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APPROVAL, BONDS OF CITY OF DAYTON, MONTGOMERY COUNTY,
OHIO—\$250,000.00.

COLUMBUS, OHIO, December 4, 1934.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3569.

STOCKHOLDER—DEFINED AS USED IN SECTION 10186-13, GENERAL CODE—COOPERATIVE AGRICULTURAL SOCIETY OWNED AND OPERATED BY ANOTHER SUCH SOCIETY—ARTICLES OF INCORPORATION MAY BE FILED.

SYLLABUS:

1. *The word "stockholder" as used in the fifth paragraph of Section 10186-13, General Code, with respect to the ownership of common stock of a cooperative agricultural association, should be construed to mean "natural person owning stock."*

2. *The Secretary of State may accept for filing the proposed articles of incorporation of a cooperative agricultural association which is organized, and intended to be operated, owned and controlled by another cooperative agricultural association.*

COLUMBUS, OHIO, December 4, 1934.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"We are handing you herewith a memorandum submitted by a firm of attorneys raising a question of law concerning the ownership by co-operative agricultural association in another co-operative association.

Our specific inquiry is whether the secretary of state may accept for filing the proposed articles of incorporation of a co-operative agricultural association which proposed articles clearly show that the proposed association is being organized by another co-operative agricultural association with the intention to operate, own and control it."

Section 10186-13, paragraph 5, provides in part as follows:

"No stockholder of a co-operative association shall own more than one-twentieth (1-20) of the common stock of the association; and an association, in its by-laws may limit the amount of common stock which one member may own to any amount less than one-twentieth (1-20) of the common stock."

Section 10186-22, of the General Code reads as follows:

"An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock, and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling of the agricultural products handled by the association, or by the by-products thereof.

If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association against the commodities delivered by it, or to any other person and such legal warehouse receipts shall be considered an adequate collateral to the extent of the usual and current value of the commodity represented thereby."

By the terms of Section 10186-13, General Code, a stockholder of a cooperative agricultural association is limited in his ownership of such stock to not more than one-twentieth of the common stock of the association, while Section 10186-22, General Code, permits a cooperative agricultural association to organize, own, control or own the stock, without limitation, of any other cooperative agricultural association.

The above sections stand in apparent conflict with one another with respect to the ownership of stock. Both of the above sections were enacted on the same date, each being part of an act entitled "To authorize the incorporation of cooperative agricultural associations and to define the powers thereof." Sections 10186-1, General Code, et seq., 110 O. L. 91.

It is stated in Lewis' Sutherland Statutory Construction, Section 347, as follows :

"It is indispensable to the correct understanding of a statute to inquire first what is the subject of it, what object is intended to be accomplished by it. When the subject-matter is one clearly ascertained and its general intent, a key is found to all intricacies;—general words may be restrained to it, and those of narrower import may be expanded to embrace it to effectuate that intent. When the intention can be collected from that statute, words may be modified, altered or supplied so as to obviate any repugnancy or inconsistency with such intention."

The following cases were cited in connection therewith:

Brinsfield vs. Carter, 2 Ga. 150;
Blanchard vs. Sprague, 3 Sumn. 279;
Fed. Cas. No. 1517;
Milburn vs. State, 1 Md. 17;
State vs. King, 44 Mo. 283.

It is further declared in Section 348 that:

"The application of the words of a single provision may be enlarged or restrained to bring the operation of the act within the intention of the legislature, when violence will not be done by such interpretation to the language of the statute. The propriety and necessity of thus construing words are most obvious and imperative when the purpose is to harmonize one part of an act with another in accord with its general intent. The statute itself furnishes the best means of its own exposition; and if the intent of the act can be clearly ascertained from a reading of its provisions,

and all its parts may be brought into harmony therewith, that intent will prevail without resorting to other aids for construction. The intention of an act will prevail over the literal sense of its terms. So general words in one part may be controlled and restrained by particular words in another, taken as expressing the same intention with more precision. The true meaning of any clause or provision is that which best accords with the subject and general purpose of the act and every other part."

And the following cases were cited :

Simonds vs. Powers, 28 Vt. 354;

Long vs. Culp, 14 Kan. 412.

Electro M., etc., vs. Van Auken, 9 Colo. 204;

Covington vs. McNickle, 18 B. Mon. 262;

Maple Lake vs. Wright Co., 12 Minn. 403;

Woodworth vs. State, 26 Ohio St. 196.

After reading the above sections, the real purpose of the act clearly manifests itself and the application of the foregoing well-established principles of construction would require that all parts of said act should be brought into harmony for such purpose. Section 10186-13 contains the word "stockholder" with respect to the limitation of stock ownership. This brings to direct focus the question of what is meant by the word "stockholder" as the same appears in said statute. If a natural person is meant thereby, the reason for the limitation placed on the amount of stock which he may own becomes obvious. If a natural person were permitted to own an unlimited amount of stock of the association, control thereof might be vested in such person. However, if all the stock of one association were owned by another association, no such condition could arise by reason thereof, inasmuch as no one person could own stock in the holding association in excess of five per cent. In view of the fact that Sections 10186-13 and 10186-22 are each a part of the same act, it certainly must be presumed that both are intended to operate and in order to carry out the intention of the legislature, the meaning of the word "stockholder", as used in Section 10186-13, General Code, would have to be restricted and qualified.

Summarizing, it is therefore my opinion that :

1. The word "stockholder" as used in the fifth paragraph of Section 10186-13, General Code, with respect to the ownership of common stock of a cooperative agricultural association, should be construed to mean "natural person owning stock."
2. The Secretary of State may accept for filing the proposed articles of incorporation of a cooperative agricultural association which is organized, and intended to be operated, owned and controlled by another cooperative agricultural association.

Respectfully,

JOHN W. BRICKER,

Attorney General.