

35/pt. D

OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

THE CONTENT OF NIRA ADMINISTRATIVE LEGISLATION

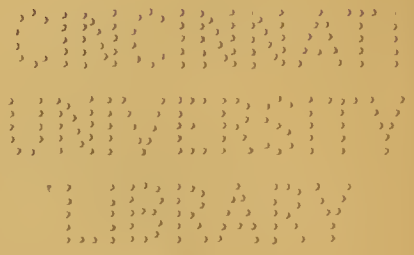
PART D: ADMINISTRATIVE PROVISIONS IN THE CODES

by
C. W. Putnam

WORK MATERIALS NO. 35

Work Materials No. 35 falls into the following parts:

- Part A: Executive and Administrative Orders
- Part B: Labor Provisions in the Codes
- Part C: Trade Practice Provisions in the Codes
- Part D: Administrative Provisions in the Codes
- Part E: Agreements Under Sections 4(a) and 7(b)
- Part F: A Type Case: The Cotton Textile Code



SPECIAL STUDIES SECTION
February, 1936

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PART D: ADMINISTRATIVE PROVISIONS IN THE
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FOREWORD

The object of this study is to set forth in convenient form the substantive content of administrative legislation under the authority of Title I of the National Industrial Recovery Act as found in the orders, codes and agreements. Part A, prepared by Ruth Aull, is concerned with Executive and Administrative Orders and, in some cases, Office Orders and Memoranda, legislative in nature; Part B, prepared by Ruth Reticker, with the labor provisions in the codes; Part C, prepared by Daniel S. Gerig, Jr. and Beatrice Strasburger, with the trade practice provisions in the codes; Part D, prepared by C. W. Putnam, with the administrative provisions in the codes; Part E, prepared by Ruth Aull, with the provisions of agreements under Sections 4(a) and 7(b); and Part F, prepared by Ruth Aull, with a type case: the Cotton Textile Code. The work was under the general charge of G. C. Gamble, Coordinator of the Special Studies Section.

Title I of the National Industrial Recovery Act delegated to the President unprecedented powers with respect to regulation of industry and trade. The theory of the Act was that through the sponsorship of codes by trade or industrial associations or groups, and through voluntary agreements, such regulation would be cooperative with industry and trade.

By Section 2 (b) of the Act the President was authorized to delegate any of his functions and powers to such officers, agents, and employees as he might designate or appoint. This power of delegation was widely exercised and through the administrative activities of the National Recovery Administration, established by the President under Section 2(a) of the Act, 557 so-called industry or trade codes and 188 codes supplementary to the basic codes came into being. These codes were approved under the authority of Section 3(a) of the Act. In addition a smaller but none-the-less considerable number of agreements was entered into under Sections 4(a) and 7(b) exclusive of the President's Reemployment Agreement, based on Section 4(a), which was "accepted" by more than 2,000,000 employers. The codes were to be as binding as any Act of the Congress, and the code-making administrative processes under the Act may aptly be described as sub-legislative.

The Supreme Court in its decision on the Schechter case, which terminated the existence of the codes, referred to the legislative aspects of the code-making process in saying:

"It (the statutory plan) involves the coercive exercise of the law-making power. The codes of fair competition which the statute attempts to authorize are codes of laws. If valid, they place all persons within their reach under the obligation of positive law, binding equally those who assent and those who do not assent."

The agreements entered into under the Act, at least with respect to the administrative steps leading to approval, were less clearly legislative, but the agreements under both Sections 4(a) and 7(b) constituted, to the extent they were used, the detailed and substantive expression of the legislative intent. Furthermore, the position taken

by the National Recovery Administration that the phrase "same effect as a code of fair competition" used in Section 7(b) referred to the fact that the agreement when approved should carry the penalty provisions of the Act, would, if sustained, give such agreements legislative aspects identical with those of the codes.

In the administration of the National Industrial Recovery Act many orders were issued which affected the actions or interests of persons not connected with the National Recovery Administration or affected the provisions of codes. The Executive Orders issued by the President and the Administrative Orders issued by the Administrator for Industrial Recovery or in the name of the National Industrial Recovery Board bearing on the administration of Title I of the Act were, with a few exceptions, issued under the authority of the Act itself or under the delegation of power permitted by Section 2(b). A substantial percentage of such orders, through the nature of their provisions, were legislative. Within the National Recovery Administration Office Orders or Office Memoranda were issued primarily as instructions to or for the guidance of the personnel of the organization or for the purpose of establishing parts of the organization. Some of these orders nevertheless contained provisions or requirements which directly affected code provisions or indicated requirements upon members of industry and in their scope seemingly may be called legislative in nature.

It will be observed that the provisions of the National Industrial Recovery Act constituted a very small portion indeed of the great volume of administrative legislation under the Act. The substance of the administrative legislation is to be found in documents formulated from various types of administrative actions.

The study is not concerned with evaluation of this administrative legislation; it is not concerned with evaluation of its consequences. Such issues are treated in other studies. This study is confined to a statement of the content of the NIRA administrative legislation.

At the back of this report a brief statement of the studies undertaken by the Division of Review will be found.

L. C. Marshall

Director, Division of Review

February, . 1936

PART D.

Administrative Provisions in the Codes

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CONTENT OF N I R A ADMINISTRATIVE LEGISLATION

PART D. ADMINISTRATIVE PROVISIONS IN THE CODES.

INTRODUCTION

Section 3(a) of the National Industrial Recovery Act authorized the President to approve "codes of fair competition" for industrial groups. It did not specify who should draft or administer such codes. The policy of the Act, however, (as declared in Section 1) was "to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, (and) to induce and maintain united action of labor and management under adequate sanctions and supervision." Accordingly, the National Recovery Administration invited trade and industrial groups to submit drafts of codes which should provide for an industry committee to help administer the code.

Such codes were revised by NRA after consultation with labor and consumer representatives. Each such code contained a set of "administrative provisions" which established a "code authority," defined its powers, and provided for its selection. These administrative provisions resembled constitutional legislation for each industry. Their terms were subject to interpretation and control by NRA administrative orders. Their content varied widely, since it was adapted to the needs and desires of each industrial group.

In general, code authorities were to exercise advisory powers over a wide field and were held responsible for the ministerial details of administration, (such as conducting elections and receiving reports on prices and employment). They were selected by and from industry members, all or part of whom might act through trade associations. Their importance varied, of course, with the size of the industry.

This report will summarize the content of these administrative provisions adding enough description of surrounding circumstances to explain the effect of the various rules. In the aggregate, these administrative provisions set up the machinery for united action by industry and labor under government supervision. They carried the cooperative regulation of industry to a new high point.

CONTENT OF N I R A ADMINISTRATIVE LEGISLATION

PART D

ADMINISTRATIVE PROVISIONS IN THE CODES

I. THE CODE AUTHORITY SYSTEM.

A. SMALL CODE INDUSTRIES.

1. INTRODUCTORY.

(a) A Code Authority for Each Code.

Rules need men to apply them. To carry out the conception of self-government of industry NRA approved the selection of numerous industry committees(*) usually called Code Authorities to administer their codes under NRA supervision. Each industry selected its own Code Authority and raised funds to pay its expenses. Each code delegated certain powers to its Code Authority (subject to NRA policies), indicated a method of selection, and defined the concerns which were subject to its administration. (**)

(b) A Typical Small Code-Industry.

Thus, on November 8, 1933, President Roosevelt approved Code No. 188 for the Ladder Manufacturing Industry. Article VI - Administration, provided: "To further effectuate the policies of this Act a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code. The Board of Trustees of the American Ladder Institute, together with such (non-voting) representatives as the President or Administrator may designate. . . . is hereby designated as such Code Authority."

(c) Minimum Organization.

Among the powers delegated to this Code Authority was the right to require statistical reports. It could, therefore, engage a staff to receive such reports. Like all Code Authorities it might be authorized to investigate and adjust complaints of violation of its Code, so could appoint a complaints committee for that purpose. The industry was defined as including all concerns engaged in the manufacturing and selling of ladders and ladder products in the United States. Forty-two concerns employing 560 workers became members

(*) A few codes use such terms as Supervisory Agency, Recovery Committee, Control Committee, or Emergency Committee to designate similar agencies.

(**) Code Authority powers, and methods of selection will be treated in subsequent sections.

of the industry under this definition. In 1928 there had been 50 concerns and 950 employees. All concerns (*) coming within the definition were subject to this code and to this Code Authority whether or not they were members of the American Ladder Institute.

(d) Three Types of Code Industries.

Small unitary, large unitary and federated.

The Ladder Manufacturing Industry was decidedly small, and its organization might be described as unitary since one Code Authority did all the work of administration, without establishing either product or geographical divisions. On these points it was typical of the small NRA codes which constituted at least three-quarters (**) of the 577 "numbered" codes. That three-quarters, however, covered less than one-quarter of the 24 million employees (***) under NRA. The other three-quarters of industry was covered by 70 "major" codes, each containing at least 50,000 employees. The three largest covered over one million workers apiece. From the point of view of organization these large codes may in turn be divided into two classes. One group may be described as unitary industries, usually composed of large firms, which contrived to administer their codes with only one Code Authority. The other group may be described as federated industries. Administration of these federated codes was parcelled out to numerous subordinate (divisional) agencies. N.R.A. applied special names and numbers to these divisional agencies and to the sub-codes which they administered, but in essence each one resembled a small industry which had lost its "unitary" form of government by uniting with other small industries into a federated code.

2. SMALL CODE INDUSTRIES (UNDER 50,000 EMPLOYEES).

(a) Number of Employees.

The bulk of these 507 numbered codes employed a simple unitary organization appropriate to their small size. Some, to be sure, were subdivided to a considerable extent. Thus, No. 148,

(*) In a very few codes concerns were not subject to the rules unless they had assented to the code. Daily Newspaper Publishing, No. 238, is the leading example of such "assent" codes.

(**) Our figures are so rough and incomplete that it is difficult to draw exact lines between these groups. Employment dropped sharply after 1928-1929 and recovered sharply under most codes, but in varying degrees for each industry.

(***) The size of a code industry can be measured by either the number of employees, the number of firms, or the volume of production (expressed in dollar volume of sales, number of tons, pounds, etc., or dollar value added to product.) Since NRA was largely concerned with labor, the number of workers employed in an industry is the most common criterion of its size.

Pyrotechnic Manufacturing, with only 37 members and 1,350 employees, was split into three product divisions (Commercial Fireworks, Display Fireworks, and Fusees) each of which had its special representatives on the Code Authority. The number of employees in each industry varied from year to year, but N.R.A. records (*) indicate that almost 300 of these industries employed not over 5,000 workers between 1929 and 1933. Several employed less than 100 workers at some period during those years. Not over 200 employed from 5,000 to 50,000 workers.

(b) Proportion of Concerns to Employees.

The number of concerns in each industry and the number of employees per company varied even more widely than did the number of workers. At least 34 codes had less than 10 members. By contrast, Retail Jewelry (No. 142) is credited with 19,998 employing concerns. The following table will illustrate the various types of variation. The term "average concern" is deceptive in such tables. In nearly every case a few large companies collaborated with numerous small ones. Large companies making or selling an article as a small side-line would count on such averages as a "small" company.

TABLE 1

SAMPLES OF RATIO OF NUMBER OF WORKERS TO NUMBER OF CONCERNS

Name of Code	No. of Concerns	No. of Workers	Average No. of Workers Per Concern
197 - Retail Farm Equipment	12,342	30,894	2.5
340 - Motorcycle Manufacturing	2	777	388.
394 - Lightning Rod Manufacturing	15	75	5.

(c) Desire for Autonomy.

Each small code represented the desire of a trade association to enjoy its own code independent of other groups. Apparently, this desire for autonomy at the expense of economy is normal at the present stage of industrial organization in America. More than 5,000 codes were originally submitted to N.R.A., the vast majority by small industries. Reducing this number to 576 was one of the most difficult tasks of N.R.A. Most of it was achieved by federating the most cooperative industries into larger units, now listed among the 70 code industries of 50,000 or more employees. About three-quarters of

(*) All following figures from Research and Planning surveys.

industry was integrated in this manner. The 507 small codes represent the un-integrated (*) residue.

(d) Administrative Results.

Each such small code was relatively easy to administer when considered by itself as a separate unit. As a mass, however, they clogged the wheels of N.R.A. administration. During the period of code approval, their existence multiplied the number of public hearings. After approval, their labor and trade practice rules displayed so many variations that they challenged rational tabulation. Overlapping of jurisdiction was common, and the multiplication of Code Authority offices built up the expense of code administration to a prohibitive sum. Some consolidation of these small units will be a necessary preliminary to any further progress in industrial government.

(*) Another residue, of course, were the codes still awaiting approval in May 1935.

B. LARGE UNITARY CODES.

1. OUTSTANDING EXAMPLES.

(a) Basic Manufacturing Industries.

In the 70 largest code industries two types of organization were distinguishable, the unitary and the federated. Not all codes fell squarely within either group, but the typical extremes differed so widely from one another and from the small code industries that the distinction is worth noting. At least 20 code industries were clearly unitary. Outstanding examples are as follows:

TABLE 2

AVERAGE SIZE OF CONCERNS IN CERTAIN LARGE MANUFACTURING CODES

Name of Code	No. of Concerns	No. of Workers	Average No. of Workers per Concern
17 - Automobile Manufacturing	75	447,000	6,000
401 - Copper	18	64,000	3,500
11 - Iron and Steel	388	420,000	1,000
174 - Rubber Tire Manufacturing	40	75,000	1,800
1 - Cotton Textile	1,281	433,000	400
3 - Wool Textile	588	151,000	200
44 - Boot and Shoe	818	206,000	250
16 - Hosiery	853	130,000	150

(To realize the large size of such concerns we may note that the average number of workers per concern in 70 largest industries and Trades was only nine)

(b) Size of Concerns Important.

All these were mining or manufacturing industries producing staple goods in large factories. This implies that their membership was composed of few but large concerns. The size of the dominant corporations was far larger than the average size. Thus, in Rubber Tire Manufacturing, 4 concerns produced 75% of the volume; hence must have employed some 50,000 workers between them, or 12,000 each. The other 36 firms averaged less than 1,000 each. These differences are significant, because the political power of a large concern in industrial government was even greater than its size would indicate. Since it stood to gain or lose more than a small concern it was justified in employing a specialist in code affairs, and could afford to send him to distant meetings. At such meetings a manageable number of high-grade representatives could discuss administrative matters directly instead of corresponding about them with geographical or functional divisions. As a result of this situation, those unitary industries were well-organized even before the approval of the code. In the majority, there was one dominant trade association which was given a prominent part in code administration.

(c) Unitary Apparel Codes.

Another type of unitary and vigorous code government is exemplified by certain apparel industries. These were not composed of very large firms, as a rule, nor organized into single trade associations. Their membership and problems, however, were largely concentrated in or around New York City. (Cotton Garment Industry was an exception, with only 3% of concerns in New York City). Organized labor was usually represented on these Code Authorities, which were very active in securing labor compliance. N.R.A. labels and routine inspection of members' records were freely used. Whatever branch offices they set up in non-union centers, such as Chicago and St. Louis, represented the Compliance Department of the central Code Authority; they were not chosen by local areas and did not undertake general administrative duties. Similar organizations can be found in codes of less than 50,000 employees. The following table shows the chief examples of this type of code.

TABLE 3

SIZE OF CONCERNS IN APPAREL CODES

Apparel Codes -- Over 50,000 Employees

<u>No. & Name of Code</u>	<u>Employees in Thousands</u>	<u>No. of Concerns</u>	<u>No. of Workers (per concern)</u>	<u>Labor and Labels</u>
15 - Men's Clothing	150,000	3,400	40	Labor representatives and labels
23 - Underwear	50,000	600	80	"
64 - Dress Manufacturing	88,000	4,080	20	"
118- Cotton Garment	200,000	3,800	50	"
373- Infants & Children's Wear	75,000	1,320	50	"
5- Coat and Suit	29,000	2,600	10	"
151- Millinery	26,000	1,500	20	"
363- Men's Neckwear	8,000			
164--Knitted Outerwear	28,000	750	40	Labels
194- Blouse & Skirt	3,000	100	30	Labor representatives and labels

C. LARGE FEDERATIONS.

1. FUNCTIONAL DIVISIONS.

(a) Supplements.

At the other extreme from the compact and unitary code industries were the sprawling federations. These were composed of functional or geographical divisions which reported to NRA through a Basic or National Code Authority. Each such division was administered by a Code Authority selected by division members, which commonly employed a secretary and appointed a complaints committee. It worked with and upon industry members while the Basic Code Authority dealt with NRA. Six federated industries contained 175 of the 201 supplementary (*) code industries in NRA.

TABLE 4

NUMBER OF SUPPLEMENTS IN SIX LARGEST FEDERATIONS

No. and Name of Code	No. of <u>Concerns</u>	No. of <u>Employees</u>	No. of <u>Supplements</u>
84 - Fabricated Metals	6,722	413,000	62
105 - Automotive Parts	1,200	79,000	10
201 - Wholesaling	45,000	460,000	23
241 - Construction	150,000	2,400,000	21
508 - Fisheries	5,000	200,000	12
347 - Machinery & Allied Pro- ducts	778	94,000	47
	<u>206,700</u>	<u>3,646,000</u>	<u>175</u>

(b) Other Product Divisions.

(*) NRA described these divisional codes as "supplementary". The supplements received the number of their parent code plus a letter. Thus, Supplement No. 1 of Fabricated Metals, was No. 84-A, Metallic Wall Structure. Supplement No. 54 was No. 84-B 2, File Manufacturing. A few divisions were established by separate pamphlets called appendices and consolidations. These were counted as supplements. Concerns were subject to the Basic Code Authority until a supplementary code was approved for that group. When a supplementary code was approved, its members reported to the Basic Code Authority through the Supplementary Code Authority.

Other industries had an equally elaborate set of "Divisions" (*) which were not numbered supplements but which represented important groups.

TABLE 5

NUMBER OF DIVISIONS IN THREE LARGE CODE INDUSTRIES

9 - Lumber & Timber	17 "divisions", 5 "subdivisions"
120 - Paper & Pulp	21 "subordinate" codes
287 - Graphic Arts	14 "industries", subdivided regionally; 17 "National Product Groups"

Wherever supplements or divisions existed the parent code was called the Basic or Master Code. Its Code Authority was selected from its divisional members in various ways. As a rule it contained labor rules applicable to the whole industry. The supplementary and divisional codes were usually based on function; that is, they covered a group of concerns manufacturing the same product, selling the same commodity or performing the same service. Individual methods for selecting divisional code authorities were also set up in each supplementary code, or in the rules for each functional division.

2. GEOGRAPHICAL DIVISIONS.

(a) Local Agencies.

Besides subordinate agencies for functional divisions, National Code Authorities, with the approval of NRA, set up a large number of geographical subdivisions(**), each administered by a subordinate Code Authority. There was no rule or uniformity as to the size of such areas. Some Code Authorities divided the whole country into two or three districts; others set up ten to twenty "regions" each containing several States, while others put in a Code Authority into each of the 48 States, sometimes adding a separate agency for such large metropolitan areas as New York and Chicago. The most numerous class of these districts was set up by a few giant Retail Trades. Each one centered in some city or town and was called a local Code Authority. No limit was set by the codes on the number which might be established. Supplementary and Divisional Code Authorities could also set up geographical

(*) Where a group was given separate rules and a separate Code Authority in the same pamphlet as the Basic Code, NRA reports and analyses omit that division from the list of supplements, even though the code itself calls the divisional rules a "supplementary" code. Retail Kosher Meat, in No. 540, Retail Meat Trade, is an example. No special numbers are assigned to such divisions. The codes themselves describe them by a variety of names and numbers. Their Code Authorities report to NRA through the Basic Code Authority as do supplementary Code Authorities. Such divisions are usually as large and as important as numbered supplements, or even as numbered codes.

(**) See list in Appendix

subdivisions. The following were actually set up by May 27, 1935:

TABLE 6

Local Agencies of Numbered Codes:

60 - Retail Trade	787	
60 - Retail Drug(*)	341	
402 - Wholesale Tobacco Trade	156	
182 - Retail Food and Grocery)	695	
196 - Wholesale Food and Grocery)		
46 - Motor Vehicle Retailing	<u>1300</u>	
		3279

Local Agencies of Supplementary Codes:

244-A General Contracting	314	
244-B Painting & Paperhanging	325	
244-F Electrical Contracting	360	
244-I Plumbing Contracting	464	
287 A-1 Commercial Relief Printing	104	
		<u>1567</u>
Total . . .	3756	

(b) State, Regional and District Agencies.

These also were common in large trades or service industries. Often, several types of geographical divisions were combined as in -

46 - Motor Vehicle Retailing	54 State Advisory Committees Local agencies authorized in cities
109 - Crushed Stone & Gravel	16 Regional, 70 District and 49 State Agencies.
278 - Trucking	State and Interstate Committees
282 - Restaurant	State and District
123 - Structural Clay	5 Joint Regional Committees, 43 Regional

These relatively few State and Regional unpaid committees were sometimes supplemented by full-time supervisors who were sent out from the National Code Authority office. These were used among large codes in the following industries:

(*) No. 60 Retail Drug, is technically a Division because its Code is published in the same pamphlet as No. 60, Retail Trade. Its administration is entirely separate, so it is usually treated as a basic code with the same number of Retail Trade.

TABLE 7

CODES PROVIDING FOR INDIVIDUAL SUPERVISORS

43 - Ice	43 Regions
402 - Wholesale Tobacco	20 Divisional Code Authorities, each with a Code Supervisor and one or more Regional Directors. 47 Regional Directors

Codes under 50,000 workers with supervisors:

139 - Machine Tool & Equipment	5 Zone Supervisory Agencies 5 Zone Supervisors (14 Sub-Zone Agencies, 18 Trading Area Committees)
319 - Bedding Manufacturing	30 Zone Grievance Committees, and 30 Zone Directors
286 - Beauty & Barber Shop Equipment Supplies Trade	11 Regional Committees, each with 1 attorney-manager
LP-17 Wheat Flour Milling	10 Regional Committees, each with 1 Regional Director

(c) Administrative Results of Federations.

Whatever the system of divisions, these elaborate hierarchies obviously slowed down administration. Due partly to the prevalence of small concerns engaged in intra-state business the following codes proved unworkable and were suspended by Executive Order No. 6923.

TABLE 8

CODES SUSPENDED BY NIRA BEFORE MAY 1935

a. Major Codes	<u>Establishments</u>	<u>Employees</u>
297 - Advertising, Distributing	1,262	100,000
121 - Hotel	20,000	291,000
147 - Motor Vehicle Storage & Parking	18,300	130,000
281 - Laundry	6,000	233,000
398 - Barber Shop, Trade	30,000	200,000

TABLE 8 (cont.)

CODES SUSPENDED BY NRA BEFORE MAY 1935

b. Minor Codes:	<u>Establishments</u>	<u>Employees</u>
240 - Advertising Display	300	1,500
101 - Cleaning & Dyeing	4,500	50,000
372 - Show Rebuilding	8,000	40,000

This retreat from a wide field of activity indicates the difficulty of administering such decentralized industries. In 1935 field supervision by NRA was being inaugurated to meet these conditions. Large federations of industries seem to be better than unorganized small codes, but they require special machinery for their control.

D. BORDERLINE AND SPECIAL CASES.

1. SIZE

The most obvious borderline cases appear when the line is drawn between major code industries and minor code industries. Fifty-thousand employees was set as the minimum for a major code to be signed by the President. If the number of employees was "normally" less the code could be signed by the Administrator. Production, however, dropped so far between 1929 and 1932 and rose so rapidly in 1933 that it is difficult to say what is the "normal" employment in a given industry. Some industries, moreover, (rayon weaving) are increasing each year while others (wool) are decreasing. Hence the lower limits of the class of major industries may exclude several important industries and include some of lesser importance. Examples follow of extreme decrease in employment.

Table 9

Volume of Production in Codes Approaching 50,000 Workers at Their Peak.

Name of Code	Thousand Workers 1928-29	Thousand Workers 1932-35	Units of Pro- duction in Thousands <u>1928-32</u>	Units of Pro- duction in Thousands <u>1932-33</u>
153 - Concrete Masonry	50	8.	387	58
109 - Crushed Stone	40	20.	209	90
103 - Machine Tool	41	19.6	no figures	no figures
463 - Candy Manufacturing	60	41.	"	"

2. TYPE OF ORGANIZATION.

While the distinction between unitary and federated code industries is most significant, certain industries do not fall squarely within any group. In some cases this is because the code itself is vague on this point. In other cases, a code authority may be in process of transition. Thus, Electrical Manufacturing was proposed by one association as a unitary code. Towards the end of 1934 it had three supplements approved, and was apparently intending to institute others (*). In its vigorous administration the Electrical Manufacturing Industry resembled a purely unitary code. Similarly, Chemical Manufacturing Industry was planned as a federation but ceased to set up supplementary codes in August 1934, after only three had been approved. This left the majority of its members directly responsible to the Basic Code Authority. Several large unitary codes like Cotton Textile, and Iron and Steel had one or two small "satellite" codes attached to them. These small codes were not important enough to affect the character of the main code. Particularly among small codes, one found alliances of a few products which were related in some way, such as Candle and Beeswax, or Adhesive and Ink. The duality of such codes was usually carried out in their organization.

3. MINOR VARIANTS.

Occasionally, the divisions were the real centers of power in an industry. Thus in No. 287, Graphic Arts, and No. 330, Scrap Iron, the divisions were called "industries" and the central agencies were "coordinating committees." The Bituminous Coal Code, No. 24, set up 5 divisions without any central agency for general administration. Similar conditions prevailed in the following small codes; Coal Dock No. 337, and three Supplements to a Fishery Code, No. 308. The effect was to have several code industries subject to the rules of the same code, but not to any one Code Authority. The usual hierarchy of agencies was also complicated by the use of executive committees, which administered the code while the Code Authority was not in session. This permitted a large Code Authority to meet as seldom as once in three months. Such executive committees might be set up in Code Authority By-Laws as well as in Codes. Important codes employing this device were Fertilizer, No. 67, and Motor Vehicle Retailing, No. 47. Occasionally, one agency was Code Authority for two codes, as shown below:

<u>Agency</u>	<u>Codes</u>
Food and Grocery Distributors' Council	186 - Retail Food and Grocery Code 192 - Wholesale Food & Grocery Code
National Editorial Association	287 A-2, Non-Metropolitan Newspaper Publishing and Printing Code 287 A-5, Daily Newspaper Publishing and Printing Code

(*) The code authorities of these supplementary codes were to be appointed by the trade association (National Electrical Manufacturers Association) which was the Code Authority for the Basic Code. This is unusual and indicates that the unitary psychology was not extinct.

Such situations occurred just often enough to confuse the student. They did not affect code administration as a whole.

4. ADMINISTRATIVE RESULTS.

Stripped of details and exceptions this analysis of NRA codes reveals:

(1) Only 20 to 30 code industries -- perhaps one-quarter of industry -- which were both large (over 50,000 workers) and well enough organized to require only one Code Authority. In this group were some of the most important industries such as Cotton Textile, Iron and Steel, and Automobile Manufacturing. Their members operated large factories employing hundreds of workers in each plant. The number of such members was only a fraction of the number in the less compact trades and service industries. Such industries were well fitted for control by NRA procedure. They fulfilled the conception of an "industry" which was current among the general public and in the NRA. They were not, however typical of code industries as finally established.

(2) The greater part of industry, perhaps one-half, into 30 to 40 huge federations, mostly trades and service industries. The very large (*) industries, including Retail Trade, Construction, Trucking, Petroleum, Lumber, and Restaurant, were in this group. This does not mean that their members were large concerns. On the contrary these industries were composed of many thousands of small concerns (averaging less than 9 employees per concern) and were divided and subdivided into hundreds of local and functional groups. Self-government for such industries was difficult and even more difficult to organize and supervise from Washington.

(3) Five hundred or more small industries, (all with less than 50,000 employees and the majority with less than 5,000) made up the remaining one-quarter of industry. Industry members demanded codes for these small groups, but the number and variety of their organizations proved confusing to administrators and even more so to students.

These distinctions of size and organization are important in considering the problems of any one code or in studying the organization of industry as a whole. The following sections on Code Authority Powers and Methods of Selection will frequently refer to "small" and "large" codes, although NRA rules and procedure applied to all Code Authorities regardless of the size of their industries.

(*) The first three in this group are credited with a total of 5 million employees. The total for the group is estimated at over 7 million workers. Figures on the number of establishments are too uncertain to quote, but they must be in the hundred thousands.

II. POWERS AND DUTIES OF CODE AUTHORITIES.

A. GENERAL POWERS.

1. TO ADMINISTER THE CODE.

A minimum of necessary powers was authorized by each code in very general terms. The most common provisions authorized the Code Authority to: --

- (1) Administer the Code.
- (2) Issue rules and regulations for (a) its own procedure, (b) enforcement of code provisions.
- (3) Divide the industry into districts or product organizations.
- (4) Appoint local Code Authorities and other agencies.
- (5) Investigate and adjust complaints.
- (6) Collect statistics from members on production and employment.
- (7) Budget expenses, plan and collect assessments.
- (8) Recommend action on amendments, exceptions, stays and interpretations.

Subsequent orders and interpretations have added little to these powers by way of amplification. Certain observations, however, may be made on their application. The general duty of administering the code included transmitting NRA instructions, engaging a paid staff, and suggesting changes in the code. If these activities were neglected, NRA State Compliance Offices would still administer the labor provisions of the code, and such trade practices (*) as did not need any further action by the Code Authority. Price-filing systems and uniform principles of cost accounting could not be enforced until the Code Authority took the necessary preliminary action.

2. Issue Regulations

Such rules were called code authority by-laws and sometimes included provisions dealing with methods of selecting future code authorities. Thus the by-laws of the code authority for the Scientific Apparatus Industry, approved by NRA administrative order 114-13, provided that the code authority should consist of president and vice-

(*) These offices handled a total of 137,000 labor complaints and 40,000 trade practice complaints.

president of the association and the chairmen of nine sections of the industry to be elected at a meeting of the entire industry. Methods of voting within the code authority, might also be provided in code authority by-laws, as when the by-laws of the code authority for the Cordage and Twine Industry (approved in NRA administrative order No. 303-2) provided that no motion should carry without a vote of the code authority members who represented concerns with two-thirds of the net dollar sales of the industry.

Code authorities were also authorized to issue regulations for the administration of their codes. Such regulations could be disapproved by the Administration, but were not submitted to NRA as a matter of routine for approval by administrative order. The bulk of such rules dealt with ministerial details, such as the date and place of elections, or the form in which prices were filed. Occasionally these rules dealt with more important matters, such as the weighting of votes, or the representation of special classes on code authorities. Thus General Order #3 of the Retail Solid Fuel Code Authority provided that in divisional elections one vote should be cast for each 500 tons of coal sold and that one representative should be selected from each of three classes of dealers: "affiliated", "equipped", and "unequipped."

3. DIVIDE INDUSTRY

Code Authorities were allowed a free hand in dividing their industries into geographical districts or grouping their members according to products manufactured, commodities sold, or services performed. Some of these groups were indicated in each code under the titles of supplementary or subordinate codes, apprentices, consolidations, "industries," or National Product Groups. Others, especially geographical divisions, were set up after the code was approved. They were based, naturally, on existing trade associations and their spheres of influence. NRA did not attempt to impose any uniform pattern of districts. Hence, some code industries were divided into only two or three regions, others into one district for each State, and still others subdivided into hundreds of local (city or town) districts. Many industries, of course, were so constituted that no divisions were necessary.

4. APPOINT ADMINISTRATIVE AGENCIES.

(a) Trade Associations and Autonomous Divisions.

Practically every code authorized the Code Authority to delegate its powers "to such trade associations and other agencies as it deems proper" (*). Most late codes added a proviso that "nothing herein shall relieve the Code Authority of its duties and responsibilities under this Code, and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof." Wherever geographical or functional divisions had been set up in the code for electoral

(*) 84-U, Bright Wire Goods Manufacturing Industry

purposes their governing bodies were normally appointed by the central Code Authority to execute the provisions of the code, (*). It was characteristic of the code government that the same influential groups which had helped to draft a code should be appointed to administer it locally.

(b) Organization of Agencies.

Normally such agencies duplicated the organization of the central Code Authority by engaging a secretary and setting up a complaints committee to investigate and adjust complaints. They found facts, transmitted instructions, and recommended measures to the parent Code Authority for presentation to NRA. It was these local and functional agencies which were in close touch with individual members of each industry. Much of the success of code administration depended on the efficiency of the liaison maintained between National Code Authorities and their scattered offspring.

(c) Branches of National Agencies.

Local complaints committees and/or field agents could also be set up in distant cities by the complaints committee of the National Code Authority. Unitary Code Authorities extended their activities in this manner instead of setting up divisional agencies. Secretaries of such committees were appointed and paid from the central office. Occasionally a code (***) specified that full-time supervisors should be employed to guide and correct the activities of local agencies.

(d) Special Agencies.

Besides its local general agents, certain Code Authorities needed special agencies to apply the provisions of their code. The nature of these agencies depended upon the industry. Thus apparel codes frequently authorized label agencies to issue labels, and committees on "design piracy" to register and protect original designs. Construction codes needed "bid depositories" to standardize the making and receipt of bids. The Structural Steel Code and others authorized an "estimating bureau" in regulating lump-sum bidding. It was to estimate the amount of reinforcing materials, etc., required in a project, and combine it with the bidder's list of prices. Service bureaus for technical advice were sometimes provided for, as were credit bureaus, though later legal opinion viewed them with suspicion. All these functions might have been performed by the Code Authority, but a more disinterested agency was considered preferable. The establishment of such agencies was less supervised by NRA than was the appointment of Code Authorities and the adoption of budgets.

(*) See previous section for a discussion of the number of such agencies.

(**) No. 43, Ice, for example. Other Code Authorities did this without a specific provision in the code.

(e) Arbitration and Coordinating Committees.

Machinery to preserve the internal and external peace of an industry might also be set up by Code Authorities. Arbitration committees were often demanded by codes, to settle all disputes between fellow members. "Labor" or "industrial disputes" committees, to handle strikes, were provided in 60 codes or 7% of the total. Finally "coordinating committees" were authorized in 320 codes. The majority of such committees were to coordinate trade practice rules with other industries in the same market. Others were to consider cooperation with other industries on matters of general policy.

5. INVESTIGATE AND ADJUST COMPLAINTS.

(a) Collection of Evidence.

Complaints of code violation were probably the most important problems under any code. Code Authorities could take executive action to discover complaints by sending out field agents to inspect members' factories and payrolls. The powers of such agents were never clearly defined, and were variously interpreted. (*) Complaints based on the result of these investigations, or on spontaneous complaints by individual members were brought before the Code Authority or more often before a "complaints committee" specially designated to handle charges of code violation. Authority to handle either trade practice or labor complaints had to be specifically granted by NRA to the Code Authority.

(b) Procedure at Hearings.

Each complaints committee was required to draw up a plan of procedure and submit it to NRA for approval. Complaints were to be made in writing by any injured party. The respondent was notified of the charge and given a personal hearing. The name of the complainant was withheld in labor complaints. After the hearing the complaints committee made two decisions. First, it decided whether or not a violation had occurred. This involved a finding of fact as to the respondent's conduct and the price at which he sold the article or the wages he paid the employee. Often it included an interpretation of law as to whether or not such conduct constituted a violation. The respondent could appeal this decision.

Second, the committee had the right to "adjust" or "dismiss" the complaint on the respondent's promise to comply in the future, plus restitution of back wages in a labor case. Similar decisions were made by the NRA Compliance Offices.

(c) Appeals.

Formal appeals could be taken from the decision of a Complaints Committee, or respondents could merely decline to adjust. In either case, the file was referred to NRA. Appeals from local industry com-

(*) Their right to force an inspection of members' record will be discussed below under Social Poers.

mittees might have to be submitted to "higher" Code Authorities. If an interpretation of law was necessary, it was secured from the Deputy Administrator in charge of the code. In any event, the case was referred to an NRA Compliance Council (at first in Washington only, later in any one of nine regions). The record was reviewed to catch obvious errors or lack of evidence. Further investigations could be requested of the Federal Trade Commission. Opportunity for a personal hearing was accorded to respondents, many of whom accepted the opportunity to adjust. If adjustment was declined, the Compliance Council would remove the violator's Blue Eagle and refer the case (through NRA litigations Divisions) to the Department of Justice or the Federal Trade Commission for further legal action.

6. COLLECT STATISTICS

Statistical reports were supposed to furnish information on production and employment which would be of value both to an industry and to the government. Such information was sorely needed. Often, reliable information was lacking on such simple points as the number of concerns or the number of workers in a given industry. Census figures were of little assistance because the census classifications did not correspond to the boundaries of code industries. Unfortunately, this service seemed of less immediate importance to Code Authority secretaries than securing compliance and collecting assessments. It got under way in only a few industries.

7. BUDGET EXPENSES. PLAN AND COLLECT ASSESSMENTS.

The collection of assessments was an important point which received less attention than it deserved in the early period of the code making. The National Industrial Recovery Act does not mention any assessments on industry, and many early codes are equally silent, apparently on the theory that such contributions would be made voluntarily. Later it became evident that the expense of code administration would be considerable, and that certain concerns would not make contributions unless they were legally obliged to. Accordingly, a model provision for mandatory assessments was drawn up by NRA lawyers and incorporated, often by amendment in the majority of codes. It purported to make failure to pay assessments a violation of the code. The amount and basis of assessments were to be proposed by the Code Authority. The combination of these powers was so drastic that NRA assumed close supervision over them. Budgets had to be submitted by Code Authorities to NRA for review and approval. Inevitably, this caused considerable delay at a critical period of Code Authority development. Similar precautions had to be exercised with respect to the pressure used to collect assessments. Care was necessary in phrasing any demand for payment. NRA finally established a special section to cooperate with Code Authorities in collecting assessments.

8. AMENDMENTS, EXEMPTIONS, STAYS AND INTERPRETATIONS.

(a) Amendments.

Amendments to codes might be proposed by Code Authorities acting for their industry. Codes differed as to the authority granted to Code Authorities to speak for their industries. The NRA Model Code (section 1660-1) provided that a Code Authority might "recommend to the Administrator any action or measures deemed advisable. . . which shall become effective as a part hereof upon approval by the Administrator after such notice and hearing as he may specify." One hundred and seven (107) codes (13.8%) contained this clause. Amendments submitted by the Code Authorities could be approved by the Administrator, after the usual NRA routine without a public hearing, although opportunity to file objections was given to all industry members. Only one hundred and forty-two (142) codes (18.3%) required that the industry be consulted directly by means of a public hearing before the amendment was approved. Still other rules on amendments, many specifying that the Code Authority shall not bind the industry to anything were contained in four hundred and three (403) codes (51%). The silence of the remaining 225 codes (16%) was interpreted to require a public hearing for all amendments. Administrative routine for the approval of amendments was subject to practically the same checks as the original approval of the code. Naturally, the opinions of the Code Authority carried great weight in these negotiations since they were based on long experience in the industry and expressed the policies of an important group.

(b). Exemptions.

Exemptions from code rules were granted by NRA. If an individual employer could prove that a rule was inflicting undue hardship upon him he could be exempted by NRA from the operation of the rule. Since such issues involved policies, they were quite properly referred by the deputy to the five Advisory Boards and to the Code Authority. As in the case of amendments, decisions were drawn up by the deputy for the signature of the Division Administrator and submitted to the Review Division. If the applicant wished to appeal from this decision an independent "Industrial Appeals Board" was set up to hear his appeal.

An exemption was rarely granted if the Code Authority advised against it. Delay was the element to be combated in this procedure, since the final decision had to be made in Washington. One promising solution for this problem was tried by the Cotton Garment Code Authority. It established an Exemptions Committee, (called the "industrial committee") on which both labor and capital were represented. This committee was pledged to make whatever local investigation was necessary and to send its recommendations to Washington within 24 hours after receiving the request.

(c) Stays.

Code provisions might also be "stayed" either in

the Executive order which approved each code or subsequently by the Administrator. Stays were granted only for temporary relief, permanent stays being considered tantamount to amendment and contrary to policy. They could be used, therefore, as exemptions were, to relieve any hardships which would have resulted from a strict application of a code rule. In theory, a stay as the name implies was directed toward code provisions, whereas exemptions applied only to individuals. Code Authorities were never authorized to stay any code provisions.

(d) Interpretations.

Since this system of collecting opinions on policy was so well established, NRA applied it to the process of issuing interpretations of codes. Requests for such interpretations came in steadily from NRA State Directors' Offices from various industrial adjustment agencies and the Code Authorities. Each request was submitted to the Code Authority and to the five Advisory Boards. The decision of the deputy and his division administrator could be rejected, or a modification suggested by the Review Division. This procedure, well adapted to securing views on policy from various sources, did not always insure uniformity, speed, or finality for these judicial decisions. Nevertheless, it gave the Code Authority quite as much influence as could be expected.

Occasionally a code contained an express provision that the Code Authority could interpret (*) the code, subject to disapproval by NRA. Examples of such codes are the Lumber, Steel and Graphic Arts Codes. Such general powers were considered excessive and were not granted in codes approved later. Similar results, nevertheless, were produced whenever industrial committees applied code rules to particular situations. A respondent, for example, might claim that a certain rule did not apply to his case. If a complaints committee refused to accept his defense, they were practically interpreting the code rules. If such an interpretation came to the notice of NRA, by appeal or otherwise, it was duly reviewed. Few minutes of complaint hearings, however, were sent to NRA, so that if a respondent acquiesced in the ruling of a complaints committee, it usually remained in force. As a result code authorities and their subordinate agencies did interpret codes to a considerable extent. Another year or two would have allowed NRA to discover these rulings and correct them if necessary. Final review by the Federal courts would have followed in due time on disputed points.

B. SPECIAL POWERS AND DUTIES.

1. POWER TO SELL LABELS

(a) Six Special Powers.

Special powers generally put teeth into Code provi-

(*) In such cases the Code Authority felt free to publish their interpretations of doubtful passages.

sions. Not all Code Authorities were permitted to exercise them. Their force was sometimes diminished by NRA rulings. Prominent among them were:

1. Power to sell labels.
2. Right to inspect members' records.
3. Duty to select a confidential agent.
4. Assessment of costs of investigations and complaint hearings.
5. Liquidated damages.
6. Duty to make special reports.

(b) Drastic Effect of Labels.

These powers were centers of controversy. Each one was so effective that there was constant temptation to abuse it. The sale of labels, for example, was first intended to raise money. It was particularly common in the apparel industries. In all, 43 codes required the use of NRA labels. To increase its effect, eight consumer industries (including the Retail Trade) agreed not to sell unlabelled goods if the code for that industry required, that they bear labels. At first, Code Authorities, were given full charge of making and selling labels for their industries. It was found that firms were thereby placed entirely at the mercy of their Code Authorities. A refusal to sell labels could completely shut off a member's sales. He might be ruined before he could get an appeal to Washington. The presence of union representatives on the Code Authority might prevent such pressure on union shops, but not necessarily on non-union establishments. As a result of several investigations, and NRA "Label Officer" was established in New York and other apparel centers to approve all requests for labels in consultation with the Code Authorities, and to settle all appeals on that point.

2. INSPECTION OF MEMBERS' RECORDS.

Inspecting members' records was an important activity of every Code Authority. Payrolls might need inspection to verify a complaint of wage-cutting, or sales records to disprove a charge of selling below cost. Information on similar subjects came to the Code Authority in the form of statistical reports. These, if suspicious, might need to be investigated for concealed violations. Again, as in Graphic Arts Code, an investigation might be necessary to determine whether a member's system of cost-accounting was in accordance with code requirements. If the member complained against agreed to an inspection, no problem arose. If he raised objections, over 100 codes and supplements or 15% of the whole largely chemical codes, gave the Code Authority express power to force such an investigation. Administration lawyers, however, did not approve of the enforcement of such rules except in accordance with a standard procedure. They prepared

the following model provision which was inserted in 41 codes and supplements.

"Each member of the industry shall keep accurate and complete records of its transactions in the industry whenever such records may be required under any of the provisions of this Code, and shall furnish accurate reports based upon such records concerning any of such activities when required by the Code Authority or Administrator. If the Code Authority or the Administrator shall determine that substantial doubt exists as to the accuracy of any such report, so much of the pertinent books, records, and papers of such member as may be required for the verification of such report may be examined by an impartial agency, agreed upon between the Code Authority and such member; or, in the absence of agreement, appointed by the Administrator. In no case shall the facts disclosed by such examination be made available in identifiable form to any competitor, whether on the Code Authority or otherwise, or be given any other publication, except such as may be required for the proper administration or enforcement of the provisions of this Code."(*)

In spite of these safeguards there was some doubt as to the legality of forcing an inspection of members' records. This power was so useful in settling complaints of violations that every effort was made to retain it in one form or another.

(*) NRA (Office Manual, Section 1611 - 1).

3. DUTY TO SELECT A CONFIDENTIAL AGENT.

The information requested from industry members in statistical reports might include such intimate details as the member's costs of production, lists of customers, and similar data. This was particularly true in such industries as the Retail Monument, where the identity of a particular job could be detected from its specifications. Concerns supplying such information were often anxious that it should not be divulged to their competitors.. Hence, practically all codes provided that individual reports should be kept confidential, and that the material contained in them should not be published until it had been combined with other figures into general industry statistics. But such provisions were not sufficient particularly in the small ones where the Code Authority members who received such reports might be the very competitors feared by the reporting concerns. Accordingly, 227 codes or 30% of all codes and supplements provided that reports should be received and collated by some "confidential agent."

Considerable latitude, in theory and practice, was allowed Code Authorities in selecting these confidential agents. Seventy-five codes and supplements (8.5% of all codes and 15.5% of large codes) expressly permitted the Association or one of its officers to act as the confidential agent. In contrast, about 100 codes specified that the confidential agent should be "neutral," "impartial" or "outside the industry." In practice, many Code Authorities appointed the secretaries employed by local agencies to be confidential agents. Such appointments elicited some complaints, since they designated an agent who was in close relationship with the immediate competitors of reporting members. NRA stood ready to hear complaints that improper persons had been appointed as confidential agents, (especially where the code required that they be "impartial", etc.), but did not require the appointments to be submitted to it for prior approval. Undoubtedly less criticism occurred where some public or educational research agency was appointed as a confidential agent.

4. ASSESSMENT OF COSTS OF INVESTIGATIONS AND HEARINGS

The costs of complaint hearings and investigations are rarely mentioned in codes. In the absence of any express reference, such costs were paid out of the general funds for administering the codes. A few codes, mostly supplements to the Fabricated Metals, Codes so stated. About 30 codes provide that the cost of an investigation should be borne by the member investigated, provided that the investigation showed that he either violated the code or furnished false information. Most of these codes did not distinguish between investigation as part of the hearing on a complaint, and investigation of books merely to verify suspicious statistics. Often, of course, the furnishing of false information constituted a violation. A few others including the Graphic Arts Code, provide that costs of a complaint hearing, aside from any investigation, should be assessed against a respondent found guilty. Occasionally, the complainant was required to pay costs

if the complaint was brought "frivolously" or if the respondent was acquitted. (*) At least two industries, Industrial Safety Equipment Manufacturing and the Gas Appliance Industries required a complainant to deposit money when making a complaint, to be applied against costs if the respondent was acquitted. The amount of costs to be paid was nowhere stated, so presumably it was determined by the Code Authority. In only one code (Copper) was the duty to pay costs limited to those concerns which had expressly assented to the code, and hence to this rule.

Such rules follow the precedents set by courts for imposing costs on the party who loses the suit or is convicted of crime. It seemed reasonable when codes were first drafted that a violator should compensate the Code Authority for the expense which he caused. Upon more mature consideration, however, NRA lawyers decided that Code Authorities did not have the right to assess costs against members, and therefore, were not included in later codes.

5. RIGHT TO COLLECT LIQUIDATED DAMAGES

Liquidated damage provisions permitted industry members to agree with one another that if they violated the code they would pay a fixed sum to some common fund for each offense. Several industries wanted the power to impose penalties for violations as part of the "adjustment" of a complaint. They pointed out that it would pay a concern to violate its code (by cutting wages or prices) so long as it had a chance to escape detection, and suffered no penalty if caught. Fine and imprisonment by the Federal courts might require months to apply, and often seemed too severe for the repentant violator. To take care of this problem the Investment Bankers' Code allowed the Code Committee to impose "penalties" and a "fine." Similarly the Reinforcing Materials Code authorizes "liquidated damages or other penalty." Even without such authorization, the Motor Vehicle Retailing Code imposed a few fines until stopped by NRA. The Courts have ruled that fines are illegal and they cannot be collected in the guise of liquidated damages. A model provision for liquidated damages was, therefore, prepared by NRA. It provided for an agreement separate from the code, which bound only the members who signed it.(**) The amount of damages was described as closely as possible. Thus, for a wage or hour violation, the respondent would pay to the Code Authority a sum equal to back wages due under the code. For other labor violations, such as employing child labor, and for trade practice violations, a fixed sum differing in various codes was set as the amount of damage to be paid. Collection

(*) Asphalt and Mastic Tile, Rock and Slag Wool Manufacturing, Prefomed Plastic Products, all small codes.

(**) NRA Office Manual, 1626.1

was by civil suit. Payments for labor violations were to be distributed among employes affected. Payments for trade practice violations were to be applied to the expenses of administration, and the balance distributed among parties to the agreement who were complying with the code. In this form, though constantly under suspicion, provisions for liquidated damages were increasing in number, largely by amendment of established codes. Thirty-one codes and supplements (3.5) carried this provision in May 1935; seventeen by amendment.

6. Duty to make special reports:

a. By Industry Members to the Code Authority.

Three kinds of special studies or reports were mentioned in NRA codes:

- (a) Purely optional--from the Code Authority to NRA.
- (b) Compulsory--from industry members to the Code Authority.
- (c) Compulsory--from the Code Authority to NRA.

Type (a) reports dealt with standard subjects, such as the desirability of some price or production control for the industry in question. Others held promise of more statesmanlike action in stabilizing employment or coordinating relating codes. The importance of such studies is diminished by the fact that they could have been made or omitted regardless of the provision in the code.

Type (b) reports were required of industry members by the Code Authority. They showed the prevalence of some practice where fairness was in doubt. Details of "equitable adjustment" (of wages above the minimum), employment of learners, homework, overtime, sales on consignment, distress sales, or refunds for goods returned, were thus reported. Presumably the Code Authority would use this information to decide whether more or better rules were needed on these subjects, but it was under no obligation to report or recommend anything to NRA. The information thus collected will be a valuable basis for future regulation of industry, if it can be secured and published.

b. Reports by Code Authority to NRA

Codes also imposed on Code Authorities the duty of making certain reports to be used for NRA purposes. Twenty-three out of 45 large codes required such reports. Some were required for use in applying rules already approved. The most common of these were lists of hazardous occupations (from which minors were excluded) and standards for safety and health. Reports and recommendations were also required of Code Authorities on subjects which needed regulation but on which no agreement had been reached when the code was approved. As a rule, a time limit was set within which these reports were to be rendered.

c. Subjects.

The subjects of the reports varied from code to code and dealt with highly controversial matter. Thus, a committee of the Trucking Industry was to report and make recommendations on the payment of wages for "waiting time, off duty, and dead-heading." A Cotton Textile Committee was to study "work assignment" (the stretch-out system). The Graphic Arts Industry was to study prevailing wages, the proper complement of men required for relief printing mechanical equipment, the apprenticeship situation in Lithographic Printing, and job classifications in Trade Mounting and Finishing. In the Boot and Shoe Code the Planning and Fair Practice Committee, was to undertake an investigation of the minimum wage scale and report on it not later than March 1934. The Fishery Code Authority was to meet with Government Conservation agencies to formulate a plan to conserve fish and to make recommendations. The Furniture Manufacturing Industry was to investigate homework and report within 60 days. The 5 Code Authorities of the 5 industries under the Scrap Iron Code were to study adjustments of minimum wages and maximum hours for 6 months after code approval and submit recommendations. The Cotton Garment Industry was to report on wage differentials between North and South, and on urban and rural minimum. Retail Rubber Tire Industry was to study the problem of consecutive employment, and report within 90 days. The Canning Code Authority was to list perishable, seasonal, and non-seasonal products. Dress Manufacturing Industry was to report on style piracy within 60 days, and on a provision for introducing apprenticeship systems by January 1, 1934.

d. Delay in Reporting.

The list of subjects for reports and recommendations comprises some of the most difficult subjects. The reports were expected to provide solutions for problems on which industry representatives could not agree, even while working close to NRA. Naturally, an agreement was no easier to reach after the pressure was removed. As a result, these reports were rendered late or not at all. In the case of the Trucking Industry, months passed before agreement could be reached on the composition of the committee. Should a similar situation arise in the future, government representatives should have the right to initiate such studies and act upon their own judgment in case the Code Authority failed to report on the date set.

C. DISCRETION ALLOWED CODE AUTHORITIES.

1. EXTREMES OF DISCRETION.

(a) Subject to NRA Disapproval.

The majority of powers described in the preceding section were to be approved in advance by NRA, or were so clearly described in the code that only the ministerial details were left to the Code Authority. That was the normal method of Code Administration. Exceptions to that normal method occurred when a code allowed the Code Authority to act on some subject without first securing

NRA approval. Such acts were always subject to review and disapproval by NRA, but review was slow in some instances. If a Code Authority had the right to act without NRA, whether or not it had to report its action, it was exercising real discretion.

(b) More Supervision in Later Codes.

In describing the discretion allowed Code Authorities, certain provisions should not be considered representative. NRA policy on the discretion allowable to Code Authorities developed in the direction of greater supervision by the Administrator. The later codes showed the effects of this development, since they permitted only a moderate amount of discretion to the Code Authority. Early code provisions were not thus limited and are not therefore, true statements of code authority powers. To quote a National Industrial Recovery Board statement of policy dated May 2, 1933 (*), "they merely revealed original intentions, not what actually happened..... A good many of the features contrary to policy were prevented from ever going into effect....Special powers bestowed by codes on Code Authorities were withdrawn whenever justification through misuse gave opportunity."

(c) Examples in Steel Codes.

The development from less to more NRA supervision was not regular or orderly. The process of code making involved plans by industry, censored by NRA. Hence a strong trade association dealing with one deputy might get more concessions on a given date than another industry confronted by a different deputy. A series of codes for steel-product industries will illustrate both the unevenness of the application of NRA policies and the transition from extreme to moderate Code Authority powers. The codes listed below all represent the extreme of discretion granted to Code Authorities on or about the dates on which they were approved. Other codes approved near those dates carry less drastic powers. Even in these extreme codes, however, the amount of discretion granted diminishes steadily from August 1933 to August 1934.

TABLE 10

SAMPLES OF EXTREME CODE AUTHORITY DISCRETION IN FOUR STEEL CODES

Date Approved	No. of Code	Name of Code	Fix Fair Price	Inter-pret Code	Assess Costs of Audit	Liqui- dated Damages	Decide Whether Agent
Aug/1/33	11	Iron and Steel	X	X	X	X	X
Nov/11/33	127	Reinforcing Materials	X		X	X	X
May/30/34	11	Iron and Steel Amendment		X	X	X	X
July/11/34	480	Structural Steel, etc.		X		X	X
Aug/1/34	495	Steel Joist				X	X

(*) Code Revision Memorandum No. 1, Evolution of Trade Practice Policies. 9743

The letter x signifies that the power described in the heading was granted to the industry by its code. In all these codes the Code Authority or a majority thereof was formed from the Association. Iron and Steel was much the largest, with 600 concerns and 420,000 workers. The amendment of the Iron and Steel Code in May, 1934 shows the tendency to reduce Code Authority powers. Reinforcing Materials was so closely allied to Iron and Steel that its code proposed to refer cases of violations to the American Iron and Steel Institute for action, as well as to its own Code Authority. Its basing points, wage districts, and hourly rates were the same as in Iron and Steel. The Structural Steel Code never went into effect. Some of its powers were cut down by the order approving it, and the whole code was eventually stayed. The Steel Joist Code had 900 workers in 1929 and only 95 in 1933. Its code frankly imitated the Reinforcing Materials Code, but the reduction in powers indicates the change in NRA policies.*

(d) Nature of Powers.

The Code Authority powers listed in this table were all unusual. Fixing prices was concealed in each case under a rule that the Code Authority might reject a filed price which it considered unfair.

The right to interpret the code was expressed so broadly in both codes that it obviously would not be enforced by NRA. Thus the Iron and Steel Code stated that the interpretations of its Code Authority should be "final and conclusive". The Structural Steel Code contained an unusual rule to the effect that the Code Authority had the right to construe the code but that a meeting of all industry members might substitute a new ruling.

Assessing the cost of an audit or investigation against the concern investigated included the right to force an inspection of books.

Liquidated damages could be collected from all Code members, and the amount could be fixed by the Code Authority.

Deciding whether a customer was an agent or not was important because an agent was entitled to a substantial discount from the price charged to a regular customer. In such cases the application of the rule is quite as important as the rule itself.

(e) Powers Not Fully Exercised.

Apparently these powers were exercised so moderately that little resistance was aroused in the industry. The Iron and Steel Industry had 15 valid trade practice complaints filed during its whole history, without one on hand in May 1935. The Reinforcing Materials Industry had two and the Steel Joist Industry none. A Code for Structural Steel Industry was not in force in May, 1935. These may be compared with 233 complaints on hand in May, 1935 under Electrical Manufacturing Code and industry roughly comparable to that of the Iron and

(*) See the introduction.

Steel. Evidently, the phrasing of these extreme powers is not a fair indication of the extent to which NRA permitted them to be exercised.

2. NORMAL DISCRETION

(a) Code Authority Exceptions on Minor Points.

More normal types of discretion allowed Code Authorities to modify the rigor of code rules in special cases. Thus, in the rare plans for dividing existing business by limiting productive capacity, the Code Authority could normally grant permission to build new plants without NRA approval. If permission was denied, an appeal could be taken to NRA. On minor activities, such as sales of seconds or discontinued lines, and sales on consignment, Code Authorities could sometimes grant exceptions or prescribe regulations without NRA approval. Occasionally, specific rules (usually providing for price-filing) could be put into force or discontinued at will by a Code Authority. The exercise of such powers needed watching, because it might arouse charges of favoritism, but as compared with the total amount of Code Authority activity the discretion involved in these rules was of little consequence.

(b) Similar Provisions in Common or Related Codes.

Like other fashions in administrative rules, certain provisions were common in groups of codes drawn up by the same lawyers. Thus, both the large Paper and Pulp Federation (2 sub-codes) and 22 industrial paper codes allowed the Code Authority to establish and discontinue an open-price system at will. This was done by two types of provisions; one, used in the Paper and Pulp Code, established an open-price filing system but allowed the divisional Code Authority to suspend it; the other type of provision stated that the Code Authority could "from time to time determine that an open-price plan of selling shall be put into effect." Similarly, 12 supplementary Machinery and Allied Products Codes contained an identical clause on filing price lists. The Paper Distributing Code stated clearly that the Code Authority could choose what prices should be reported. The Wholesaling Code also contributed freely to the list of exceptions by allowing its 23 Divisional Code Authorities to put in an open-price system, and to reduce the basic work week to less than 6 days. The chart below will show that the Paper and Wholesale Codes account, between them, for an undue proportion of exceptions.

Table 11

NUMBER OF CODES PERMITTING CODE AUTHORITY, WITHOUT NRA APPROVAL, TO ALLOW EXEMPTIONS FROM OR MAKE RULES REGARDING:

<u>Subject Regulated</u>	<u>Number of Codes</u>	<u>Per Cent of All Codes</u>
Distress Merchandise	78 <u>a/</u>	10%
Sales on Consignment	91 <u>b/</u>	11.9%
Hours Provisions	44 <u>c/</u>	5.8%
Wage Provisions	8 <u>d/</u>	1.%
Miscellaneous	63 <u>e/</u>	8.3%

a/ Nine (9) of these were codes for industries manufacturing some paper specialty and 22 were supplements to Code No. 201, Wholesaling.

b/ Nineteen (19) of these codes were for industries manufacturing some paper specialty and 11 were supplements to Code No. 201, Wholesaling.

c/ Twenty-four (24) of these codes were supplementary to Code No. 201, Wholesaling. They permitted the Divisional Code Authorities to reduce the number of days of work per week.

d/ These were all exceptions from certain classifications of workers.

e/ Twelve (12) of these were supplements to Code No. 347, Machinery and Allied Products Industry, on price lists.

(c) Examples

When one Code Authority could make rules or grant exemptions on several of these subjects, it could exercise a considerable amount of discretion. Thus, the Insecticide and Disinfectant Manufacturing Industry Code provided in Article VI: -

"(c) No quantity discount shall be allowed on any order for insecticides amounting to less than \$45.00 except under conditions prescribed or approved by the Code Authority.

"(e) Nothing in Sections 1 and 2 of this Article shall be interpreted to prevent any sale in good faith of any products that any member of the industry may be discontinuing in his line, or damaged goods or inventories which must be converted into cash to meet emergency needs, upon such terms and conditions and in

increasing or decreasing NRA supervision accordingly.

(d) All Powers Limited By NRA Interpretations.

Code rules, therefore, should be read in the light of NRA policies and practices rather than taken literally from the codes. Until the Federal courts had spoken, NRA had a duty to keep these hastily drafted provisions within the limits of the National Industrial Recovery Act. When this effort was successful, code problems were minimized. Most difficulties in administration occurred when code rules were ignored, or in conflict with other codes, or used by one faction to harass another. When an industry was divided against itself, no document could secure cooperation.

III. METHODS OF SELECTION OF CODE AUTHORITIES.

A. TRADE ASSOCIATION CONTROL.

1. CONTROL BY ONE TRADE ASSOCIATION.

(a) Approval Required by NRA.

Every code provided the method by which its Code Authority should be selected. If no agreement could be reached at the moment, the usual rule was that the selection should be "by a fair method of election to be approved by the Administrator." Out of 886 codes and supplements 190 postponed the method of election of their Code Authority members. By May 1935 only 14 such methods had not yet been fixed. In every case the names of the Code Authority members had to be reported to NRA with proof that they were selected according to code provisions.

(b) Balance Between Efficiency and Democracy.

NRA established no one method of selecting Code Authorities. The deputies sought to strike a balance in each case between efficiency as represented by Trade Association Control and true representation of all interests involved. The most important devices employed to secure true representation were general industry elections and the guaranteeing of seats to definite minorities. Both these last methods were more cumbersome and expensive for large industries than for small, so were less often employed in the largest codes. Only five general elections were held in the 35 largest industries which covered half the total of employees. In all codes and supplements, 301 general industry elections were held (35% of the total).

Table 12: Number of Elections and Guaranteed Minorities.

<u>Size-Groups</u>	<u>No. of General Elections</u>	<u>Percent</u>	<u>Guaranteed Industry Minorities</u>	<u>Percent</u>
35 over 130,000	5	-	7	-
35 50-130,000	12	-	9	-
70 largest	17	24	16	23
All 886	301	35	351	40

(c) Efficiency in Trade Association Control.

Practically every code was sponsored by at least one trade association. Its members had acquired confidence in one another through years of collaboration, and had established a common fund and an experienced staff which could turn at once to the work of code administration. Hence, whenever the trade association included all the members of an industry, it seemed both fair and wise to permit the trade association to administer the code subject, of course, to NRA supervision.

(d) Details of Choice by Trade Association.

To implement this control, NRA first reviewed the

by-laws of the association to see that they contained no inequitable restrictions on membership or voting. The code might then provide that the Code Authority should be either;

1. The Association itself (*)
2. Its Board of Directors
3. Its Code Committee
4. Appointed by its Board of Directors
5. Appointed by its President
6. Elected by its members

All these methods achieved so nearly the same result that they may be lumped under the heading, "All Code Authority Members Selected by or From one Trade Association." Under this heading would fall:

Numbered Codes:	116 out of 577 or 19%
Supplements and	
Divisions:	53 out of 239 or 22.%
Large Codes:	17 out of 70 or 24.3%

(e) Temporary Association Code Authorities.

This method avoided so much delay in launching code administration that temporary Code Authorities were often appointed from the dominant trade association, with instructions to arrange an election for a permanent Code Authority within a fixed period, usually from one to four months. Such Association Code Authorities are not counted in the tables of permanent Code Authorities which accompany this report. In many cases, however, since the life of many codes was short, a temporary Code Authority was in control during all, or practically all, the period of code administration.

(f) Federated Trade Associations.

It should be noted that all trade associations were not equally compact, so that their efficiency might vary accordingly. Fabricated Metals Federation, for example, which appointed the Code Authority for Code No. 84, was split into 113 or more divisions each of which was so independent that it had, or planned to have, a supplementary code. Similarly, the International Association of Garment Manufacturers selected the Code Authority of Cotton Garment Code No. 118 from its 16 subdivisional groups. The Motor Bus Association not only allowed weighted voting, but was a federation of 11 districts, each of which sent one representative to the committee which selected the industry members for the Code Authority of the Code. Within such federated trade associations arise all the problems of divisional representation which are discussed in Section III, D, below.

(*) In rare cases. Since the Association had to act through its elected officers this made difficulties only when a list of Code Authority members was required. Strictly speaking, the several thousand members of an association would have to be listed in such cases.

2. TWO OR MORE ASSOCIATIONS CONTROL.

(a) Examples.

Unfortunately, the majority of industries were organized under several trade associations, or contained a substantial number of concerns which were not members of any trade association. Where several trade associations claimed to speak for an industry, NRA selected those which were most truly representative and accorded each one its share of representation on the Code Authority. This might result in a long list of members. The National Retail Code Authority, for example, contained representatives from nine associations, as follows:

- National Retail Dry Goods Association
- National Shoe Retailers Association
- National Retail Hardware Association
- Mail Order Association of America
- National Association of Retail Clothiers & Furnishers
- National Retail Furniture Association
- Limited Price Variety Stores
- National Association of Music Merchants
- National Council of Shoe Retailers

Similarly, the Cotton Textile Code was originally administered by a "Cotton Textile Industry Committee, the applicant herein, or by such successor committee or committees as may hereafter be constituted by the joint action of the Cotton Textile Institute, the American Cotton Manufacturers Association and the National Association of Cotton Manufacturers." By subsequent amendments the following associations were admitted to the circle of electors:

- National Rayon Weavers Association
- National Association of Finishers of Textile Fabrics
- Thread Institute
- Mercerizers Association of America

Allowances had to be made for differences in size in these various groups. Size was usually computed on the basis of volume of production. Many concerns, moreover, were members of more than one association, either because they carried on various processes or because they wished to belong to a central organization like the Cotton Textile Institute as well as to a southern group like the American Cotton Manufacturers Association, or a northern group such as the National Association of Cotton Manufacturers. As a result of these complications it is impossible to trace the fairness of representation in such systems.

(b) Effect on Minority Representation.

Minorities of non-association members, labor unions, and such organizations, were less often represented on multi-association Code Authorities, partly because so many points of view were already represented and partly because of the difficulty of determining the proper amount of such representation. Should a separate candidate be elected by all who were not members of the dominant association, or one from concerns in each process, such as mercerizing, who were not members of the Mercerizers Association, but might be of other participating associations? Or should separate Code Authority members be elected by the few concerns who were not members of any association? Similarly,

if unions were to be represented, how many and which ones? It was the large code industries, as a rule, which needed multi-association Code Authorities. so the large codes contained fewer provisions for self-elected minority representation than did the smaller ones.

Table 12: Proportion of Self-Elected Non-Association Representation.

<u>Size-Groups</u>	<u>No. of Codes with Self-Elected Minorities</u>	<u>Percent of Total</u>
35 over 130,000	3	
35 50 - 130,000	7	
70 largest	10	14.
All 886	269	30.

B. GENERAL INDUSTRY ELECTIONS.

1. DEMOCRACY NEEDED.

(a) Not Ensured by Trade Association.

Trade-association control was the most promising method for ensuring speed in the establishment of a Code Authority and efficiency in its administration. Such control, however, was always open to the charge of being undemocratic. Trade associations usually included the large firms which produced the greater part of the volume of their industry, but did not necessarily include a majority by number of all concerns in the industry. Moreover, even if a trade association included 51% of an industry its own policy was presumably decided by a majority of its own members. Hence 26% of the industry could theoretically control the whole. Trade-association control, therefore, became identified in the popular conception with the domination of large firms over the "Little fellow." NRA was committed to the principle of true representation for all elements of the industry, so it often insisted that certain democratic devices be employed in Code Authority selection.

(b) Promoted by Elections.

Prominent among the devices were general industry elections. No seats were guaranteed to any association or non-association members. Slates were nominated by committees, from the floor, or by mail, and ballots cast by individual members of the industry. Such elections resembled the political elections in the average American State. Such States are termed democracies, so such industry elections appear at first glance to be democratic. This democracy, however, is hampered by certain conditions which do not obtain in political elections.

2. TRADE ASSOCIATION INFLUENCE.

(a) As a Political Party.

Least obvious but most common of these conditions was the participation of one or more sponsoring trade associations as a kind of political party. As such it exerted at least the usual influence

of an organized minority. Its organization was usually established over a wide area, and frequently circulated its views by means of some trade publication. Its leaders were accustomed to conferring on policies which their followers would support. By contrast the non-association members were often small firms in distant parts of the country, with few means of communication. Even without specific advantages granted by the code, trade association members had a better chance to swing an election than did the unorganized members. When a trade association did win a general election, its whole slate was elected, so that minority parties got no representation at all.

(b) By Supervising Elections.

Definite advantages in elections, moreover, were often granted by codes to trade associations. Approximately 200 codes and supplements expressly provided that the association should "super-
vise" elections. Even where the code did not require such supervision, NRA naturally turned to the sponsors of the code for assistance in drawing up a list of concerns qualified to vote, proposing a slate of candidates, and counting the ballots. The place and date of meetings or of receiving mail ballots was also normally referred to trade association officials. Naturally they would make sure that the method adopted did not operate to their disadvantage.

(c) Trade Association Officials Ex-Officio
Members of Code Authority.

Besides granting the power to steer elections, 157 codes (17.7%) required trade association officials to direct their administration. This was arranged for by making certain trade association officials ex-officio members of the Code Authority. Besides the votes thus granted, the presence of these veterans in industrial organization must have had a decided influence on their less experienced colleagues. This influence would normally be exercised to secure efficient management, but it might also facilitate an attack on non-association interests.

3. VOTING CONDITIONS.

(a) Suffrage Limited to Assenting Members.

Besides offering special advantages to trade associations, code elections frequently imposed certain conditions and qualifications which affected all voters in elections. Thus, 137 codes stated expressly that no concern could "participate" in code government unless it had assented, in writing to the code. The Model Assessment Provision similarly limited the "benefits of the code" to those who had paid their contributions. These two provisions might exclude from voting a considerable number of concerns. The Retail Solid Fuel budget, for example, out of an annual total of 146 millions of retail tonnage, listed only 110 million tons on which assessments had been or were expected to be collected. This would mean that nearly one-quarter of the industry, counting by volume, was disfranchised. If this tonnage was put out by the smaller firms - as it probably was - the proportion would be even greater. Such a system was consistent with

abstract justice, but it tended to widen the gap between dissenting groups. Experience showed that in several industries, including Retail Solid Fuel, a few rebellious firms believed that "paying assessments was like sending ammunition to the enemy." Depriving them of votes would confirm this attitude.

(b) Weighted Voting.

Another complication in Code Authority elections was caused by the fact that the concerns varied greatly in size. Large companies regularly paid assessments based on volume of production. It was not considered fair to give a one-man concern as much power as a large corporation. Several codes, therefore, provided that some or all Code Authority members should be elected by votes weighted according to volume of production.

Table 13: Codes providing for Weighted Voting at Elections.

<u>Size-Groups</u>	<u>Total Elections</u>	<u>Total Weighted</u>	<u>Percent</u>
35 over 130,000	8	3	37
35 50 - 130,000	27	4	14
886 total codes and divisions	570	131	23

The totals of elections include both elections for the whole Code Authority and elections for a minority elected by and from non-association members. The totals of weighted voting include cases where half the Code Authority is elected by votes weighted according to volume and half by a numerical majority. These figures do not include provisions for weighted voting which may be found in trade association by-laws. They do include cases in which individual votes are not weighted, but a similar result is reached by reserving certain seats on the Code Authority for the representatives of larger firms; as where all members vote together, but half the seats are to be filled by members of the 10 largest companies, and half by representatives of 90 smaller concerns.

In the 35 largest codes all elections with weighted votes were general elections. In one of these elections votes for all code Authority members were weighted; in the other two votes for half the members only were weighted. In the total of 886 codes and supplements 64 instances of weighted voting were supplied by two industry divisions, Equipment and that is in the industry in the Wholesaling trade. The supplements to two federated codes in those divisions, Machinery and Allied Products, and the Wholesaling Trade, accounted for most of this weighting. No one principle can be discerned which will explain the amount of weight assigned to volume in the various codes. In every case each firm was allowed at least one vote. Usually no one concern was permitted to cast the majority of all votes in the industry. Frequently, the weight allowed to volume decreased as the volume increased, as when a concern got three additional votes for its first million of sales but only two additional votes for the second million, and one additional vote for its third. Weighted voting was deliberately adopted as a principle by NRA and derives some importance from that fact alone. Its actual effect upon democracy in code administration supple-

ments the effect of allowing trade associations to select Code Authorities, but is less important because fewer elections were held in the largest codes.

(c) Minor Conditions.

Besides these major complications in voting there are a few general rules which affect the result to a lesser degree. Thus, many codes expressly provide that ballots may be cast by mail. This is an assistance to the smaller concerns which cannot afford to send representatives to a distant meeting. Very rarely an attempt was made to secure minority representation by allowing concerns cumulative voting, that is to cumulate (either vote once for all positions or to pile up all votes for one candidate). Twenty-five (*) codes or supplements contain provisions for cumulative voting. It is most common in small codes in the Food Division and in the Chemicals Division. In only one election was the classic Hare System of Proportional Representation employed. Among these minor situations is that in which an industry is so small that each member can appoint a representative to the Code Authority. This is perhaps the most democratic method of government but is obviously impractical for any but the smaller industries. Only 24 codes employed it, -- 2.7% of the total.

Another rare condition involved the situation when all resolutions by the Code Authority required the votes of more than a majority, say three-fourths of its members. This requirement of special majorities for votes within the Code Authority was used where very large firms waived their claim to a majority of votes, but insisted on a veto. It was prescribed for Code Authorities appointed by trade associations as well as for elected bodies. Only 25 codes (3% of the total) contained such a provision. Six of them were in the largest 70 (11%) and 7 were in the Non-Metallic Mineral Division.

(d) Administrative Results.

After these limits upon voting are considered, general industry elections appear to have been less of a factor in industrial democracy than would be imagined. In the 35 largest codes, covering one-half of industry, only five general elections were prescribed. Votes were weighted in two of these; Transit and Trucking. A third, Wool Textile, required decisions by a three-fourths' vote in the divisions. The last two, Silk Textile and Bowling and Billiard Operating, expressly limited their suffrage to assenting members. In smaller industries, of course, elections were easier to conduct, and hence more common. There is no evidence, however, that compliance was more easily secured in code industries which elected their Code Authorities.

(*) See list in Appendix.

C. PROPORTIONAL REPRESENTATION GUARANTEED.

1. GENERAL PRINCIPLES.

(a) Major and Minor Groups Represented.

NRA has proved itself more modern than the average political system by accepting the principle of representation for minority groups. The major groups for which such representation was provided may be classed as:

1. Functional (based on same products, commodities or service)
2. Geographical (based on same locality)
3. Associational (majority guaranteed to members; minority to non-members)
4. Size (weighted voting)

Partial List of Minor Bases for Representation (*):

5. Race (Funeral Service Code requires one colored member)
6. Religion (separate divisional code for Retail Kosher Meat)
7. Language (Graphic Arts in Hawaii has separate division for ideographic printers)
8. Price Range (Limited Price Variety Stores in Retail Trade and a separate code for Medium and Low Priced Jewelry)
9. Method of Sale (Mail Order Association of America in Retail Trade)

Extra-Industry Representation of:

10. Labor Unions
11. Consumers
12. NRA
13. Other Code Authorities

(b) Types to be Discussed.

Representation for many of these interests has already been discussed. Thus, the system of functional division largely ensured that concerns engaged in the same processes received separate representation. Geographical divisions provided separate representation for localities. Weighted voting, in a sense protected the rights of a numerical minority

(*) Union affiliations is another basis, but the examples of it are concealed beneath associational groups in several textile apparel codes, especially Millinery.

of large firms. Sponsoring trade associations desired such representation, and provided for it either by setting up divisions (*) or by requiring that one or more candidates be nominated from some unorganized group, such as wholesalers, or manufacturers on the Pacific Coast. If a trade association was administering a code, its by-laws might be expected to provide for similar representation where necessary. This section will be chiefly concerned with the type of representation which was not sought by sponsoring trade associations but which was inserted at the request of NRA. The chief types of such minority representation are for:

- Non-association members of industry
- Labor unions
- Consumers
- NRA

2. GUARANTEED REPRESENTATION FOR NON-ASSOCIATION MINORITIES.

(a) Importance of Minorities.

Non-association minorities participated, of course, in general industry elections. The usual system, however, of nominating say five candidates and having each concern vote for five, tended to elect the majority slate as a whole without giving any representation to the minority, even if it was of substantial size. Elections, moreover, as already pointed out, involved considerable delay and expense. Hence, many codes provided that a definite majority of Code Authority members should be selected from trade association members, but that an equally definite minority should be selected from non-association members to represent their interests. As a rule, the proportion of non-association men was rather less than their proportion of the industry production, since it was expected that cooperating firms would join the association and be represented through it. The presence of even one minority member on a Code Authority gave minorities more protection than they would receive in an ordinary legislative body, because the minority member if out-voted on an issue could appeal to NRA for protection.

(b) Methods of Selection.

Non-association members were selected in several ways, with slightly different results. The most common method was to have them selected by and from their own number. Often, because of their disorganized situation, it was provided that non-association members might elect a representative if they so desired, but that if they took no action, one might be appointed by NRA. Perhaps for the same reason it was sometimes provided that the non-association member should

(*) For the effect of "Division" on other forms of representation see Section D, following.

be elected by the vote of association members (*) or by the industry as a whole. Occasionally, NRA appointed minority representatives in the first instance.

Table 14:

Methods of Selecting Non-Association Minority Representatives.

	Elected by Non-Ass'n. Members	By Assn. or Industry	By NRA	Total	Percent
35 codes over 130,000	3	2	2	7	
35 " 50 - 130,000	7	2	0	9	
70 largest	10	4	2	16	21
886 codes and supplements	269	51	31	351	40

Each of these methods had its disadvantages. Guaranteed minorities, nevertheless, came nearer reproducing the industrial situation within Code Authorities than did other methods of selections. They permitted the efficiency of the trade association majority to be tempered but not blocked by the votes of the minority.

3. EXTRA-INDUSTRY REPRESENTATION.

(a) Administration Members.

Whatever the composition of a Code Authority, its discretion was checked in almost every case by the presence of government representatives appointed by NRA and called "Administration Members." These members were appointed to practically all basic or numbered codes. They were also authorized on supplementary codes, and on numerous functional divisions. They were not attached to geographic divisions except in Lumber and Bituminous Coal Industries. These Administration Members had the right to attend every official meeting of the Code Authority and could recommend suspending its action by reporting to NRA. Many actions of Code Authorities were thus suspended, and valuable information secured for NRA.

(*) Since a representative normally represents the men who select him, this method of selecting non-association men permitted the selection of complaisant dummies. Thus, in selecting the Code Authority for Porto Rico, the non-association member chosen by the Association was not a small baker but a retired baker of means who had been a member of the Association until his retirement.

(b) Labor Representation.

Representatives of Labor were given seats on the code authorities of twenty-five industries which manufactured apparel, and on the code authorities of eleven other industries. These thirty-six codes amounted to 4% of all codes. Of the twenty-five labor representatives authorized in apparel codes, eleven had no vote. Labor men were appointed as non-voting representatives on 17 other codes by administrative order. It was able to force its way into the code authorities of the industries in which labor was thoroughly organized before the adoption of the code. The influence of such union members was frequently cast on the side of association members, who were more likely to have wage and hour agreements with the union, and were anxious to raise non-association and non-union standards to an equal level. Sometimes these labor representatives were appointed by the dominant unions in the industry; at other times they were appointed by NRA on the recommendation of its Labor Advisory Board. They differed from Administration Members in that they had the right to vote in many cases. Their presence on a code authority amounted to a guarantee that compliance with labor rules would be vigorously pursued.

(c) Consumer Representation.

In 10 numbered codes only, a code authority member was appointed to represent the interest of consumers. Six of these codes were in the Food Division. The majority were approved late in 1934. Four of these members were nominated for NRA appointment by the NRA Consumers' Advisory Board in the following codes:

- No.467- Cigar Manufacturing Industry
- " 462- Wholesale Tobacco Trade
- " 466- Retail Tobacco Trade
- " 445- Baking Industry

Others were selected from various groups. Thus for the Anti-Hog Cholera Serum Industry, the Secretary of Agriculture chose a consumer representative. Farmers' Cooperatives were represented on the Seed Trade Code Authority. Similarly, a nominee of the American Bowling Congress was to serve on the Code Authority of No. 346, Bowling and Billiard Operating Code Authority. The Shoe Rebuilding Trade, provided for consumer representatives on its local committees. Finally, on all ticket distributing questions, the Legitimate Theatre Code Authority permitted the attendance of representatives of the National Theatre Ticket Distributors, Inc., and of the Theatre Ticket Brokers Association of New York City. Such consumer representatives might be expected to scrutinize carefully the administration of trade practice rules, and to prevent undue increase in price.

(d) Representatives of Other Code Industries.

Both in theory and practice the adoption and administration of code rules by one industry might affect the interests of other code industries. The establishment of numerous "coordinating committees" testifies to this interrelationship. Only in exceptional cases, however,

was the representative of one code industry made a member of the code authority of another group. The Lumber and Timber Products Industry provided in its code authority regulations that one representative of lumber wholesalers and one of lumber retailers should sit on its code authority. The Precious Jewelry Manufacturing and Medium and Low Priced Jewelry Manufacturing Industries each allowed a representative of the other industry to sit on its code authority. The Retail Tobacco Code specified that its code authority should include one representative from the Drug Trade and one from Retail Grocery. Finally, the Copper Industry Code Authority had among its members one man appointed by the Code Authority for the Copper and Brass Mill Products Industry, and one appointed by the Wire and Cable Subdivision of the Electrical Manufacturing Industry. While formal representation of this type is rare, industries must have secured plenty of mutual representation through the overlapping membership of trade associations and code industries. All such representation, like the labor and consumer members, contributed to the stability of code authorities by giving outside groups an influence on code decisions commensurate with their financial interest in such decisions.

D. MINOR METHODS.

1. APPOINTMENT BY NRA.

If industry members desired a code, but could not agree on a Code Authority, NRA undertook to fill the gap. Sixteen (*) codes were thus administered. In the majority the members of the Code Authority were either named in the code, or were to be appointed later by the President or the Administrator. The Petroleum and Motion Picture Codes were outstanding examples of governmental appointments made necessary by dissensions at the time the code was approved. To meet the emergency of the resignation or removal of the industry members of a Code Authority, a General Code Authority was also set up composed of NRA representatives. It could step into any vacancy and administer any code until new elections or until the Code Authority arrived at some other solution. The Cotton Garment and Retail Solid Fuel Industries were the largest industries thus administered. A few smaller one such as the Industry, Schiffi, the Hand Machine Embroidery, Shuttle Manufacturing, the Ring Traveller Manufacturing Industry, and Horse Hair Dressing Industry, entrusted their administration to this General Code Authority. In one agitated industry (Live Poultry, a Code Supervisor was appointed jointly by NRA and the Secretary of Agriculture. He had full power to administer the code with the assistance of an industry advisory committee. Like the other appointments, this was done to meet an emergency situation.

2. APPOINTMENT BY DIVISIONAL CODE AUTHORITIES.

(a) Simple Appointment

Federating numerous small industries or geographical divisions under one central Code Authority raised serious problems of representation. When groups were sufficiently separate to be set up as self-governing divisions, they naturally desired separate representation. Hence 31 codes, 7 of them large, provided that the central Code Authority should be composed of members each one of whom was either the chairman of a Divisional Code Authority or elected by that body.

(b) Double Appointment.

Still other steps in elections were prescribed in some codes. Thus the Egg Case Subdivision sent its representative to constitute, with 6 others, the Wooden Package Division Code Authority, which sent one representative to the Lumber and Timber Products National Code Authority. Similarly, the Dallas Local Printers Club elected one representative to the Texas Zonal Code Authority which helped to choose the directors of the United Typothetae of America, an association which was the Code Authority of the Commercial Relief Printing Industry, and contributed 7 members to the National Relief Printing Appeal Board which, in turn, designated 10 out of the 20 members of the National Graphic Arts Coordinating Committee, which dealt direct with NRA.

(*) See list in Appendix.

(c) Problems of Representation.

This system of selecting Code Authorities tended to limit the nature of minority representation. For example, the Wholesaling or Distribution Trade was split into 23 supplementary (divisional) code industries. Each Divisional Code Authority elected one or more members to the General Code Authority. Of the Divisional Code Authorities 4 were elected, 2 appointed by one association, 12 had an association majority with a self-elected minority, and 5 an association majority with a minority appointed by NRA. Some of the supplementary codes in this Trade were still further sub-divided. Thus Wholesale Dry Goods was split into 7 commodity divisions and 7 "territorial membership zones. The commodity divisions each appointed one member to the General Wholesaling Code Authority, and also one each to the Divisional Code Authority. Territorial divisions each sent one representative to the Divisional Code Authority, to which the directors of the Wholesale Dry Goods Institute appointed five more members.

In estimating the composition of the General Wholesaling Code Authority, it is clear that commodity minorities were thoroughly represented through their trade associations. Even so small a group as the Notions Wholesaling Subdivision of the Wholesale Dry Goods Association received a representative. Geographical minorities, however, as represented by the 7 territorial zones in Wholesale Dry Goods Association did reach the General Code Authority. Non-associational minorities, likewise, though represented on 17 out of 23 Divisional Code Authorities, were not normally elected to the General Code Authority, because the majority in each Divisional Code Authority was selected from an Association. If labor or consumer representatives had been on Divisional Code Authorities they too would be squeezed out by this process. The National Code Authority might easily contain 100% of New York trade association members without any of the minority representation which NRA desired. Moreover, minority representation could not be transferred from each division without doubling or trebling an already unwieldy General Code Authority. Somewhat similar results occurred where elected State Code Authorities elected one member to a National Code Authority, as in the Code for the Motor Vehicle Maintenance Trade. Each region was then represented on their National Code Authority, but there was no room left for functional or non-associational minorities. Selecting Code Authorities by or from divisions tended to destroy minority representation.

(d) Other NRA Solutions.

Other NRA codes were split into divisions but met their representation problem in another way. At least three other methods were employed. In the Trucking Industry, for example, the members of several regions (each 3 or more States) sent delegates to an electoral college. Four such delegates were chosen in each region by a majority vote of a convention of State Code Authorities in each region. One each of such delegates had to be a regular route common carrier, one a contract operator, one a local cartage operator, and one from some other functional group. This electoral college elected to the National Code Authority one member from each region. Other codes such as Fisheries and Fabricated Metals Industries concealed the machinery of representation by having divisional

associations federated into one basic association which appointed the Basic Code Authority. Still other codes added a few minority representatives to the National Code Authority. Thus, the Code Authority of the Motor Vehicle Retailing Trade was composed of the chairmen of the State Advisory Committees, plus 5 used-car dealers. Finally the Machinery and Allied Products Industry forgot its divisions entirely when electing its Basic Code Authority and sent out ballots for a mail election at large. This last arrangement was simple but would not ensure any minority representation unless combined with the system employed by the Brush Manufacturing Industry. (*) This was the classic Hare System of Proportional Representation which allows industry members to form their own groups, and automatically gave each ten percent of the industry a representative on the Code Authority. (**)

(*) See Administrative Order 360-54 for details.

(**) The Hare System of Preferential voting is designed to permit each substantial minority to form its own group, and to secure representation proportionate to its numbers. Nominations are made by petition, so that from twenty to forty names can appear on the ballot. Voters are directed to mark their first, second, third, etc. choices, on as many names as they please. Ballots are then counted and collected into piles according to the first choices expressed on each one. To elect nine men (the usual number) all candidates who are designated as first choice on one-tenth of the total number of ballots cast, are declared elected and their ballots set aside. The candidate with the least number of first-choice ballots is then eliminated, and his ballots distributed among the surviving candidates, according to the second choices expressed on them. If some of the second choices on such ballots are for men already declared elected, the ballots are added to the pile of the candidate indicated on them as the next choice of the voter. If this distribution of ballots gives any candidate a full tenth of the total vote cast, he is declared elected. The process continues, eliminating the candidate with least votes after each distribution, until nine men have been declared elected. These constitute the committee. The system is easier to operate than to describe, and is often used in America in connection with city-manager plans for municipal government.

- CONTENT OF N.I.R.A. ADMINISTRATIVE LEGISLATION -

PART D.

Administrative Provisions in the Codes

- APPENDIX -

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APPENDIX 1.

1. Summary by Codes of Regional, State, District or
Local Code Authority Agencies

24 - Bituminous Coal	5 Divisional, 17 Subdivisional, 4 District
31 - Lime	16 Lime Industry Manufacturing Districts
33 - Retail Lumber & Build- ing Material	32 Divisional, 409 Trade Practice Complaints Committees
39 - Farm Equipment	2 Regional Complaints Boards, 8 Divisional Complaints Boards
40 - Electric Storage & Wet Primary Battery	25 Regional Complaints Boards
43 - Ice	43 Committees of Arbitration and Appeal
46 - Motor Vehicle Retailing	54 State Advisory Committees
52 - Mutual Savings Banks	15 Regional Code Authorities, 19 Group Code Authorities
60 - Retail Trade	51 State Code Authorities, 787 Local Code Authorities
60 - Retail Drug Trade	341 Local Code Authorities
61 - Industrial Supplies & Machinery Distributing	31 Regional Committees
64 - Dress Manufacturing	8 Industrial Adjustment Agencies
67 - Fertilizer	12 Zone Committees
84- 1-1 Electro-Plating & Metal Polishing & Metal Finishing	12 Regional Code Committees
109 - Crushed Stone, Sand & Gravel	16 Regional Committees, 70 District Committees, 48 State Committees
118 - Cotton Garment	11 Regional Compliance Committees
123 - Structural Clay Products	5 Joint Regional Committees, 43 Regional Committees

124- Motion Picture	31 Grievance Boards, 34 Clearance and Zoning Boards
139- Machine Tool & Equipment Distributing	5 Zone Supervisory Agencies with 5 Zone Supervisors, 14 Sub-Zone Agencies, 18 Trading Area Committees.
141- Investment Bankers	17 Regional Committees
142- Retail Jewelry	215 Local Code Authority Agencies
164- Knitted Outerwear	6 District Trade Practice Complaints Committees
167- Set Up Paper Box	18 Divisional Complaints Committees
176- Paper Distributing Trade	7 Regional Committees, 36 Area Sub-Committees
182- Retail Food & Grocery Code Authority)695 Local Code Authorities
196- Wholesale Food & Grocery Code	
197- Retail Farm Equipment	2 Divisional Code Authorities
201-C Commercial Stationery & Office Outfitting Trade	15 Regional Code Authorities, 14 Sub-Regional Code Authorities, 2 Trade Practice Complaints Committees
201-G Radio Wholesaling	56 District Agencies
201-I Leather & Shoe Findings	36 Regional Committees
217- Dental Laboratory Distributing	12 Regional Code Authorities
219-Bedding Manufacturing	30 Zone Grievance Committees with 30 Zone Directors
223- Construction Machinery Distributing Trade	20 District Committees
234- Macaroni	6 Regional Industrial Adjustment Agencies
244-A General Contracting	49 State Administrative Agencies, 314 Local Agents
244-B Printing, Paperhanging & Decorating	325 Local Code Authority Agencies

244-F Electrical Contracting	12 Regional Code Authorities, 96 District Code Authorities, 360 Local Administrative Agencies
244-I Plumbing Contracting	39 State Compliance Committees, 464 Zone Compliance Committees
244-J Resilient Flooring Contracting	15 Administrative Committees
244-P Heating, Piping & Air Conditioning	11 Regional Committees, 52 Local Administrative Agencies, 22 State Administrative Committees
265- Coffee	16 Regional Code Authorities
277- Gray Iron Foundry	30 Chapters
278-Trucking	48 State Code Authorities, 12 Regionals
280- Retail Solid Fuel	49 Divisional Code Authorities
288-Restaurant	33 State Code Authorities, 33 District Code Authorities
286-Beauty & Barber Shop Equipment Supplies	11 Regional Committees each with an attorney manager
287-A-1 Commercial Relief Print- ing	17 Zone Committees, 104 Regional Offices
287 A-2 Non-Metropolitan News- paper Publishing)	47 State Code Authorities
287 A-5 Daily Newspaper Publish- ing and Printing)	
287 D-3 Advertising Typography	1 Zone
287 E-2 Bank & Commercial Stationery	6 District Committees, 10 Sub-District Committees
287 E-5 Label Manufacturing	2 Regional Code Authorities
287 D-1 Trade Typesetting	3 Regional Code Authorities
314- Wholesale Coal	1 Regional Code Authority plus 5 Coordination Committees to work with Retail Solid Fuel
364-Clay Drain Tile Manufacturing	4 Regional Code Authorities
365-Sand, Lime & Brick	7 Regional Code Authorities
366-Retail Monument	16 Regional Code Authorities

399-Household Goods Storage & Moving Trade	14 Regional Administrative Boards
406-Boat Building & Boat Repairing	5 Divisional Code Authorities
421-Marble Quarrying & Finishing	1 Regional Committee
446-Canning	19 Local Trade Practice Complaints Committees
449- Wholesale Monumental Granite	9 Divisional Control Committees
458-Wholesale Confectioners'	10 Zone Committees, 84 Local Code Authorities
462-Wholesale Tobacco Trade	20 Divisional Code Authorities each with a Code Supervisor and one or more Regional Directors, 47 Regional Directors, 156 Local or Area Code Authority Agencies
499-Refrigerated Warehousing	8 Regional Trade Practice Complaints Committees
543-Motor Vehicle Maintenance Trade	45 Temporary State Committees
LP-10 Brewing	17 Regional Labor Boards (never recognized)
LP-14 Country Grain Elevator	2 Regional Code Authorities, 9 State Code Authorities
LP-17 Wheat Flour Milling	10 Regional Committees, each with one Regional Director
LP-18 Wholesale Fresh Fruit & Vegetable Distributive	55 Local Committees
287-Law Printing	11 Zone Directors
445-Baking	40 Regional Code Authorities

APPENDIX - 2 TABLES OF SPECIAL POWERS

Table A

a/

Special Powers of Code Authorities Selected by or From Trade Associations in 70 Largest Industries.

	<u>Vol-</u> <u>un-</u> <u>tary</u> <u>Ass.</u>	<u>In-</u> <u>spect</u> <u>Rec-</u> <u>ords</u>	<u>Conf.</u> <u>Agent</u> <u>is T/A</u> <u>or Secy.</u>	<u>In-</u> <u>ter-</u> <u>pret</u> <u>Code</u>	<u>Add</u> <u>Minor</u> <u>Tr/Pr</u> <u>Rules</u>	<u>Grant</u> <u>Minor</u> <u>Exempt</u> <u>tions</u>
1. Cotton Textile	x	x	x			
4. Electrical Mfg.	x	x		x	b/ x	
9. Lumber & Timber		x		x		
11. Iron and Steel				x	c/ x	x
16. Hosiery			x		d/ x	x
17. Automobile Mfg.	x					
24. Bituminous Coal		x				
33. Retail Lumber				x		
37. Builders' Supp.						
44. Boot and Shoe			x			
60. Retail Trade						
82. Steel Casting	x		x			
84. Fabricated Met,		x	x			
101. Cleaning, etc.	x					
105. Automotive Parts		x				
118. Cotton Garment	x			f/ x	e/ x	f/ x
120. Paper & Pulp		x				
123. Structural Clay				g/ x		h/ x
145. Furniture			x			
182. Retail Food						
196. Wholesale Food						

Table A (Cont'd):

a/
Special Powers of Code Authorities Selected by or
From Trade Associations in 70 Largest Industries.

	<u>Vol-</u> <u>un-</u> <u>tary</u> <u>Ass.</u>	<u>In-</u> <u>spect</u> <u>Rec-</u> <u>ords</u>	<u>Conf.</u> <u>Agent</u> <u>is T/A</u> <u>or Secy.</u>	<u>In-</u> <u>ter-</u> <u>pret</u> <u>Code</u>	<u>Add</u> <u>Minor</u> <u>Tr/Pr</u> <u>Rules</u>	<u>Grant</u> <u>Minor</u> <u>Exempt</u> <u>tions</u>
244. Construction						
275. Chemical Mfg.	x					
308. Fishery		x				
373. Infants' Wear						
445. Baking		x				
540. Retail Meat						
LP-8 Grain Exchanges						
<hr/>						
Totals: 28 Codes:	7	9	6	5	4	3
<hr/>						

- a/ The powers selected for this table are those which allow the greatest discretion to the Code Authority. Voluntary collection of assessments is also included, because that is characteristic of the strongest trade associations. Provisions whose meaning is doubtful are listed to permit investigation and verification.
- b/ Article X.
- c/ Schedule H, paragraph P.
- d/ Article VIII, (e).
- e/ Article VIII, E.
- f/ Through the Industrial Committee, Article XV or Special Administrator, Appendix A.
- g/ Article VI, (e), "Allowable Cost."
- h/ Article VI, (g)

Table B

Special Powers of Code Authorities Selected by
General Election Among 70 Largest Industries.

	<u>Vol-</u> <u>un-</u> <u>tary</u> <u>Ass.</u>	<u>In-</u> <u>spect</u> <u>Rec-</u> <u>ords</u>	<u>Conf.</u> <u>Agent</u> <u>is T/A</u> <u>or Secy.</u>	<u>In-</u> <u>ter-</u> <u>pret</u> <u>Code</u>	<u>Add.</u> <u>Minor</u> <u>Tr/Pr</u> <u>Rules</u>	<u>Grant</u> <u>Minor</u> <u>Exemp-</u> <u>tions.</u>
2. Shipbuilding, etc.	x					
3. Wool Textile			x			
21. Leather	x					
28. Transit	x			x		
43. Ice		x				
48. Silk Textiles		x				
147. Motor Vehicle		x				
174. Rubber Tire	x	x	x			x
278. Trucking						x
297. Advertising, Distr.	x					
346. Bowling, etc.	x					
347. M A P I	x		x	x		
399. Household Goods, etc.	x					
401. Copper	x	x		x		
446. Canning						
474. Needlework in P. R.						
LP-18 Alcoh. Bev. Whols.						
<hr/>						
Totals: 17 Codes.	9	5	3	3		2
<hr/>						

Table C

Code Authorities with Guaranteed Trade Association Majorities and Non-Association Minorities in 70 Largest Codes.

	<u>Vol-</u> <u>un-</u> <u>tary</u> <u>Ass.</u>	<u>In-</u> <u>spect</u> <u>Rec-</u> <u>ords</u>	<u>Conf.</u> <u>Agent</u> <u>is T/A</u> <u>or Secy.</u>	<u>In-</u> <u>ter-</u> <u>pret</u> <u>Code</u>	<u>Add</u> <u>Minor</u> <u>Tr/Pr.</u> <u>Rules</u>	<u>Grant</u> <u>Minor</u> <u>Exemp-</u> <u>tions</u>
15. Men's Clothing		x				x
23. Underwear, etc.			x			x
47. Bankers	x					
64. Dress	x					x
66. Motor Bus						
121. Hotel	x					
277. Gray Iron Edy.						
280. Retail Sol. Fuel						x
281. Laundry Trade	x					x
282. Restaurant						x
392. Real Est. Brok.						
459. Bottled Soft Drink						
467. Cigar Mfg.						
LP-18 Whol. Fr. Fruit						
<hr/>						
Totals: 14 Codes:	4	1	1	0	0	6
<hr/>						

Table D.

Code Authorities Appointed by Divisional Code Authorities in 70 Largest Industries.

	<u>Vol-</u> <u>un-</u> <u>tary</u> <u>Ass.</u>	<u>In-</u> <u>spect</u> <u>Rec-</u> <u>ords</u>	<u>Conf.</u> <u>Agent</u> <u>is T/A</u> <u>or Secy.</u>	<u>In-</u> <u>ter-</u> <u>pret</u> <u>Code</u>	<u>Add</u> <u>Minor</u> <u>Tr/Pr.</u> <u>Rules</u>	<u>Grant-</u> <u>Minor</u> <u>Exemp-</u> <u>tions</u>
46. Motor Vehicle				x		x
156. Rubber Mfg.		x	x		x	
201. Wholesaling, etc.						x
287. Graphic Arts		x		x		x
330. Scrap Iron, etc.						
362. Photographic, etc.						
543. Motor Veh. Maint.						
Totals: 7 Codes.	0	2	1	2	1	3

Table E.

Special Powers of Code Authorities Appointed by NRA Among 70 Largest Industries.

	<u>Vol-</u> <u>un-</u> <u>tary</u> <u>Ass.</u>	<u>In-</u> <u>spect</u> <u>Rec-</u> <u>ords</u>	<u>Conf.</u> <u>Agent</u> <u>is T/A</u> <u>or Secy.</u>	<u>In-</u> <u>ter-</u> <u>pret</u> <u>Code</u>	<u>Add</u> <u>Minor</u> <u>Tr/Pr.</u> <u>Rules</u>	<u>Grant</u> <u>Minor</u> <u>Exemp-</u> <u>tions</u>
110. Petroleum	x	x			x	x
124. Motion Picture				x		
398. Barber Shop	x					x
Totals: 3 Codes.	2	1	0	1	1	2

APPENDIX - 3. LISTS OF CODES CONTAINING THE RARER ADMINISTRATIVE PROVISIONS.

A. CODES PROVIDING THAT ALL MEMBERS OF INDUSTRY SHALL BE ON CODE AUTHORITY.

- 31-A Dolomite Division of Lime Code
- 207 Ball Clay Production
- 326 Fibre Wallboard
- 353 Insulation Board
- 365 Sand Lime Brick
- 409 Flexible Insulation
- 533 Window Glass
- 186 End Grain Strip Wood Block
- 383 Toothpick
- 405 Shoe Form Division of Shoe Last
- 269 Carbon Black
- 492 Stereotype Dry Mat
- 347-X Roller & Silent Chain
- 385 Railroad Special Track Equipment
- 517 Ring Traveller
- 453 Licorice
- 491 Imported Green Olive
- 14 Rayon & Synthetic Yarn
- 303 Cordage & Twine
- 84-F-1 Hog Ring & Ringer Manufacturing
- 89 Office Equipment
- 243 Slide Fastener
- 344 Metal Lath

B. CODES NAMING CODE AUTHORITY IN THE CODE OR PROVIDING THAT IT SHALL BE APPOINTED BY NRA

Named in Code:

- 124 - Motion Picture
- 12 - Photographic Manufacturing
- 129 - Radio Broadcasting

Appointed by NRA or Other Government Agency:

- 10 - Petroleum (from industry nominations)
 - 184 - Shoe and Leather Finish (half only)
 - 29 - Artificial Flower and Feather
 - 398 - Barber Shop Trade
- LP-12 Live Poultry Industry (one Administrator appointed by NRA jointly with Secretary of Agriculture)

Under General

Code Authority:

- 517 - Ring Traveller
- 518 - Shuttle Manufacturing
- 534 - Horse Hair Dressing
- 535 - Brattice Cloth

- 280 - Retail Solid Fuel (when Code Authority resigned)
- 118 - Cotton Garment (Code Authority removed)
- 239 - Porcelain Breakfast Furniture Assembling (Code Authority resigned)
- 256 - Schiffli etc., Embroidery (Code Authority resigned)

C. CODES PROVIDING FOR CUMULATIVE VOTING FOR CODE AUTHORITY.

- 361 Perfume, Cosmetic, etc.
- 391 Insecticide & Disinfectant
- 545 Botanical Drug
- 545 Essential Oil
- 545 Spirit & Oil Soluble Gum
- 545 Vanilla Bean
- 545 Water Soluble Gum
- 233 Railway Brass Car, etc.
- 320 Hide & Leather Working Machine
- 376 Air Valve
- 265 Coffee
- 349 Mayonnaise
- 378 Peanut Butter
- 464 Cocoa & Chocolate
- 475 Yeast
- 546 Pacific Coast Dried Fruit
- 547 Seed Trade
- 548 Package Cheese
- 188 Velvet
- 287 C-3 Securities & Bank Note Engraving
- 287 E-9 Playing Cards
- 447 Private Home Study School
- 201-V Wholesale Jewelry
- 314 Wholesale Coal
- 487 Importing Trade

D. CODES WITH PROVISION REQUIRING SPECIAL MAJORITIES IN VOTES WITHIN CODE AUTHORITY.

- 401 Copper
- 80 Asbestos
- 189 Coated Abrasives
- 326 Fibre Wallboard
- 353 Insulation Board
- 420 Gypsum
- 533 Window Glass
- 541 Flat Glass

481	Wood Preserving
339	Printing Ink
174	Rubber Tire
347-X	Roller & Silent Chain
385	Railroad Special Track Equipment
349	Mayonnaise
516	Flavoring Products
3	Wool Textile
14	Rayon & Synthetic Yarn
451	Candlewick Bedspread
21	Leather
84-B	Hand Chain Hoist
84-D	Electric Industrial Truck Manufacturing
480	Structural Steel & Iron Fabricating
162	Domestic Freight
101	Cleaning & Dyeing
33	Retail Lumber

E. LABOR REPRESENTATION ON NRA CODES

1. Voting Members.

A. Textile Apparel.

<u>Industry</u>	<u>Nominating Agency</u>	<u>Number of Labor Representatives</u>
	<u>a/</u>	
Blouse & Skirt	L. A. B.	2
Cap & Cloth Hat	L. A. B.	2
Coat & Suit	International Ladies Garment Workers Union	2
Cotton Garment	L. A. B.	4
Covered Button	L. A. B.	1
Dress	International Ladies Garment Workers Union	3
Hosiery	L. A. B.	2
Ladies' Handbag	L. A. B.	1
Leather & Woolen Knit Glove	L. A. B.	2
Men's Clothing	L. A. B.	5
Merchant & Custom Tailoring	(L. A. B.) (Journeyman's Tailor's Union)	1 1
Millinery	L. A. B.	2
Undergarment&	L. A. B.	2
Negligee		
Women's Neckwear & Scarf	L. A. B.	2

a/ NRA Labor Advisory Board

B. Amusement Industries

<u>Industry</u>	<u>Nominating Agency</u>	<u>Number of Labor Representatives</u>
Burlesque	Designated by Administrator	1 (for each class of employe when considering in their problems)
Legitimate Theatre	Unions Designated in Code	5
Motion Picture	By Employees' Nomination	(Same as Burlesque)
Motion Picture Laboratory	By Employees' Nomination	(Same as Burlesque)
Radio Broadcasting	By Employees' Nomination	(Same as Burlesque)

C. Miscellaneous.

Brewing	Employees	2
Cigar	L. A. B.	1
Plumbing Contracting	United Assn., Journeymen Plumbers & Steamfitters.	3
Transit	Administrator	2

2. Without Vote.

A. As a Result of Provisions in Codes.

<u>Industry</u>	<u>Nominating Agency</u>	<u>Number of Labor Representatives</u>
Artificial Flower & Feather	L. A. B.	1
Corset & Brassiere	L. A. B.	1
Cotton Cloth Glove	L. A. B.	1
Fur Manufacturing	L. A. B.	2
Hat Manufacturing	L. A. B.	2
Hatters' Fur Cutting	L. A. B.	1
Infants & Children's Wear	L. A. B.	2
Light Sewing	L. A. B.	1
Men's Neckwear	L. A. B.	1
Nottingham Lace Curtain	Amalgamated Lace Operators of Amer. (Curtain Sec.)	1
Pleating, Stitching & Bonnaz	L. A. B.	1
Schiffli Hand Mach.	L. A. B.	1
Emb. Thread, etc.		
Retail Solid Fuel	L. A. B.	1

B. By Administrative Order

Industry	Number of Labor Representatives
Barber Shop	1
Bituminous Coal	1
<u>Construction: (Master)</u>	
Painting, P. H., etc.	1
Electrical Cont..	1
Mason Cont.	1
Corrugated & Solid Fibre	1
Cotton Textile	1
Fur Dressing & Dyeing	1
Handkerchief	1
Luggage & Fancy Leather	1
Restaurant	1
Retail Tobacco	1
Retail Trade	1
Saddlery	1
Scrap Iron	1
Shipbuilding	1
Wholesale Tobacco	1

G. CODES PROVIDING FOR CONSUMER-REPRESENTATION ON CODE AUTHORITY

LP-7	Anti-Hog Cholera Serum
445	Baking
467	Cigar Manufacturing
547	Seed Trade
8	Legitimate Full Length Drama
346	Bowling & Billiard Operating Trade
462	Wholesale Tobacco Trade
60-A	Booksellers Trade
60-B	Retail Custom Fur Manufacturing
466	Retail Tobacco Trade

H. CODES GRANTING TO CODE AUTHORITY POWER TO INTERPRET CODE.

11	Iron and Steel
425	Manganese
442	Lead
31	Lime
36	Glass Container
9	Lumber & Timber Products
120	Paper and Pulp
172	Rayon & Silk Dyeing
202	Carpet and Rug
235	Textile Processing
132	Malleable Iron
480	Structural Steel & Iron Fabricating
141	Investment Bankers

- 124 Motion Picture
- 487 Importing Trade
- 33 Retail Lumber
- 142 Retail Jewelry
- 287 Graphic Arts

I. CODES CONTAINING MODEL PERMISSIVE LIQUIDATED DAMAGES
PROVISION OF DEPARTURE FROM SUCH MODEL PROVISION.

- 99 Asphalt Shingle & Roofing
- 11 Iron and Steel
- 11-01 Wire Reinforcement
- 92 Floor & Wall Clay Tile
- 302 Candle Manufacturing
- 85 American Petroleum Equipment
- 258 Cast Iron Boiler
- 234 Macaroni
- 445 Baking
- 202 Carpet and Rug
- 84-A Metallic Wall Structure
- 84-C Chain Manufacturing
- 84-H Hack Saw Blade
- 84-H1 Wire Rope and Strand
- 237 Alloy Casting
- 354 Small Arms & Ammunition
- 127 Reinforcing Materials Fabricating
- 495 Steel Joists
- 480 Structural Steel and Iron Fabricating
- 346 Bowling & Billiard Operating Trade
- 37 Builders' Supplies Trade

J. CODES GRANTING TO CODE AUTHORITY GENERAL POWER TO ADD MINOR
TRADE PRACTICE PROVISIONS WITHOUT REFERENCE TO N R A

- 11 Iron and Steel
- 10 Petroleum
- 3 Wool Textile
- 172 Rayon & Silk Dyeing
- 235 Textile Processing
- 355 Rug Chemical Processing Trade
- 16 Hosiery
- 118 Cotton Garment
- 58 Cap & Closure
- 88 Business Furniture
- 124 Motion Picture
- 101 Cleaning & Dyeing
- 362 Photograph & Photo Finishing
- 163 Wholesale Automotive
- 525 Retail Trade in Hawaii

APPENDIX 4

4. TEXT OF COMMON ADMINISTRATIVE PROVISIONS.

The following administrative provisions are standard and are inserted in many codes. Their content is best explained in their own words.

(a) True Representation.

In order that the Code Authority shall at all times be truly representative of the industry, and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and, thereafter, if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions in the Act, he may require an appropriate modification in the method of selection of the Code Authority.

(b) Liability of Code Authority Members.

Nothing contained in this code shall constitute the members of any Code Authority partners for any purpose, nor shall any member of any Executive Committee be liable in any manner to anyone for any act of any other member officer or employee of such Executive Committee. Nor shall any member of any Executive Committee, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any act or omission to act under this code except for his own malfeasance or nonfeasance.

(c) NRA Power to Review Any Action.

The Code Authority shall have the following powers and duties to the extent permitted by the Act; provided, that, if the Administrator shall determine that any action of the Code Authority or any agency thereof is unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by the Code Authority or agency pending final action, which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after 30 days' notice to him of intention to proceed with such action in its original or modified form.

(Code No. 415, Commercial Fixture Industry, May 3, 1934.)

(d) Model Code Provisions.

(1670.1)

It being found necessary in order to support the administration of this code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:

To incur such reasonable obligations as are (1670.11) necessary and proper for the foregoing purposes, and to meet such

obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

To submit to the Administrator for his approval, sub- (1670.12)
ject to such notice and opportunity to be heard as he may deem necessary (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the trade/industry;

After such budget and basis of contribution have been (1670.13)
approved by the Administrator, to determine and obtain equitable contribution as above set forth by all members of the trade/industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

Each member of the trade/industry shall pay his or (1670.14)
its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Administrator. Only members of the trade/industry complying with the code and contributing to the expenses of its administration as hereinabove provided, (unless duly exempted from making such contributions,) shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

The Code Authority shall neither incur nor pay any ob- (1670.15)
ligation substantially in excess of the amount thereof as estimated in its approved budget; and shall in no event exceed the total amount contained in the approved budget except upon approval of the Administrator; and no subsequent budget shall contain any deficiency item or expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

(c) Model Code Provisions. (1704.2)

Section 2. Emergency Provisions. (a) if the Administrator, after investigation shall at any time find both (1) that an emergency has arisen within the Industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the Industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may

proceed to determine such stated minimum price. (b) When the Administrator shall have determined such minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, he shall publish such price. Thereafter, during such stated period, no member of the Industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the Administrator may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken. (1704.2 Cont'd)

(f) In addition to information required to be submitted to the Code Authority there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3(a) of the National Industrial Recovery Act.

(Office Order No. 34, September 12, 1933.)

(g) Wilfully Destructive Price Cutting.

(Model Code
1703.1)

Any member of the Industry or of any other Industry or the customers of either may at any time complain to the Divisional Code Authority that any filed price constitutes unfair competition as destructive price-cutting, imperiling small enterprise or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within 5 days afford an opportunity to the member filing the price to answer such complaint, and shall within 14 days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of the National Recovery Administration which shall render a report and recommendation thereon to the National Industrial Recovery Board.

(h) Short Form of Liquidated Damage Agreement. (Code No. 84 C
March 27, 1935)

Any member of the Industry may enter into an agreement with any other member or members of the Industry providing for the payment of liquidated damages by any party thereto upon violation by him of any provision of the Code; provided, however, that such agreement shall become effective and binding on the parties thereto only after the execution thereof shall have received the consent of the National Recovery Administration.

(i) Code Coordination.

"To appoint a trade practice committee which shall meet with the trade practice committees appointed under such

other codes as may be related to the trade/industry for the purpose of formulating fair trade practices to govern the relationships between production and distribution employers under this code and under such others to the end that such fair trade practices may be proposed to the Administrator as amendments to this code and such other codes."

(Required by Office Order No. 66, February 2, 1934.)

APPENDIX 5

5. EXPLANATION OF CHARTS OF ADMINISTRATIVE PROVISIONS

These charts summarize the most significant administrative provisions in all NRA Codes. On sheet A the "Condensed Statement" combines the headings most frequently referred to in this study on the "representative character" and "powers and duties" of Code Authorities. The second set of totals summarizes in greater detail the organization provisions for Code Authorities in the same codes. The third set of totals summarizes the powers and duties granted to those Code Authorities.

Sheets B and C score the representation and organization of the 70 major industries (over 50,000 employees) under the same headings as the second set of totals on sheet A. Sheets D and E score the powers and duties of the 70 major industries under the same headings as the third set of totals on sheet A.

No attempt is made to record the administration of codes subsequent to final approval of their provisions. Where, for example, the method of selection of a Code Authority is to be determined subsequent to the approval of the code as a whole, the administrative order approving the final method has been read and recorded. Where, however, a code authorizes the establishment of Regional Code Authorities, no statement has been made about whether any regionals were actually set up.

The total of codes whose "Representative Organization" is recorded are: --

576 numbered codes

201 supplementary codes

109 product divisions with separate
Code Authorities

886 total recorded.

In recording the "Powers and Duties" the product divisions are omitted, because their powers are the same as those of the parent code. Geographical divisions are not recorded, because their organization and powers are set up uniformly in the parent code.

The letter "X" under a heading indicates that a main code prescribes that form of organization, or grants that power. The letter "D" indicates that the power is granted to one or more of its Divisional Code Authorities; "XD" indicates that the power is granted in the main code for its divisions. "X + D" indicates it is granted in both the main code and the divisions.

Percentages in sheet A are calculated on the basis of 70 for the major codes. For minor codes they are calculated on a

basis of 886 for the organization and 777 for the powers and duties. The 70 largest codes include all "major" codes and cover roughly three-fourths of all industry eligible for codes. The largest 35 (sheets B and D) cover approximately one-half of all such industry.

The code provisions were not uniform in phrasing. Headings, therefore, have been set up according to their significant effect. Thus, the heading "All Code Authority Members Selected By or From One Trade Association" includes cases where the Code Authority was the trade association, or was its code committee, or was elected by trade association members.

Sometimes the meaning of a provision was in doubt. This occurred fairly often in sheets C and E. Thus, in Code No. 347, the assessment provision sounds mandatory but was interpreted to be voluntary. The preliminary scoring of these codes was done by the Legal Division, and doubtful cases scored according to the opinion of the chief of the Legal Checking Section. If there was doubt whether a code gave a power (this occurred frequently in the "power to add trade practices") the code was scored so that a reader could look it up and form his own opinion.

Similarly, on sheets B and D, where a general election was to be held but four of the men elected must be from a trade association and one a non-association member, the code is checked under "minority representation" not under the heading of an election.

On sheets B and D, headings 6 and 7 should be read together. Heading 6 covers only cases in which National Code Authority members were actually appointed by Divisional Code Authorities. Where National Code Authority members were elected in geographical or product divisions, or where they were nominated and voted upon nationally but one or more must be members of certain divisions, the code has been scored under No. 7, "Divisions of Special Importance," so that the reader might look up the exact method if interested.

The Powers and Duties selected for tabulation, on sheets C and E, are chosen for the amount of discretion which they allow to Code Authorities. Subjects well covered by Post-Code Analysis publications (such as use of labels and price policies) have been omitted. Of the subjects included in the tabulation, those in the first group were marked as important by inclusion in the Model Code as published in NRA Manual. The significance of those in the other groups is based on the amount of discussion and complaints which they have caused.

CONDENSED STATEMENT

REPRESENTATIVE CHARACTER		Powers and Duties										Administrative Agencies										Special Powers and Duties																													
		Unusual Powers					Divisional Agencies					Special Representation					Specialization					National Organization					Divisions					Committees																			
Number of Code	Brief Name of Code	Statistics		Chief Methods of Selection		Minor Methods of Selection		Special Representation		Divisional Agencies		Special Representation		Specialization		National Organization		Divisions		Committees		Unusual Powers		Divisional Agencies		Special Representation		Specialization		National Organization		Divisions		Committees		Remarks															
		Number of Establishments	Number of Employees (in thousands)	All Code Authority by OR from Trade Association	General Industry Elections	Guaranteed Trade Assoc-iation Majority and Non-Association Minority	Code Authority Appointed by Divisional Code	Code Authority	All Concerns on Code Authority	Trade Association Officers	Large Concerns by Weighted Votes	Non-Association	Minorities Self-Elected	Labor Representation	Supplementary Codes	Other Product Divisions	Geographical Divisions	Assessments Mandatory	Liquorated Damages	Inspection of Member Records	Confidential Agent Receives Reports	Confidential Agent Receives Reports	Trade Association or Confidential Agent May Be	Sale on Consignment	Price Provisions	Hour Provisions	Other Quasi-Judicial Powers	Right to Interpret the Code	Other Quasi-Judicial Powers																						
35	INDUSTRIES OVER 10,000 EMP	1,918,133	15,607,000	18	26%	5	7%	6	9%	4	6%	0	3	4%	1	14%	7	10%	13	4%	3	4%	6	7%	9	13%	15	21%	16	23%	24	34%	24	3%	3	42%	6	9%	4	6%	10	142%									
35	INDUSTRIES WITH 50,000 TO 100,000 EMPLOYEES	421,882	3,032,000	12	17%	12	17%	8	11%	3	4%	0	0	1	14%	8	11%	4	6%	7	10%	3	4%	3	4%	3	4%	1	14%	3	4%	3	4%	3	4%	3	4%	3	4%	3	4%	3	4%	3	4%						
	TOTAL - 70 INDUSTRIES	2,340,015	18,639,000	30	43%	17	24%	14	20%	7	10%	0	3	4%	2	28%	15	21%	7	10%	10	14%	8	11%	12	17%	28	40%	31	44%	45	64%	4	6%	16	23%	10	14%	11	16%	3	4%	7	10%	11	16%					
	TOTAL - ALL CODES WITH SUPPLEMENTS AND DIVISIONS	219	25%	301	34%	331	37%	31	3%	24	3%	13	14%	14	15%	157	18%	136	15%	289	30%	37	4%	19	2%	142	16%	213	24%	581	75%	21	37%	120	15%	125	16%	44	6%	85	11%	89	11%	23	3%	47	6%	17	2%	73	9%

I IDENTIFICATION
II REPRESENTATIVE CHARACTER
III ADMINISTRATIVE AGENCIES
IV SPECIAL POWERS AND DUTIES

A - SUBJECTS COVERED BY MODEL CODE
B - OTHER DISCRETIONARY POWERS
C - SPECIAL POWERS AND DUTIES

REMARKS
 NUMBER OF EMPLOYEES
 15,607,000
 3,032,000
 18,639,000

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION
THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies, legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof; the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority, the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histories, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes 9675--1.

set forth the origination of the code, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Materials Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, these materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Economic Survey of
Construction Industry and NRA Construction Codes, the
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
Part A - Competitive Position of the United States in International Trade 1927-29 through
1934.
Part B - Section 3 (e) of NIRA and its administration.
Part C - Imports and Importing under NRA Codes.
Part D - Exports and Exporting under NRA Codes.
Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State,
1926 to 1934
National Income, A study of,
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Statistical Background of NRA
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
9675.

Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: A Study of Trade Practice Provisions in Selected
NRA Codes
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control Under NRA Codes, Some Aspects of,
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for
comparison with Trade Practice Provisions of NRA Codes.

Labor Studies

Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-1935
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
Part A. Introduction
Part B. Control of Hours and Reemployment
Part C. Control of Wages
Part D. Control of Other Conditions of Employment
Part E. Section 7(a) of the Recovery Act
PRA Census of Employment, June, October, 1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Con-
ditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approved Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their Part in the Administration of the NIRA
Part A. Introduction
Part B. Nature, Composition and Organization of Code Authorities
Part C. Activities of the Code Authorities
Part D. Code Authority Finances
Part C. Summary and Evaluation

Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
Part A. Executive and Administrative Orders
Part B. Labor Provisions in the Codes
Part C. Trade Practice Provisions in the Codes
Part D. Administrative Provisions in the Codes
Part E. Agreements under Sections 4(a) and 7(b)
Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review and Evaluation of its Organization and
Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades,
Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government
Funds
Relationship of NRA with other Federal Agencies
Relationship of NRA with States and Municipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce Provisions of
Commerce Clause, Possible Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial
Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending
Power
Government Contract Provisions as a Means of Establishing Proper Economic Standards, Legal
Memorandum on Possibility of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Com-
merce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power -- Can it be Used as a Means of Federal Industrial Regula-
tion?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?
9675.

THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of these studies follows:

- | | |
|---|--|
| Automobile Manufacturing Industry | Leather Industry |
| Automotive Parts and Equipment Industry | Lumber and Timber Products Industry |
| Baking Industry | Mason Contractors Industry |
| Boot and Shoe Manufacturing Industry | Men's Clothing Industry |
| Bottled Soft Drink Industry | Motion Picture Industry |
| Builders' Supplies Industry | Motor Vehicle Retailing Trade |
| Canning Industry | Needlework Industry of Puerto Rico |
| Chemical Manufacturing Industry | Painting and Paperhanging Industry |
| Cigar Manufacturing Industry | Photo Engraving Industry |
| Coat and Suit Industry | Plumbing Contracting Industry |
| Construction Industry | Retail Lumber Industry |
| Cotton Garment Industry | Retail Trade Industry |
| Dress Manufacturing Industry | Retail Tire and Battery Trade Industry |
| Electrical Contracting Industry | Rubber Manufacturing Industry |
| Electrical Manufacturing Industry | Rubber Tire Manufacturing Industry |
| Fabricated Metal Products Mfg. Industry and | Shipbuilding Industry |
| Metal Finishing and Metal Coating Industry | Silk Textile Industry |
| Fishery Industry | Structural Clay Products Industry |
| Furniture Manufacturing Industry | Throwing Industry |
| General Contractors Industry | Trucking Industry |
| General Contractors Industry | Waste Materials Industry |
| Graphic Arts Industry | Wholesale and Retail Food Industry |
| Graphic Arts Industry | Waste Materials Industry |
| Gray Iron Foundry Industry | Wholesale and Retail Food Industry |
| Hosiery Industry | Wholesale Fresh Fruit and Vegetable Indus- |
| Infant's and Children's Wear Industry | try |
| Iron and Steel Industry | Wool Textile Industry |

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:

9675.

Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
9675.

Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry

