find out to the extent to which there is non-compliance. The Code Authority will be inclined to wink at a good many practices which, in the end, would run to be very unfair against some of their own members. They are not trained in the doing of justice. They have been carrying on very bad practices and winking at them. If they had had sufficient initiation they could have stopped many by their own motion.

COMMISSIONER MARCH: We have found that where they have adopted codes they have lived up to those codes very well, and those committees have done very well in making investigations.

DR. DICKINSON: You have reference to trade practices?

COMMISSIONER MARCH: Yes.

SECRETARY PERKINS: This deals with two things only--hours and wages, and it is the one point at which they are all tempted to violate the codes.

COMMISSIONER MARCH: Yes, I think that will be entirely different.

CHAIRMAN ROPER: What I have in mind is to keep as much responsibility as we can on these Code Authorities.

SECRETARY PERKINS: But you can't keep responsibility on irresponsible bodies, it seems to me. That is a most dangerous thing to do. Although we are calling this a form of permanent organization, it is not really. I mean this is still in the experimental stage, isn't it?

CHAIRMAN ROPER: Yes.

SECRETARY PERKINS: After we have operated on some such system for a year or so, we will have a centralized record of every violation and what was done with it, and what precedents were established, because what is done for the macaroni manufacturer in Oshkosh must be done for the macaroni manufacturer in Salem, and also for the shoe manufacturer in Lynn. We must develop a system of administrative procedure which will do justice to all concerned.

DR. DICKINSON: Do you see any advantage or any objection to having the Code Authority represented in some way at these hearings and proceedings which go on before the case comes to the Code Authority, with the idea of educating the Code Authorities?

SECRETARY PERKINS: There would be no objection.

DR. DICKINSON: I was wondering whether you could not get the Code Authority into the picture a little bit earlier by bringing it in in some way at this hearing, so as to perhaps put it on notice.

SECRETARY PERKINS: The trouble with that is that the violation is in Oshkosh and the hearing is held not in Oshkosh but in Jackson, Michigan, we will say, and the Code Authority's headquarters are in Boston, Massachusetts, and the alleged violator is a little inconspicuous macaroni manufacturer. It means a hundred per cent to him, but nothing in the world to the Code Authority except as a matter of principle. Those little fellows like the macaroni manufacturer in Oshkosh get short shrift from the big men who, because of their advantages, are chosen to serve on the large policy-forming bodies. He is incoherent, not very articulate and not well educated. My thought would be that you would slow up the whole procedure if you had to have the Code Authority in during the early stages of the procedure. The Government must see that he gets justice even if he is unimportant.

DR. DICKINSON: If the Code Authority chose to interest itself, there would be nothing to prevent it from doing so at any point.

SECRETARY PERKINS: There would have to be a central file of public records, in which would be kept all the applications for variations and all the recommendations for prosecutions.

CHAIRMAN ROPER: In other words, the purpose that I have had in mind, and maybe you have, might be met by giving the Code Authority notice.

DR. DICKINSON: Yes, sir.

CHAIRMAN ROPER: I want to place upon this fellow an important responsibility and I don't want him to think he is going to get out of proper cooperation.

SECRETARY PERKINS: There is one bad thing about notice. Sometimes it is just sufficient to cover up the violation before you get the real record of it and that is not healthy, either. This man, before he can appear before his local Board, has to be notified that he has been found to be in violation in this particular. A copy of that notice might well go to your proper Code Authority.

DR. DICKINSON: That is the notice of the hearing.

SECRETARY PERKINS: It is like a charge, only we will not call it a charge.

COMMISSIONER MARCH: He might appear there. Would that be your idea?

SECRETARY PERKINS: Yes, I had assumed that the individual would get his own trade association to appear for him.

DR. DICKINSON: But he might not want them to appear.

SECRETARY PERKINS: That notice to the Code Authority is a very good idea.

CHAIRMAN ROPER: That would answer my purpose.

DR. DICKINSON: Yes, giving the Code Authority notice, and giving them the right to appear through any agency they wished to.

SECRETARY PERKINS: That is a very good idea. Then the appeal goes back to the Compliance Officer and he must consult the Code Authority before he takes action.

Complaints concerning violations of fair trade practices will take a somewhat different course. These too will pass through the clearing house, the office of the National Compliance Officer. Because of their more complicated nature, such complaints can not be handled by the same type of investigator as the labor cases. They will be referred straight to the Code Authority of the industry in question for investigation and adjustment by the trade association, if possible.

That will insure, if they go through the NRA Administrator, that all the industries are being administered fairly; that there is no Code Authority in one industry which is pressing down unduly upon any particular group, because they will sift through a mind that is looking at the whole thing.

When cases of non-compliance are accompanied by labor disputes or the threat of a labor stoppage, the dispute shall be referred to the National Labor Board and its agents--to be created by it--for settlement. A cooperative relationship between the Compliance Officers and the National Labor Board shall be set up and the two authorities shall devise mutually acceptable rules to define their procedure.

I have consulted with the National Labor Board, with Senator Wagner and others and it is entirely agreeable to them. General Johnson asked me particularly to do that. I saw Senator Wagner last evening and that relationship is satisfactory to them and they believe it to be an orderly arrangement.

DR. DICKINSON: This plan contemplates the action of local District Attorneys of the United States, and I was wondering if Mr. Rice could tell us whether there is any way in which the Attorney General's office could control the action of these local District Attorneys so that you would not have isolated and sporadic action out of line with the general policy.

MR. RICE: Dr. Dickinson, I do not believe there is any question as to the right of the Attorney General to control the action of the District Attorneys. At present that is done in the enforcement of antitrust cases. The District Attorneys are under orders from the Attorney General to refer all anti-trust matters in the first instance to the Attorney General.

DR. DICKINSON: That would take care of it.

MR. RICE: That has been a standing order for years.

CHAIRMAN ROPER: That is the departmental procedure.

SECRETARY PERKINS: For the purpose of keeping the minutes straight, Mr. Stenographer, may I suggest that at the bottom of page 2 after the words "local Compliance Boards" you add the words "with notice to the employer and the Code Authority for this industry"; and also be sure to put in at the top of page 4 after the words "appropriate legal action through the" the words "Federal Trade Commission and the."

DR. DICKINSON: There might be some addition at the bottom of page 4 preserving to the national Compliance Officer the right to proceed in these cases of violation of trade practice pro-

visions where the Code Authority neglected to act, just as a matter of completing the thing.

SECRETARY PERKINS: Mr. Dickinson, may I say the only thing I felt I had authority to do was to devise the plan for the labor violation. I did talk to General Johnson about this and General Hammond, and General Johnson said "Why not let the Code Authorities devise some of their own procedure with the Compliance Officer," and I think that is a very wise provision.

DR. DICKINSON: And my thought was that in the formulation of the thing there was a reserve power in the NRA if the Code Authorities were sluggish.

SECRETARY PERKINS: I think that is a very good idea. I didn't, however, talk with either General Johnson or General Hammond about that. It might be a wholesome thing for them to agree with the Compliance Officer as a part of his work.

CHAIRMAN ROPER: Subject to the corrections which have been made, shall we regard this as tentatively accepted and ask Madam Secretary Perkins and Mr. Brown to take this up with the General?

SECRETARY PERKINS: I think it might be well if you were willing to say you give it your approval in its present form with the understanding that if any changes are made it would be referred back.

DR. DICKINSON: I so move.

CHAIRMAN ROPER: It has been moved that this chart and memorandum is approved by the Board subject to any corrections which Madam Secretary Perkins and General Johnson and Mr. Stephens may agree upon. Are there any further remarks? If not, all

in favor let it be known by saying "Aye"; opposed by the contrary sign; it is so approved.

What else have we before us? We have already discussed the Retail Code. How about the Building Code?

MR. BROWN: There is nothing new on that. It is still under consideration.

SECRETARY PERKINS: Is the Shipping Code anything like ready? I have been having a delegation of longshoremen and they tell me, and I have had this verified, that there are in normal times something over half a million people, not alone in the longshore trade, but in allied industries. There is desperate need of a code, and I wonder if there is any progress on that.

MR. BROWN: There is progress, I believe, but I am not closely in touch with it.

SECRETARY PERKINS: They seem not to be satisfied with what is being done and as near as I could make out from their conversation they felt their importance was not being recognized. They read in the newspapers that there was only one important code left and that was the Retail Code, and they were right here to tell me that the Shipping Code was extremely important. I said I did not think there had been any neglect but I would raise the question.

CHAIRMAN ROPER: The Building Code, as well as the Retail Code, will be presented to us.

MR. BROWN: The Deputy Administrator has been asked to do that.

SECRETARY ROPER: What about No. 6?

MR. RICE: Judge Stephens directed me to say there was no additional information on that, but since that the Division of Investigation telephoned to this office to the effect that they had investigated the matter in Los Angeles and had ascertained there that the sales methods were alleged to be in accordance with the NRA, and that the stickers were sold by authorized NRA printers. They find no violation from their present investigation.

CHAIRMAN ROPER: Very well, we will pass that.

I will bring up again, Mr. Secretary of Agriculture, the Ford Car proposition.

SECRETARY WALLACE: I thought that was settled.

SECRETARY ROPER: I think it was, but I thought you would like to tell the Board it was settled. We had that on our agenda for some time, but I take it that we are not going to buy Ford cars and that we are going, if necessary, to issue a call for new bids. So much for that.

I believe you will be interested--in fact I am sure you will--in a development with regard to the NRA insignia. Did you know it has been patented?

COMMISSIONER MARCH: I saw where there was something said about it being patented.

CHAIRMAN ROPER: I understand the patent was secured in the shortest time on record. The application, with the assignment of course to the Government, was made on September 21, as I recall it and the patent is already issued, so that within

three or four days it was put through the Patent Office and completed--a very unusual speed, of course, and the Commissioner of Patents thinks that it is one of the most unique patents on record. We will hear more on that.

SECRETARY WALLACE: What are the patentable features?

DR. DICKINSON: It is what is known as a design patent, not a mechanical patent. Apparently it is possible to patent a design or arrangement.

SECRETARY WALLACE: I thought it was a trademark under the copyright law.

MR. BROWN: The paper said this had been overlooked. This must be a rather obscure process. One of the first things I did was to see whether it could be registered as a trademark or design. My legal advice was faulty and they told me it could not be done.

SECRETARY PERKINS: I understand that a young architect discovered in the Public Works law the very thing we have all been looking for.

DR. DICKINSON: I notice the last item refers to an Executive Order. I do not understand what that has reference to.

CHAIRMAN ROPER: I believe that the Director of the Budget has some Executive Orders that the General is interested in. I am not acquainted with the purport of those Executive Orders, so I think that inasmuch as General Johnson is away we will carry that over.

SECRETARY PERKINS: I think before we adjourn that I should like to make a motion that this Board which has worked so closely with General Johnson through all these weeks express its regret

at his temporary illness and our appreciation for the effective things he has done to date and our anticipation of his prompt return to help us.

DR. DICKINSON: I second the motion.

CHAIRMAN ROPER: I think then we will, with your permission, authorize Mr. Brown to convey to General Johnson the sincere regret of this Board, our deep appreciation for the services he has rendered, our hope that he will remain and care for his physical strength until he is fully himself again and that we are unanimous in our support for him in the future. All in favor of getting Mr. Brown to convey this very deep sentiment to General Johnson, let it be known by saying "Aye." It is unanimous, Mr. Brown.

MR. BROWN: In connection with the 7th item "Approval of additional NRA appointments," you will recall that that was mentioned some meetings back and I expressed the hope at that time that the NRA had reached its peak. That was not the case. We have been recommending more appointments than there have been severances from employment. Most of those appointments are in the Industry Division, namely those which are making the codes. Since I have looked into their work I have come to the conclusion--I cannot speak for the General--that there is some expansion of personnel required in the interest of getting these codes written. I wanted to correct any impression I may have left before that no further personnel would be necessary. Whether General Johnson would agree with me in that statement, I cannot say, but that is the situation as it looks to me.

DR. DICKINSON: Is it getting possible to fold up the PRA?

MR. BROWN: It is folding up to some extent, but for a period of about 45 days we shall not be able to see any significant reduction.

DR. DICKINSON: They are shifting their efforts over to the complaint system.

CHAIRMAN ROPER: There are six appointments recommended by General Johnson here in Personnel Journal No. 42.

COMMISSIONER MARCH: What are the salaries?

CHAIRMAN ROPER: Assistant Deputy Administrator, \$4,050; Legal Assistant Secretary, \$4,000; Economist Price Analyst, \$3,800; secretary-stenographer, \$1,620; stenographer, \$1,296; another stenographer, \$1,296.

DR. DICKINSON: Stenographers to the foregoing appointees.

SECRETARY PERKINS: Who are the first two?

CHAIRMAN ROPER: Edward A. Selfridge, Benedict Wolfe and Corwin D. Edwards.

COMMISSIONER MARCH: And what is Edwards' salary?

CHAIRMAN ROPER: \$3,800.

SECRETARY PERKINS: Might we know who Selfridge is?

MR. BROWN: Selfridge is an expert on lumber.

SECRETARY PERKINS: How does he come to be an expert on lumber?---What is his background?

MR. BROWN: I cannot tell you that.

SECRETARY PERKINS: And who is Mr. Benedict Wolf? I think the permanent personnel appointments are very important.

MR. BROWN: He is with Senator Wagner.

SECRETARY PERKINS: Assistant Legal Secretary for the Labor Board.

MR. BROWN: Corwin D. Edwards is the Economist the Consumers Advisory Board has taken on to compile information on price conditions. Edwards is only on until January.

CHAIRMAN ROPER: Shall I read the other names and ask your approval of them?

SECRETARY PERKINS: I do not like to insist, but I think we are getting to the point at the present time where the organization of the NRA is no longer temporary or emergent or critical, and it becomes extremely important that the people chosen be people about whom we can all know something. They are being trusted with very extraordinary new powers that have never been exercised before in the history of the country.

DR. DICKINSON: I might say that a considerable number of these appear to be stenographers, messengers, newspaper clippers, and so on. There are a few, however, that might be worth mentioning. Here is a gentleman for \$3,600, who is assistant to Dr. Dameron in Mr. Whiteside's division; Mr. Frank C. Felhaber is the name.

MR. BROWN: Yes, he is on the Retail Code. That is a tremendous proposition. He has hundreds of visitors and was appointed to help in that work.

DR. DICKINSON: Would that be a temporary appointment?

MR. BROWN: It depends on what that Code takes; it might be permanent.

DR. DICKINSON: Then here is an assistant to Mr. Whiteside--Mr. Cary N. Weisiger, Jr., \$4,000--the other carried \$3,600. Is that a similar position?

MR. BROWN: I do not know what he was to be assigned to.

SECRETARY PERKINS: What is Mr. Whiteside handling?

MR. BROWN: Trading, services and textiles.

SECRETARY PERKINS: What are trade, services and textiles?

MR. BROWN: Banks, insurance companies, etc., farmers, retailers, wholesalers of every variety and description.

SECRETARY WALLACE: I move these additional appointments be approved.

(See Appendix B.)

COMMISSIONER MARCH: I second the motion.

CHAIRMAN ROPER: All in favor say "Aye"; it is so ordered.

One thing I would like to ask, Mr. Brown. You remember we handled the temporary employees, as I recall, in this fashion sometime ago: that when their terms expired they would be held on as long as their services were absolutely required, or some such provision as that.

MR. BROWN: Until the study was completed.

CHAIRMAN ROPER: I presume you, of course, look after these things and see that the study is not elongated. Sometimes we are up against a thing like that.

MR. BROWN: I have been on both sides of the fence on that, and I have pressed for early completion from both standpoints. They feel that they want to do a thorough job. Mr. Peck tells me he thinks he can give a final report before the first of October.

CHAIRMAN ROPER: I thought I had called your attention to a serious situation which we had in the tobacco agreement which does not cause us immediate embarrassment, but I think will have

a bearing on both our work in the Agricultural Adjustment Administration and also in the NRA. As you know, the tobacco people have made unusual profits, especially during the past three years--very unusual profits before that and greater than ever during the past three years.

CHAIRMAN MARCH: Our report shows that, doesn't it?

SECRETARY WALLACE: Yes, it happens that by entering into an agreement with them at this particular time we can get what is known as fair exchange value under the Agricultural Adjustment Administration without causing a higher percentage of the consumer's dollar to go to the farmer than was the case during the basic period. But in the process of getting that agreement we also enable them to mark the wholesale price up from \$5.50 a thousand to \$6.00 a thousand, which represents an increase in income to them of about \$40,000,000, and they are increasing the payment to the farmers not more than \$15,000,000.

COMMISSIONER MARCH: That is about what I expected.

SECRETARY WALLACE: It is really not quite that raw, but nevertheless it is obvious if we are going to get justice for the South Carolina folks right away we will have to sign this agreement, and I think it is a part of wisdom probably to do it, but to call attention to this situation which is a temporary affair that only lasts until next April. We are running into that thing from time to time. This is the most exaggerated case of it. It suggests to me that we cannot indefinitely dodge this matter of what our codes

and agreements do to the profits of the different concerns. We can go ahead in the rush of getting people to work and getting prices for farmers and perhaps wink at these things for the time being, but once that rush is past I am inclined to think both the Agricultural Adjustment Administration and the NRA will have to insist on a complete look at the books because of the fact that capitalism, as I see it, inevitably takes out too much in the way of profits and does not pay out enough for labor and agricultural and other raw materials on the one hand, and on the other hand, absorbs too much of the profits in undue wages of management; and in order to keep capitalism coming as far as possible we should insist on a look at the books and perhaps consider the formulation of a policy which would result in the paying out to labor and material people all but a certain sum which would represent dividends, wages of management, and as a part of that also there should be some kind of provision for the improvement in efficiency, possibly allowing them to have a larger sum for dividends and wages of management in case they are able to show such efficiency that they can reduce the cost to consumers--have some kind of incentive of that sort.

DR. DICKINSON: Would it be possible to allow them a larger sum if they are going to put ^{it} into the replacement of obsolete equipment?

CHAIRMAN ROPER: Yes, for useful purposes.

SECRETARY WALLACE: I understand they have some such theory in connection with public utilities in England whereby lower prices to consumers enable them to step up their returns.

COMMISSIONER MARCH: Do they want to get \$40,000,000 and then only divide with the farmer and laborer \$15,000,000? Do they want you to sign that kind of agreement?

SECRETARY WALLACE: It is not quite that raw.

COMMISSIONER MARCH: But if it is half that raw I think there would be an awful reaction against this whole NRA movement.

SECRETARY WALLACE: This happens to be a short-time agreement. It enables them to return their profits to where they were last year.

COMMISSIONER MARCH: They had abnormal profits before.

CHAIRMAN ROPER: I take it we will need to keep this very carefully in mind.

SECRETARY WALLACE: I think it is a thing that we are going to run into more and more.

CHAIRMAN ROPER: Yes, as we approach this, the picture will grow.

DR. DICKINSON: The NRA contains a special clause which the Administrator could take advantage of at any time to insert in the codes a requirement of presentation of accounts or inspection of books, or anything of that kind if he chose to write such a provision into the codes.

COMMISSIONER MARCH: The Federal Trade law gives us the right to inspect their books at any time, so we can use that branch of the Government.

The meeting adjourned at 3:45 P. M.

APPENDIX A

Under the N. R. A. two main types of adjustment will arise:
(1) securing compliance with the Fair Trade practices in the Codes and
(2) compliance with the labor sections of the codes. Complaints of labor violations will sometimes be associated with stoppages of work, and the adjustment of violations will constitute one phase of settling labor disputes. Agencies, therefore, must be set up to deal with Fair Trade practice violations, labor violations, and to deal with labor disputes arising out of such violations in routine cooperation with the National Labor Board.

As the central figure in a scheme for securing general compliance with the permanent codes, a National Compliance Officer shall be appointed by the Administrator of the N. R. A., with the advice and consent of the President. He shall be a part of the N. R. A. and shall report to the Administrator. (He should be a person of distinction and prominence.) He shall have as his consultants an Advisory Board representing the Attorney General of the United States, the Federal Trade Commission, the U. S. Department of Labor, the U. S. Department of Commerce, and any other useful Government Agencies designated by the Administrator.

The National Compliance Officer will receive all complaints concerning violations of any provisions of the codes, from whatever sources these come. All complaints received by the State and Federal Governments, by Code Authorities, or by Labor, Trade, or other organizations, shall be forwarded to the National Officer, and he shall act as a clearing house for them.

For the purpose of securing compliance with the labor sections of the Codes, the National Compliance Officer shall appoint in each State, or alternatively in each judicial district, a local Compliance Officer. The local Officer shall have at his disposal a staff of professionally trained investigators who are to be selected from the available personnel of State, Municipal, or Federal Agencies doing inspection work. When such available personnel is not adequate, investigators shall be appointed from a panel of qualified persons certified by the National Compliance Officer. All complaints concerning violations of the labor sections of the Codes, except where these involve strikes or stoppage of work, shall be forwarded to the local Compliance Officer who will cause an investigation to be made to establish the true facts in each case. The inspector shall visit the establishment in question in order to ascertain the facts in the case, and shall report back to the local Compliance Officer. He shall also explain the provisions of Codes and demonstrate and advise upon method of arranging personnel and procedure so as to comply in the particular case. (Experience with the enforcement of State Labor Laws indicates that in many cases, perhaps 75% of them, the investigator will be able to settle the matter.) In cases in which the employer

persists in non-compliance or where the inspector and local Compliance Officer believes that an exemption or variation should be permitted, the local Compliance Officer, acting upon the inspector's report, shall bring the case before local Compliance Boards, with notice to the employer and the code authority for this industry.

Local Compliance Boards shall be appointed by the National Compliance Officer, one for each State or judicial division, to act as impartial quasi-judicial bodies to hear cases of Code Violations and applications for exemptions or variations. Each board shall consist of three persons, one to represent industrial employers, one to represent labor, and one to represent the public.

The local Compliance Board shall hold a public hearing at which the local Compliance Officer shall present the facts as to the violation of the Code and the respondent shall be given an opportunity to appear and defend himself, or to plead for an exemption. The Board shall report their findings as to the facts, together with a recommendation for action to the local Compliance Officer, who shall forward it to the National Officer with his own report, embodying (1) the established facts, and (2) his and the Board's recommendations. These will envisage either prosecution by the Government for a violation of the Code, or a recommendation for exemption, supported by the circumstances and facts of the particular case, and reasons for such action.

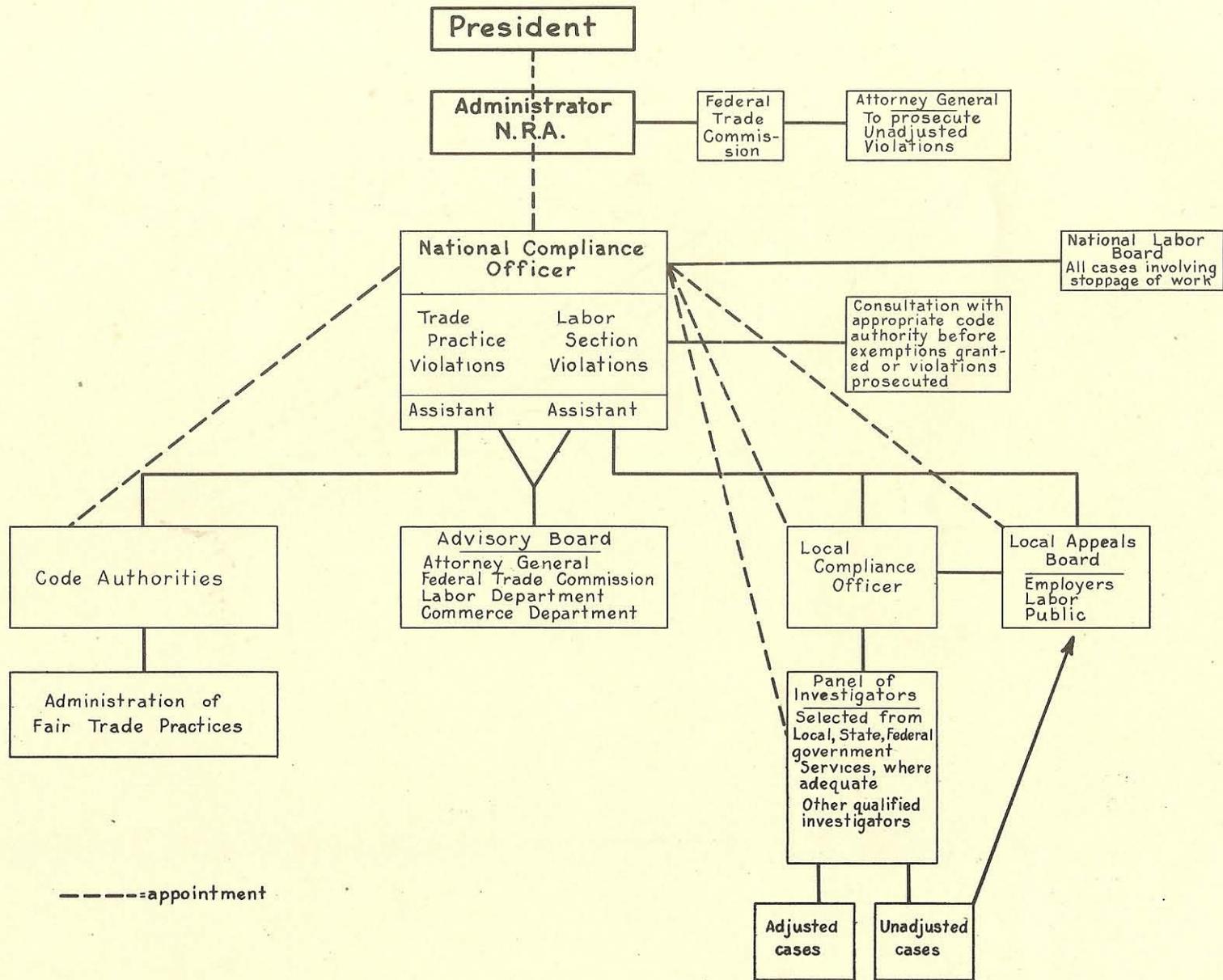
When the National Compliance Officer receives a report of this nature he will consult with the Code Authority of the industry in which the violation has occurred. It may be possible to adjust the case through the trade associations, and trade associations should be given the opportunity to approve or disapprove a recommended exemption. After consultation with his branch of the N. R. A. the final decision as to exemption or prosecution shall rest with the National Compliance Officer and ultimately with the N. R. A. Exemptions once granted establish precedents for other employers and other localities. The N. R. A. Administrator will take appropriate legal action through the Federal Trade Commission and the Attorney General, when a violation cannot be adjusted.

In the course of this adjustment process it is to be expected that relatively few cases will sift through into the final state -- namely, prosecution by the Attorney General. Ample opportunity will have been given before this stage is reached for adjustment either by securing compliance through agreement, or by granting exemptions to suit peculiar and extraordinary circumstances.

It is not contemplated that exemptions be permitted except when unusual circumstances make it imperative; for example, a local shortage of a particular type of skilled labor may necessitate lengthening the hours of a few workers in order not to keep large numbers of other divisions of workers or machines idle and waiting.

Complaints concerning violations of Fair Trade practices will take a somewhat different course. These too will pass through the Clearing House, the office of the National Compliance Officer. Because of their more complicated nature, such complaints cannot be handled by the same type of investigator as the labor cases. They will be referred straight to the Code Authorities of the industries in question for investigation and adjustment by the Trade Associations, if possible. Cases which cannot be thus disposed of will be reported by the Code Authorities back to the National Compliance Officer, together with a recommendation for either prosecution or granting of an exemption.

When cases of non-compliance are accompanied by a labor dispute, or the threat of a labor stoppage, the dispute shall be referred to the National Labor Board and its agents -- to be created by it -- for settlement. A cooperative relationship between the Compliance Officers and the National Labor Board shall be set up and the two authorities shall devise mutually acceptable rules to define their procedure.



APPENDIX B

NATIONAL RECOVERY ADMINISTRATION PERSONNEL JOURNAL

Sheets 46-53
covering 47 names

<u>Name</u>	<u>Position</u>	<u>Salary</u>	<u>Bureau, Division, or Office</u>	<u>Effective</u>
Felhaber, Frank C.	Asst. to Dr. Dameron	3600	A. D. Whiteside	9/11/33
Greer, Guy	Examiner	3200	Code Division	8/28/33
Uphan, Frank, Jr.	Spec. Assistant	3000	K. M. Simpson	9/11/33
Cary, Matthew J.	Jr. Examiner	2300	Code Division	9/11/33
Sand, Claire M.	Steno-Secy	1800	Blue Eagle Div.	8/28/33
Robinson, Andrew A.	Messenger	972	Lindsay Rogers	9/5/33
Hyde, Alice	Steno.	1296	Corres. Div.	9/13/33
Keane, Helen Frances	Steno.	1296	Corres. Div.	9/14/33
Boynton, Lillie F.	Newspaper Clipper	1260	Press Intel.Div.	9/11/33
Collins, Edward	Newspaper Clipper	1260	Press Intel.	9/11/33
Goodman, Shirley	Typist	1140	Steno. Pool	9/14/33
Kengla, Mary	Typist	1140	Steno. Pool	9/13/33
Ridings, Lawrence S.	Office Asst.	2050	Print. & Publica.	9/18/33
Aiken, Paul	Research Asst.	1800	Res. & planning	9/13/33
Hall, Lillian	Secy.	1800	Tom Glasgow	9/12/33
Robertson, F. W.	Dictator	1800	Blue Eagle Div.	9/16/33
Stonebreaker, B. H.	Prin.Print.& Pub. Clk.	1800	Print. & Publica.	9/12/33
Grant, Gordon	Superv. stock room	1452	Print. & Publica.	9/12/33
Laskowitz, Josephine	Steno.	1296	Corres. Div.	9/14/33
Lavelle, Helen	Steno.	1296	Steno. Pool	9/13/33
Lisensky, Celia	Steno.	1296	Malcolm Muir	9/12/33
Justin, John	Mess-Office Boy	972	H. O. King	9/12/33
Stanfield, James P.	Messenger	972	A. S. Chadwick	9/12/33
Weisiger, Cary N., Jr.	Asst. to Mr. Whiteside	4000	A. D. Whiteside	9/18/33
Heap, James E. Jr.	Asst. to Mr. Ludlum	2600	A. D. Whiteside	9/18/33
Reeves, Mildred E.	Special Asst.	2600	H. O. King	9/1/33
Byrd, Mabel	Field Investigator	2900	Res. & planning	8/26/33
Gill, W. A.	Jr. Statistician	2400	Res. & planning	8/23/33
Hebling, Irving J.	Messenger	972	Labor Board	9/8/33
Holt, Phillip	Jr. Assistant	1800	Malcolm Muir	9/12/33
Williams, Robert T.	Research Asst.	1800	Res. & planning	9/8/33
Tippet, Pauline O.	Telephone Opr.	1260	E. W. Libbey	9/18/33
Gentry, Byron H.	Mimeo. Operator	1140	A. S. Chadwick	8/28/33
Condol, Leon W.	Jr. Messenger	972	R. W. Lea	9/6/33
Tailer, L. Suffern	Special Assistant	3200	H. O. King	9/1/33
Goodacre, Samuel	Tech. Asst.	3000	William H. Davis	8/28/33

<u>Name</u>	<u>Position</u>	<u>Salary</u>	<u>Bureau, Division, or Office</u>	<u>Effective</u>
Tracy, John J.	Clerical Asst.	1800	A. D. Whiteside	9/14/33
Drennon, Louise	Steno.	1452	Malcolm Muir	9/13/33
Springer, Norman W.	Photostat Opr.	1440	Drafting Division	9/20/33
Burns, Bland C.	Multi.Opr.-Floorman	1296	A. S. Chadwick	9/16/33
Stanfield, Isaac P.	Messenger	972	B. J. Carroll, Jr.	9/16/33
Selfridge, Edward A.	Asst. Dept. Adm.	4050	Tom Glasgow	9/13/33
Wolf, Benedict	Legal Asst-Sec'y.	4000	Robert F. Wagner	9/6/33
Edwards, Corwin D.	Econ.-Price Analyst	3800	D. M. Keezer	9/14/33
Kirkpatrick, Nell	Sec'y-Steno.	1620	H. O. King	9/11/33
Gross, Henrietta R.	Steno.	1296	Steno. Pool	9/14/33
Martin, Louise Broy	Steno.	1296	Steno. Pool	9/20/33