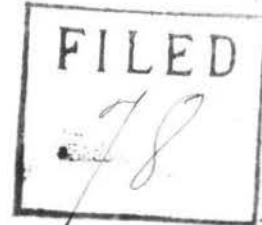


IN RE: HOURS OF WORK FOR GROCERS.

P-24

August 22, 1933.



Mr. E. Robertson
Robertson's Market
Mexico, Missouri

Dear Sir:

Replying to your letter of August 15 which reads in part as follows:

"Ours is a small suburban grocery, whose volume of business does not justify hiring a clerk. We have signed and received our blue eagle, as we were advised and eager to do.

"Can we be required to hire a clerk or take down our blue eagle? And must we shorten our hours to conform exactly to those set down by the local retailers' associations, when doing so really injures our business and inconveniences our customers, who are largely factory workers who wish to trade or place orders on way to work. The hours prescribed by our local grocers' organization require us to open our doors at the exact hour our customers go to work.

"By opening one half hour earlier and closing one half hour later are we violating our code?

"And must a small store hire a clerk where its business will not justify it- or surrender our blue eagle?"

it is the opinion of this department that, other than the general provisions of Section 13,205 R. S. Mo. 1929, making the period of eight hours a legal day's work, there is nothing in the statutes of Missouri restricting the hours of work for grocers. Of course, if the grocers', of your community form a voluntary organization and fix the hours of work, it is then a question of whether or not members of such organization live up to same.

This department gathers from your letter of August 15 that the grocers of Mexico have formed an organization under the National Industrial Recovery Act. If you have joined the same, of course, you are subject to the provisions of said act unless you secure an exemption therefrom under section 3, title I. of said National Industrial Recovery Act.

It is the understanding of this department that the Federal industrial recovery act prohibits the adoption of codes by organizations such as a grocers' organization that will promote monopolies or monopolistic practices or eliminate or oppress small enterprises or will discriminate against them. Section 3 of said industrial recovery act provides as follows:

"Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1) that such associations or groups impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: Provided, That such code or codes shall not permit monopolies or monopolistic practices; * * * . The President may, as a condition of his approval of any such code, impose * * * such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate

the policy herein declared."

Your letter states that it is your opinion, the operation of the National Industrial Recovery Act, through the grocers' organization in Mexico, is working a hardship on you because of the different conditions surrounding your business and that of the grocers in the business section of your city. This difference of conditions would be a basis for you to apply for an exemption as to hours under the industrial recovery code. The industrial recovery act is to be put into operation and carried out in this and other states through local boards and agencies as this department understands it.

This department suggests that you get in touch with the State organization appointed by the National Administration at Washington to administer the National Industrial Recovery in this State and present to them the difference in the conditions surrounding your business and that of your fellow craftsmen engaged in following their avocation in the business part of Mexico and make that the basis for the request for an order exempting you from the hours of labor accepted by the grocers' organization under the industrial recovery act for Mexico, Missouri.

Respectfully submitted,

EDWARD C. CROW
Assistant Attorney General.

APPROVED:

ROY McKITTRICK
Attorney-General

ECG/AJ