

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

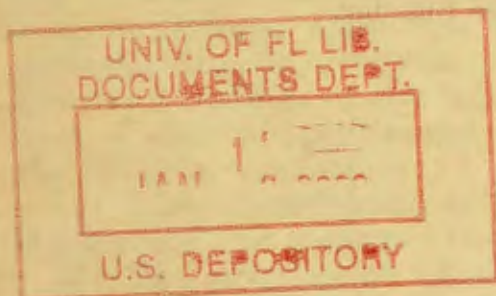
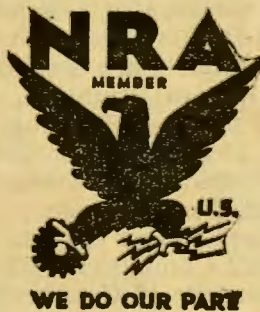
FOR THE

**DAILY NEWSPAPER
PUBLISHING BUSINESS**

AS APPROVED ON FEBRUARY 17, 1934

BY

PRESIDENT ROOSEVELT



**UNITED STATES
GOVERNMENT PRINTING OFFICE
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Approved Code No. 288

CODE OF FAIR COMPETITION

FOR THE

DAILY NEWSPAPER PUBLISHING BUSINESS

As Approved on February 17, 1934

BY

PRESIDENT ROOSEVELT

EXECUTIVE ORDER

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Daily Newspaper Publishing Business, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby adopt and approve the report, recommendations and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved, subject to the following conditions:

(1) The determination of hours and wages for news department workers shall be made not later than 60 days hence.

(2) The government members of the Code Authority shall give particular attention to the provisions authorizing minors to deliver and sell newspapers and shall report to the President not later than 60 days hence.

(3) Insofar as Article VII is not required by the Act, it is pure surplusage. While it has no meaning it is permitted to stand merely

because it has been requested and because it could have no such legal effect as would bar its inclusion. Of course a man does not consent to what he does not consent to. But if the President should find it necessary to modify this Code, the circumstance that the modification was not consented to would not affect whatever obligations the non-consentor would have under Section 3 (d) of the National Industrial Recovery Act.

Of course, also, nobody waives any constitutional rights by assenting to a Code. The recitation of the freedom of the press clause in the Code has no more place here than would the recitation of the whole Constitution or of the Ten Commandments. The freedom guaranteed by the Constitution is freedom of expression and that will be scrupulously respected—but it is not freedom to work children, or do business in a fire trap or violate the laws against obscenity, libel and lewdness.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
February 17, 1934.

THE WHITE HOUSE,
Washington, February 17, 1934.

GENERAL HUGH S. JOHNSON,
*National Recovery Administrator,
National Recovery Administration,
Washington, D.C.*

MY DEAR GENERAL JOHNSON:

In addition to the conditions in the Executive Order approving the Code of Fair Competition for the Daily Newspaper Publishing Business, I wish to make the following observations:

(a) "I am not satisfied with the Child Labor Provisions. A special report and recommendations in regard to the carrying out of the Provisions will be made to me at the end of 60 days.

(b) The publishers of newspapers having a circulation of seventy-five thousand or more in cities of seven hundred and fifty thousand population or more are requested to install a five-day, forty-hour-week for their staff of reporters and writers with the purpose of giving employment to additional men and women in this field. A report on this will be made at the end of sixty days."

Sincerely,

FRANKLIN D. ROOSEVELT.

(71)

LETTER OF TRANSMITTAL

The PRESIDENT,
The White House.

SIR: During the formulation of A Code of Fair Competition for the daily newspapers of the United States one issue engrossed public attention: Freedom of the Press. In the conferences between the Administrator and the immediate proponents of the Code—that is, the Board of Directors of the American Newspaper Publishers' Association and the representatives of the regional press associations affiliated with the American Newspaper Publishers' Association—major attention was devoted to the hours and wage provisions of the Code; to the revision of the Child Labor section and to the problem of editorial workers. The proponents knew that so far as the National Recovery Administration was concerned there was no issue in respect of the Freedom of the Press and that the controversy had been stimulated almost entirely by those who had only second- or third-hand information of the progress of the negotiations. The issue has assumed such proportions, however, in the minds of certain newspaper publishers and of a certain section of the public that it seems desirable in this, my Report to you, to set forth the bare facts.

Hearings on the Newspaper Code were held on September 22nd and 23rd. The Code, as put down for public hearing, contained a Section XI which read as follows:

"In submitting or subscribing to this code, the publishers do not thereby agree to accept or to comply with any other requirements than those herein contained, or waive any right to object to the imposition of any further or different requirements, or waive any constitutional rights or consent to the imposition of any requirements that might restrict or interfere with the constitutional guarantee of the Freedom of the Press."

This reservation which it was proposed to include in a code, had already been made by the newspaper publishers when, on August 16, 1933, they secured approval of the Administrator for the substitution of certain provisions of their proposed code for the relevant provisions of the President's Reemployment Agreement. The National Recovery Administration then indicated that it had no objections to the newspapers asserting the constitutional rights of a free press.

At the public hearings, questions to counsel for the Code's proponents sought to ascertain whether the Freedom of the Press reservation was intended to intimate that because of the First Amendment newspapers might be free of any obligation under the Act to submit a code. No newspaper has ever pleaded a State constitutional guarantee of Freedom of the Press as giving it immunity under State Child Labor Laws or Workmen's Compensation Laws.

It was suggested also at the public hearings that legally the reservation was surplusage; that by consenting to a code on hours and wages the newspapers could not waive any rights under the First Amendment. During the public hearings, therefore, the Administration expressed no opinion on the Freedom of the Press reservation except insofar as an opinion might be inferred from the interrogations referred to above. (Stenographic record, Newspaper Code public hearing, page 1222—Graphic Arts Code public hearing, pp. 740-741).

In the subsequent conferences between the proponents of the Code and representatives of the Administrator—and there have been many of these conferences—the only suggestions that have been made in respect of the original Section XI of the Newspaper Code were that the declaration could more properly appear in the preamble of the Code or in connection with Section 10 (b) of the Act, instead of in its original resting place, between two irrelevant sections; and that the language might be limited to constitutional rights under the First Amendment and not extended to cover *all* constitutional rights. These suggestions were not pressed. The Code as recommended contains the reservation in connection with Section 10 (b) of the Act. The language goes beyond the liberties protected by the First Amendment but this, it seems to me, is not important. The newspapers have not asked for any special protection beyond that guaranteed them by the First Amendment; and if—as is not anticipated—the language ever has to be construed, this fact will be kept in mind. I say “not anticipated” because legally the language is unnecessary. Rights under the First Amendment cannot be waived by submission to a code in accordance with the provisions of the National Industrial Recovery Act. From these molehills of fact a mountain of controversy has been made.

It was freely charged that the Administration would not consent to the inclusion in the Code of the provision on the Freedom of the Press; that the licensing of newspapers was contemplated and that they could look forward to administrative control similar to that which is exercised over broadcasting. Only a word of comment is necessary in respect of these charges.

One pronouncement—disseminated widely by certain newspapers—was to the effect that the Freedom of the Press and even the First Amendment itself were “in the balance” because on the cover of the Code as published by the Government Printing Office there appeared the statement: “The Code for the American Newspaper Publishers Industry in its present form merely reflects the proposal of the above-mentioned industry, and none of the provisions contained therein are to be regarded as having received the approval of the National Industrial Recovery Administration as applying to this industry.” Since the Code included Section XI, the charge was that the Administration was in the position of withholding its assent to the inclusion of Section XI and was imperilling the Freedom of the Press. But the statement quoted appears on the cover of every code printed by the Government Printing Office and is designed to indicate that in its governmentally published form it is only a proposed code and not an approved code. The statement on the Government Printing Office edition of the Code applies to Section 7 (a) of the Act,

which must be textually included in every code, so if this reasoning is good the statement puts the Administration in the position of having the inclusion of Section 7 (a) always "in the balance". Of course such "reasoning" is nonsensical.

As for the fears as to the licensing of the press, no expressor of the fears ever cited any statement or act by any responsible government official which contemplated the use of the licensing power. Those who talk about licensing completely ignore the fact that the licensing provision of the Act is in a section entirely apart from the section under which codes are presented; that the powers of the President are carefully circumscribed; that he may exercise them only if he finds that "destructive wage or price cutting or other activities contrary to the policy of" the Recovery Act are being practiced in any trade or industry; and that he must give public notice and hearing before he can act.

It is hardly necessary to remark that the radio analogy is singularly inapposite. Broadcasting without some government supervision is hardly conceivable. A newspaper can be printed in any form that the proprietor desires without preventing the publication of another newspaper. Unless broadcasters are limited to different wave lengths they interfere with each other. A newspaper cannot pi its competitor's type, but without government control of wave lengths we would have symphonies, bedtime stories, crooners, and astrological lore all mixed up in an unintelligible melee of sounds. In the light of this fundamental difference, newspapers as newspapers ought not to think that so long as free government lasts public control of broadcasting is any precedent for public supervision of publishing.

So much for the straw-man issue of Freedom of the Press. The Code as recommended for approval reserves to newspapers all of their rights under the First Amendment. The reservation is in the terms of Section XI of the Code as put down for public hearing. The Freedom of the Press is guaranteed in the Code. Section 4 (b) of the Act has no connection with this Code. If newspapers fear the mere existence of Section 4 (b) in the Act, they should discuss their fears with the President or with Congress and not with the National Recovery Administration.

WAGES AND HOURS

In respect of wages and hours the Newspaper Code raised difficult questions. The position of the newspaper is somewhat unique. Unless located in the same areas newspapers do not compete with each other. That may be said of retail establishments but retail establishments are vitally concerned by wage provisions which do no more than fix a bare minimum. So many of the employees of newspapers are highly skilled that a minimum wage applies to only a small percent of the manufacturing employees.

To find any formula which would increase wages for the workers above the minimum proved wellnigh impossible. A number of publishers whose collective agreements were about to expire or who had sufficient resources to do their bit under the National Industrial Recovery Act were perfectly willing to accept the formula of 10%

increase on 1933 rates, provided that the increase should not go above the prevailing hourly rates in 1929. For such publishers this formula was perfectly satisfactory. In respect of other publishers, however, it was apparent that the application of such a formula would mean either:

(a) that the paper would have to reduce the number of columns in a daily issue so that unemployment would be increased, or

(b) that the paper would have to plead its financial inability to consent to such an increase.

So far as the public is concerned, the newspapers of the country have been put in a false position. The public has generally an idea that newspapers are large corporate enterprises with surplus or resources which can be drawn upon during the present emergency. As a matter of fact, however, 1,334 newspapers have circulations below 10,000 copies per day; 283 have circulations between 10,000 and 25,000; 131 have circulations between 25,000 and 50,000; and only 145 have circulations above 50,000 per day. The application of any formula for wage increases to newspapers of such vastly different positions in respect of finances and numbers of employees would work great hardship in certain cases and be too lenient in other cases.

This holds true of hours as well. Severe unemployment among printers exists in certain sections of the country. In other sections of the country there is less unemployment. Newspapers with large staffs of manufacturing employees can rather readily adjust shifts so as to share available positions among a number of workers larger than the number of available positions. A small newspaper, however, where the editor is a substitute pressman, the compositor solicits advertising and the society reporter collects bills, would have difficulty in doing much to spread employment.

The proponents of the Code proposed a flat forty-hour week. That obviously would do nothing to relieve unemployment in the big centers where newspaper employees are now working an average of less than forty hours. On the other hand, with respect to certain small papers, a rigid maximum of forty hours would impose too great hardships.

The compromise arrived at is a basic week of forty hours with the proviso that in certain localities more hours can be worked and that in other localities fewer hours shall be worked in order to spread employment.

NEWSPAPER INDUSTRIAL BOARD

It is anticipated that by reason of the provisions of the Code "that existing hourly differentials above the minimum shall be maintained" and the maximum hours may vary, labor controversies will arise. To deal with these controversies the Code sets up a Newspaper Industrial Board consisting of four publisher members to be designated by the Code Authority, and four members representing the employees, to be selected by the Administrator. These eight shall select a permanent panel of five impartial chairmen, from which panel, in the event of a deadlock on any question, a ninth member of the board shall be selected by lot. He shall act as chairman and

cast the deciding vote. Many newspapers in the United States have long been accustomed to impartial machinery for the settlement of labor disputes. This machinery has been both local and national. The Code makes provision for the functioning of any local machinery of conference and gives the Newspaper Industrial Board jurisdiction as an appellate body in case the local machinery is unable to effect the adjustment.

CHILD LABOR

The question of newsboys was exhaustively discussed at the public hearing and in briefs filed with the Administrator after the conclusion of the public hearing. Here again by reason of the different nature of the problem in different places of publication, it was found difficult to formulate a provision which would eliminate admitted evils in the large cities and not impose undue hardships in the smaller centers of publication. It is one thing, for example, for boys under sixteen to sell papers on the streets of Chicago and New York at night. It is quite another matter for boys to get bundles of papers at a railroad station in a small city and to deliver them before school begins.

The provision qualifying the Child Labor section of the Code prohibits the employment of any persons under sixteen years of age if such employment would impair health or interfere with the hours of day school. Subject to this general proviso there is no limitation on the delivery of newspapers. With respect to the selling of newspapers, no person under sixteen may be employed between 7 P.M. and 7 A.M. from October 1 to March 31, or between 8 P.M. and 7 A.M. from April 1 to September 30. This provision, in connection with State laws, will, it is believed, greatly reduce the evils of street selling. It should be pointed out, however, that such street selling will not be covered by this Code. Many minors who sell newspapers are employed by news agents, or distributors, who will not be bound by the Code's provisions.

EDITORIAL WORKERS

Similar difficulties prevented the formulation of any general rule limiting the hours of news department employees. Guilds of newspaper writers formed in various sections of the country were represented at the public hearings and have appeared in several of the conferences held after the conclusion of these hearings. Some of the requests of the news writers—for example, for notice of discharge; for vacations, etc.—were obviously requests that should be made through collective bargaining or directly to individual employers. The newspaper guilds will doubtless engage in collective bargaining and it is a matter of record that many newspapers, either under the President's Reemployment Agreement or independently thereof, have already limited the hours of editorial workers. In some cases there is a five-day week with no limitation on the maximum number of hours to be worked per day. In other cases, there is a limitation to forty hours per week as the basic week and time in excess of forty hours—which is frequently necessary by reason of the character of news gathering—is cumulated and compensated for by time off.

The American Newspaper Publishers' Association has a labor department which has adequate data on hours and wages of manufacturing employees. No data are available on the hours and wages of editorial employees. During one of the conferences with the Administrator several weeks ago the American Newspaper Publishers' Association Board decided to collect such data. A questionnaire was, therefore, sent out to all newspapers in the United States. Replies are coming in and the Code provides that the Code Authority say, on the basis of this information, "determine what constitutes reasonable hours and wages for news-department workers, and, subject to the approval of the Administrator, to incorporate its findings in the provisions of this Code." It is expected that such a report will be made promptly.

COMMERCIAL PRINTING

Many daily newspapers operate commercial printing establishments or sell electrotypes and photoengraving plates. Such commercial activities of a newspaper properly come under a Graphic Arts Code. Whatever hours and wage provisions are adopted for the Graphic Arts Industries will cover the graphic-arts activities of newspaper proprietors. The Newspaper Code authorizes the Newspaper Code Authority "to coordinate the administration of this Code with such other code or codes, if any, as may affect the business of publishers assenting to this Code," but specifically provides that publishers "who are also engaged in the selling of printing, photoengraving, or other related products to others than newspapers are bound by the provisions of this Code only insofar as their operations are concerned with the business of publishing newspapers." It may be noted here that weekly newspapers, most of which have commercial printing establishments, will come under a Graphic Arts Code even in respect of their newspaper publishing.

THE CODE AS RECOMMENDED

The Code as recommended may be summarized as follows:

Article I states the purposes of the Code.

Article II sets forth various definitions.

Article III provides a standard work week of forty hours, which is subject to increase or decrease as explained above.

Article IV sets minimum wage scales.

Article V limits the employment of persons under sixteen years of age in delivering or selling newspapers, quotes Section 7 (a) of the Act, and permits publishers in areas where there are "abnormal conditions of business distress or where there is an acute shortage of labor" which would "create great and unavoidable hardship" to petition for relief.

Article VI constitutes a Code Authority, gives it certain powers, and sets up a Newspaper Industrial Board.

Article VII reserves the President's right to cancel or modify any order approving the Code (Section 10 (b) of the Act); reserves to the publishers their constitutional rights, and makes a pronounce-

ment against any "pallid bust of Pallas"—in other words, it declares against any demolition of that great palladium of liberty—Freedom of the Press.

Article VIII fixes the effective date of the Code.

FINDINGS

The Administrator finds that:

(a) The Code complies in all respects with the pertinent provisions of Title I of the Act, including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The American Newspaper Publishers' Association imposes no inequitable restrictions on admission to membership therein and is truly representative of the Daily Newspaper Publishing Business; and that

(c) The Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

I recommend that the Code be approved.

Respectfully.

HUGH S. JOHNSON,
Administrator.

FEBRUARY 16, 1934.

CODE OF FAIR COMPETITION
FOR THE
DAILY NEWSPAPER PUBLISHING BUSINESS

ARTICLE I—PURPOSE

To effect the policies of the National Industrial Recovery Act, the following provisions are submitted as a code for daily newspapers, and upon approval by the President shall be the standard for daily newspapers subscribing or assenting thereto.

ARTICLE II—DEFINITIONS

SECTION 1. The terms "daily newspapers" and "newspapers" as used herein shall include all newspapers published daily and/or Sunday. The term "newspaper publishing" is defined to mean the publishing of such newspapers. The term "publishers" shall include persons actually engaged in the publishing of such newspapers, whether individuals, partnerships, associations, trusts, or corporations.

SEC. 2. The terms "President", "Act", and "Administrator", as used herein, shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

SEC. 3. The term "employee", as used herein, includes anyone engaged on a newspaper in any capacity receiving compensation for his services.

SEC. 4. The term "employer" as used herein, includes anyone by whom such employee is compensated or employed.

SEC. 5. The term "Code Authority" means the administrative body provided for in Article VI of this Code.

SEC. 6. Population for the purpose of this Code shall be determined by reference to the latest Federal Census.

ARTICLE III—HOURS

SECTION 1. Publishers shall not work any accounting, clerical, office, service, or sales employee (except outside salesmen, representatives, drivers and circulation men) in any office or department for more than 40 hours per week in any city of over 50,000 population; nor more than 44 hours per week in any city of between 25,000 and 50,000 population; nor more than 48 hours per week in any city or town of less than 25,000 population; provided that in emergencies additional hours may be worked if compensated by an equivalent

amount of time off. (These excepted employees, other than outside salesmen, shall not be in excess of 10 percent of the total employees of any establishment.)

The Code Authority is authorized to secure the necessary data and to determine the maximum hours and minimum wages for news department workers, and, subject to the approval of the Administrator, to incorporate its findings in the provisions of this Code. Until such time as its findings are made a part of this Code, present conditions shall be maintained.

The provisions of this section shall not apply to professional persons employed in their professions, to persons employed in a managerial or personal capacity, employees on emergency, maintenance, and repair work (including porters, janitors, engineers, firemen, and watchmen), nor to employees in special cases where restrictions of hours of highly skilled workers on continued processes would unavoidably reduce production, nor in special cases of emergency; provided, that in any such special cases the prevailing rate for overtime in that department shall be paid for hours of work in excess of the maximum.

SEC. 2. The maximum unit of hours to constitute a day's or night's work for mechanical employees shall be 8 continuous hours, exclusive of lunch time.

Except as herein otherwise provided, the standard work week shall be 40 hours.

The foregoing maximum hours of work shall not be construed as a minimum either for a day or a week, and if at any time in any locality newspaper mechanics of a given trade, through their chosen representatives, express by written request to their employer or employers a desire to share available work with bona fide resident unemployed competent newspaper mechanics in their particular trade or craft, the number of hours of work may be adjusted by mutual agreement.

If local agreement proves impossible within 15 days, the question may be appealed by either party to a local Fact Finding Board made up of two representatives of the employer or employers and two representatives of the employees.

The local board as thus formed shall endeavor to agree upon the fact with regard to the number of resident unemployed competent newspaper mechanics in the locality for the purpose of reducing the number of such unemployed newspaper mechanics so far as is possible without undue hardship to either the employer or employers or his or their employees.

If a majority agreement cannot be arrived at, the four members shall choose a fifth and impartial member of the board who shall act as chairman.

The board shall proceed diligently to complete its findings of fact and make its recommendations.

Should either the employer or employers or his or their employees disagree with the findings and recommendations of the local board, appeal may be made to the Newspaper Industrial Board provided for in this Code, which, after notice and opportunity for the parties

to be heard, shall make a finding which shall be binding upon all parties of interest.

These provisions as to sharing of work shall not apply to any newspaper having ten or less journeymen mechanical department employees.

If in any locality there are not available competent journeymen newspaper mechanics to permit the operation of any newspaper in such locality on a 40-hour week, then the work week may be extended to not more than six times the maximum unit of hours hereinbefore set forth as constituting a normal day's or night's work, without overtime; provided that in any locality where less than 8 hours normally constitutes a day's or night's work, then the work week may not be extended beyond six times that unit of hours unless overtime be paid.

A publisher may divide an employee's work week into as many as six shifts, each of such length, not exceeding eight hours, as the publisher may determine, and shall have the right to designate the shifts, schedule of hours, and starting time of each employee. Overtime shall be worked when necessary.¹

ARTICLE IV—WAGES

SECTION 1. No full-time employee in any of the classes mentioned in Article III, Section 1, shall be paid less than \$15.00 per week in any city of over 500,000 population or in the immediate trade area of such city; nor less than \$14.00 per week in any city of between 250,000 and 500,000 or in the immediate trade area of such city; nor less than \$13.00 per week in any city of between 50,000 and 250,000 or in the immediate trade area of such city; nor less than \$12.00 per week in any city of between 25,000 and 50,000 population; nor less than \$11.00 per week in any city or town of less than 25,000 population; provided, that office boys and girls, and learners or apprentices, not to exceed ten percent of the total employees of any establishment, are to be paid not less than 70 percent of the foregoing scale. Part-time employees shall receive pro rata rates of the foregoing scales.

SEC. 2. The minimum rate for mechanical employees, other than apprentices and learners as hereinbefore provided for, shall be 40 cents per hour, with the understanding that existing hourly rate differentials above said minimum shall be maintained and that payments for work on a piece-work basis will maintain their customary relationship to the payments on a time basis.

Overtime shall be paid for at the rates prevailing in the department.

SEC. 3. The provisions of this article shall not apply to persons mentioned in Article V, Section 1.

SEC. 4. A person whose earning capacity is limited because of age or physical handicap may be employed at a wage not more than 20% below the minimum fixed in this Code. Each employer shall file with the Code Authority a list of all such persons employed by him.¹

¹ See par. 1 of Executive order approving this Code.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. Publishers shall not employ persons under 16 years of age except those who are able, without impairment of health or interference with hours of day school,

(a) to deliver newspapers;

(b) to sell newspapers, provided that no such person shall be employed in street sales between 7 P.M. and 7 A.M. from October 1st to March 31st, or between 8 P.M. and 7 A.M. from April 1st to September 30th; and

(c) To perform other part time services but not in manufacturing and mechanical departments, for not more than 3 hours a day, between 7 A.M. and 7 P.M., provided that no person under 14 years of age shall be so employed.²

SEC. 2. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 3. A publisher assenting to this Code, in any city where there are abnormal conditions of business distress or where there is an acute shortage of labor of any or all of the classes herein mentioned, which conditions of distress or shortage of labor will create great and unavoidable hardship, may, in a petition to the Code Authority, and with its approval, obtain a stay of such provisions of this Code as work the hardship, such stay, however, to be subject to approval by the Administrator.

SEC. 4. The requirements of articles III and IV shall be observed except where compliance would violate a contract now in full force and effect which contract cannot be revised except by mutual consent.

SEC. 5. Publishers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE VI—THE CODE AUTHORITY

SECTION 1. A Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

SEC. 2. The Code Authority shall consist of 10 members from the newspaper publishing business to be selected as hereinafter provided; and in addition there may be three members without vote, to be appointed by the President, to serve without expense to those assenting to this Code. Five members shall be designated by the Board of Directors of the American Newspaper Publishers Association, of whom its President shall be one, and one member by each

² See letter from President to General Johnson dated February 17, 1934.

of the following associations: The New England Daily Newspaper Association, The Southern Newspaper Publishers Association, the Del-Mar-Va Association, the Inland Daily Press Association, and the Pacific Northwest Newspaper Association. The President of the American Newspaper Publishers Association shall be the Chairman of the Code Authority.

SEC. 3. The Code Authority shall have the following powers and duties, in addition to those elsewhere provided in this code, subject to the right of the Administrator to review any action taken by it:

(a) To adopt bylaws and rules and regulations for its procedure.

(b) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon when necessary, and adjust such complaints.

(c) To call for such reports and collect such information as it deems necessary in the administration of this Code.

(d) To coordinate the administration of this Code with such other code or codes, if any, as may affect the business of publishers assenting to this Code. Publishers who are also engaged in the sale of printing, photo-engraving, or other related products to others than newspapers are bound by the provisions of this Code only insofar as their operations are concerned with the business of publishing newspapers.

(e) To secure an equitable and proportionate payment of the expense of maintaining the Code Authority and its activities.

(f) To initiate, if necessary, and recommend modifications or amendments of this Code, which, upon approval by the Administrator, shall become a part of the Code.

SEC. 4. The Code Authority shall have power to employ counsel, clerical, and expert help. It shall also have power to appoint such agencies, and may delegate to any of them such of its powers and duties, as it shall deem necessary or proper.

SEC. 5. (a) There shall be established within ten days after the effective date of this Code a newspaper Industrial Board, consisting of four publisher members to be designated by the Code Authority, and four members representing the employees, to be selected by the N.R.A. Labor Advisory Board, subject to the approval of the Administrator. These eight shall select a permanent panel of five impartial chairmen, from which panel, in the event of a deadlock on any question, shall be chosen by lot a ninth member of the Board who shall act as chairman and cast the deciding vote. The employer members or the employee members may, by notice in writing, remove not more than two names from the permanent panel. Vacancies on the panel shall be filled immediately in the manner in which the original panel was selected. Except as hereinafter provided, this Board shall consider controversies arising from the application of this Code, and shall have power to promulgate rules and regulations for the determination of such controversies. Where a contract or agreement provides a method of determining controversies, that method shall be followed and the Board shall not take jurisdiction.

(b) Any controversy concerning hours, wages, and conditions of employment, arising under this Code between an employer and his employee shall, if possible, be adjusted locally.

(c) Any such controversy which cannot be so settled shall be referred to the Newspaper Industrial Board for its consideration and determination and the decision of said Board shall be accepted by the parties to the controversy as effective for a provisional period of not longer than one year, but not beyond the period of this Code, to be fixed by the Board.

(d) During the consideration of any such controversy neither party shall change the conditions existing at the time the controversy arose, or utilize any coercive or retaliatory measures to compel the other party to accede to its demands.

(e) If any controversy shall arise as to who are the representatives of the employees chosen as provided in Section 7 (a) of the National Industrial Recovery Act, the Board shall have power to investigate and determine the question.

SEC. 6. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purpose of this Code.

SEC. 7. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member exercising reasonable diligence in the conduct of his duties hereunder be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or nonfeasance.

SEC. 8. No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.³

ARTICLE VII

Those submitting this Code recognize that pursuant to Section 10 (b) of the Act the President may, from time to time, cancel or modify any order approving this Code, but in submitting or subscribing to this Code the publishers do not thereby consent to any modification thereof, except as each may thereto subsequently agree, nor do they thereby waive any constitutional rights, or consent to the imposition of any requirements that might restrict or interfere with the constitutional guarantee of the freedom of the press.⁴

ARTICLE VIII

This Code shall become effective on the second Monday after its approval by the President and shall continue in force until Title I of the National Industrial Recovery Act shall cease to be in effect as now provided in Section 2 (c) of the Act.

Approved Code No. 288.

Registry No. 507-1-05.

³ See par. 2 of Executive order approving this Code.

⁴ See par. 3 of Executive order approving this Code.

