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COOPERATIVE MARKETING

By

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THE HISTORY OF THE

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Marketing questions have received greater attention from farmers in recent years than formerly. Methods of getting better results in the sale of farm products are eagerly sought. While the individual farmer frequently can improve his methods of marketing by himself, there are many improvements which are dependent largely upon organized effort on the part of a number of farmers having similar problems. That the farmers of the United States have realized the value of co-operative marketing is plainly indicated by the many cooperative selling organizations which have been established.

PURPOSE OF COOPERATIVE MARKETING

Cooperative marketing can be of service in various ways in improving marketing methods. Careful grading and standardization are important in marketing many of the products of the farm to the best advantage. Frequently, however, little attention is paid to the quality of farm products when sold by individual farmers. Investigations have shown that lack of attention to proper sorting and grading of tobacco has resulted in lower prices to many growers. Wool often is bought from farmers without much attention being paid to its grade. Cream and butter of varying quality may bring the same price. Naturally such methods furnish no incentive to grade products or make effort to obtain high quality. The average farmer must devote most of his time to production problems and has neither the time nor the facilities for keeping in constant touch with everchanging market conditions. It is not to be expected that the average farmer should be an expert salesman. The bargaining power of the individual

farmer is often limited by his small volume of business and this may prevent him from obtaining the best possible results in the sale of products.

The preceding suggests ways in which cooperative marketing organizations can be helpful. They can grade and standardize products of members and sell them on the basis of grade, thereby encouraging the production of high quality products. Combining products from a number of farms gives a volume of business which warrants the employment of trained and capable men to study market conditions and to sell the products for the members. The bargaining power of a strong organization naturally is much greater than that of an individual grower. This does not mean that organization will enable the farmers to overcome economic laws. The organized farmers can not expect their organizations to obtain unreasonably high prices for their products; the purpose of organization is to sell the products in the best manner possible and to keep the members acquainted with market conditions and demands so that they may plan their farming operations intelligently.

WHEN TO ORGANIZE

Farmers can well afford to give consideration to organization for cooperative marketing where present methods are unsatisfactory. If existing agencies are rendering satisfactory service there is much less opportunity for cooperative marketing to effect improvements than if the farmer has well grounded dissatisfaction with the quality and cost of such service. If a real need exists, the farmers will look with more favor on cooperative marketing than if this is not the case. A cooperative marketing organization should not be established unless the volume of business available is sufficient to permit its economical operation. The rank and file of farmers of a locality should be ready to go into a real business organization before one is established. A survey of the local situation which takes into consideration all factors of importance, is of value in determining whether or not conditions are favorable for the undertaking of cooperative marketing in that locality.

ESSENTIALS FOR SUCCESS

The most important requirements for success in a co-operative marketing organization may be considered under the following heads:

1. *Volume of Business.* Sufficient business must be available for the organization to employ capable management and to establish the necessary facilities.

2. *Good Management.* Business management of ability is necessary in a co-operative marketing organization if it is to obtain better results than individual effort.

3. *Business Methods.* Close observance of business principles and methods and the keeping of complete and accurate records are important.

4. *Adequate Finance.* A co-operative marketing organization must have the capital needed to provide necessary facilities and for operating purposes.

5. *Membership Loyalty.* If the members do not stand back of their organization, furnish it with a sufficient volume of business, see that able management is employed and that business methods are used, the organization will fail. Membership contracts are of importance in maintaining the members' support of their organization. The continued success of a co-operative marketing organization is dependent upon its ability to render better and more economical service than that furnished by the agencies or methods which it displaces or with which it competes.

CO-OPERATIVE MARKETING AND THE CO-OPERATIVE MARKETING LAW

Some farmers' marketing organizations are operating as voluntary associations without incorporation under State law. The larger and more important organizations, however, find incorporation advisable. An organization becomes a corporation by obtaining a charter from the State in accordance with the procedure set forth in the State law under which incorporation is effected. Incorporation gives the organization a legal standing, enabling it to sue or be sued in its own name, to own prop-

erty, and in many other respects engage in activities in the same way as a natural person. The liability of the members of an incorporated association for the debts of the organization, is definitely limited, while in an unincorporated association this is usually not the case.

The early business organizations obtained charters by specific legislative acts. Gradually, however, as the corporate form became better known, the different states enacted corporation laws. The ordinary business company grants the stockholders a vote for each share of stock owned and distributes profits to stockholders in the form of dividends on capital stock. For this reason, the laws designed for ordinary business corporations are not suitable for the incorporation of co-operative associations since the latter grant each member only one vote and are not operated to pay profits on capital invested. Most of the states therefore have passed special co-operative laws permitting the incorporation thereunder of co-operative associations.

The Kentucky legislature enacted a co-operative law in 1918 which provides for the incorporation of co-operative associations formed with capital stock. A new co-operative law has recently been enacted (January 10, 1922) by the State legislature which is broader in scope than the former law in that it provides not only for organizations formed with capital stock but also for organizations formed on the non-stock plan. The new law also sets forth in greater detail various features of organizations which may form thereunder and the status of such organizations under certain other laws of the State.

EXISTING ASSOCIATIONS AND THE NEW CO-OPERATIVE MARKETING LAW

A section of the co-operative marketing law recently passed provides that associations previously organized may become incorporated under this law by complying with its provisions, and sets forth the procedure to be followed by such associations. Various co-operative marketing organizations already in existence in this State should be interested in giving careful

consideration to the advisability of reorganizing and incorporating under the new law. Some organizations may find it is not entirely suited to their special problems while others will find it highly desirable to make the change.

THE BINGHAM CO-OPERATIVE MARKETING ACT

AN ACT authorizing the formation of non-profit, co-operative associations, with or without capital stock, for the purpose of encouraging the orderly marketing of agricultural products through co-operation; defining the various terms used therein; enumerating the activities and powers of such an association; prescribing the rights and privileges of membership; providing for articles of incorporation, declaring what they shall contain, manner of executing and filing, method of amending same; providing for by-laws and what they may contain; providing for method of election of directors, filling of vacancies; powers and duties of directors; division into election districts; appointment of executive committees and allotment of functions and powers; providing for officers, qualifications, election and functions; regulating issuance of membership certificates or stock and payment therefor; limiting personal liability of members for debts of association; regulating voting power of members and stockholders; authorizing issuance of preferred stock, with or without right to vote; and the retirement thereof; providing for removal of officers and directors; providing for referendum to members; providing for a marketing contract; and prescribing remedies for breach of contract, including liquidated damages, fees and all costs; authorizing injunction and general equitable remedies in the event of breach of agreement; stating presumption of control of products by landlords who have signed marketing agreements; providing for annual reports; providing that no provision of law in conflict with this act shall be construed as applying to such associations; providing that legal exemption of agricultural products in the possession of producers shall apply to such products in possession of, or under the control of, such associations; limiting the use of the word "Co-operative" in names for producers' co-operative marketing activities; and prescribing a penalty for violating such inhibition; permitting associations to organize other corporations or to own stock in other corporations; providing for agreements with other co-operative associations in this or other states and stating the purposes or reasons therefor; providing that associations heretofore organized may reorganize hereunder; making it a misdemeanor to induce a member to breach his marketing contract with the association, or spread false reports about it and prescribing a fine for each offense; making such offender

liable to the association for a prescribed penalty therefor in a civil suit; providing liability to the association in a penal sum in certain cases for any person who knowingly solicits, persuades or permits any member of the association to breach his marketing contract; authorizing an injunction against such warehouseman; and providing for payment of all fees and costs; and setting out the reasons for such provisions; providing that no such association shall be deemed a conspiracy or an illegal combination or monopoly or in violation of any law of this State; and providing that marketing contracts shall not be considered illegal; providing that if any section of this act shall be declared unconstitutional, the remainder of the act shall not be thereby affected; providing that the general corporation laws of this State shall apply to such associations, except where inconsistent with express provisions hereof; providing for taxation respecting the association's shares and property; providing fees for filing articles of incorporation and amendments thereto; providing that this act may be hereafter indexed, and cited as "The Bingham Co-operative Marketing Act," and declaring an emergency to exist.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1. Declaration of Policy.

(a) In order to promote, foster and encourage the intelligent and orderly marketing of agricultural products through co-operation; and to eliminate speculation and waste; and to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done; and to stabilize the marketing of agricultural products, this act is passed.

2. Definitions.

As used in this act,

(a) The term "agricultural products" shall include horticultural, viticultural, forestry, dairy, live stock, poultry, bee and any farm products.

(b) The term "member" shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock.

(c) The term "association" means any corporation organized under this act; and

(d) The term "person" shall include individuals, firms, partnerships, corporations and associations.

Associations organized hereunder shall be deemed "non-profit," inasmuch as they are not organized to make profit for themselves,

as such, or for their members, as such, but only for their members as producers.

(e) For the purposes of brevity and convenience this act may be indexed, referred to and cited as "The Bingham Co-operative Marketing Act."

3. Who May Organize.

Twenty (20) or more persons, a majority of whom are residents of this State, engaged in the production of agricultural products, may form a non-profit, co-operative association, with or without capital stock, under the provisions of this act.

4. Purposes.

An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping or utilization thereof, or the manufacturing or making of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies; or in the financing of the above enumerated activities; or in any one or more of the activities specified herein.

5. Preliminary Investigation.

Every group of persons contemplating the organization of an association under this act is urged to communicate with the Dean of the College of Agriculture of the University of Kentucky, who will inform them whatever a survey of the marketing conditions affecting the commodities proposed to be handled may indicate regarding probable success.

It is here recognized that agriculture is characterized by individual production in contrast to the group or factory system that characterizes other forms of industrial production; and that the ordinary form of corporate organization permits industrial groups to combine for the purpose of group production and the ensuing group marketing and that the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the manufacturing industries; and that the public interest urgently needs to prevent the migration from the farm to the city in order to keep up farm production and to preserve the agricultural supply of the nation; and that the public interest demands that the farmer be encouraged to attain a superior and more direct system of marketing in the substitution of merchandising for the blind, unscientific and speculative selling of crops;

and that for this purpose, the farmers should secure special guidance and instructive data from the Dean of the College of Agriculture of the University of Kentucky.

6. Powers.

Each association incorporated under this act shall have the following powers:

(a) To engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilization of any agricultural products produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery or equipment; or in the financing of any such activities; or in any one or more of the activities specified in this section. No association, however, shall handle the agricultural products of any non-member, except for storage.

(b) To borrow money without limitation as to amount of corporate indebtedness or liability; and to make advances to members.

(c) To act as the agent or representative of any member or members in any of the above mentioned activities.

(d) To purchase or otherwise acquire; and to hold, own, and exercise all rights of ownership in; and to sell, transfer or pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing or handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or in such other property as may be provided in the by-laws.

(f) To buy, hold and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto.

(g) To do each and every thing necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the subjects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and, in addition, any other rights, powers and privileges granted by the laws of this State to ordinary corporations, except such as are inconsistent with the express provisions of this act; and to do any such thing anywhere.

7. Members.

(a) Under the terms and conditions prescribed in the by-laws adopted by it, an association may admit as members, or issue common stock to, persons only engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent all or part of the crop raised on the leased premises.

(b) If a member of a non-stock association be other than a natural person, such member may be represented by any individual, associate, officer or manager or member thereof, duly authorized in writing.

(c) One association organized hereunder may become a member or stockholder of any other association or associations organized hereunder.

8. Articles of Incorporation.

Each association formed under this act must prepare and file articles of incorporation, setting forth:

(a) The name of the association.

(b) The purposes for which it is formed.

(c) The place where its principal business will be transacted.

(d) The term for which it is to exist, not exceeding fifty (50) years.

(e) The number of directors thereof, which must be not less than five (5) and may be any number in excess thereof; the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, or until election and qualification of their successors.

(f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision or paragraph of the articles of incorporation shall not be altered, amended, or repealed except by the written consent or vote of three-fourths of the members.

(g) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof.

The capital stock may be divided into preferred and common stock, if so divided, the articles of incorporation must contain a

statement of the number of shares of stock to which no preference is granted and the nature and definite extent of the preference and privileges granted to each.

The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this State to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this State; and when so filed the said articles of incorporation, or certified copies thereof, shall be received in all the courts of this State and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association. A certified copy of the articles of incorporation shall also be filed with the Dean of the College of Agriculture of the University of Kentucky.

9. Amendments to Articles of Incorporation.

The articles of incorporation may be altered or amended at any regular meeting or any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing a majority of all the members of the association. Amendments to the articles of incorporation, when so adopted, shall be filed in accordance with the provisions of the general corporation law of this State.

10. By-Laws.

Each association incorporated under this act must, within thirty (30) days after its incorporation, adopt for its government and management, a code of by-laws, not inconsistent with the powers granted by this act. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such by-laws. Each association, under its by-laws, may provide for any or all of the following matters:

(a) The time, place and manner of calling and conducting its meetings.

(b) The number of stockholders or members constituting a quorum.

(c) The right of members or stockholders to vote by proxy or by mail or both; and the conditions, manner, form, and effects of such votes.

(d) The number of directors constituting a quorum.

(e) The qualifications, compensation and duties and term of office of directors and officers; time of their election and the mode and manner of giving notice thereof.

(f) Penalties for violations of the by-laws.

(g) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same; and the purposes for which they may be used.

(h) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign.

(i) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members and of the shares of common stock; the conditions upon which and time when membership of any member shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; and the mode, manner and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise his property interests in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal.

11. General and Special Meetings—How Called.

In its bylaws, each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time; and ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting; provided, however, that the by-laws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

12. Directors—Election.

The affairs of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number. The by-laws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts, either directly or by district delegates elected by the members in that district. In such a case the by-laws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. The by-laws may provide that primary elections shall be held in each district to elect the directors apportioned to such districts and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered final as to the association.

The by-laws may provide that one or more directors may be appointed by any public official or commission or by the other directors selected by the members or their delegates. Such directors shall represent primarily the interest of the general public in such associations. The director or directors so appointed need not be members or stockholders of the association; but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors.

An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee. No director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association or others, or differing from terms generally current in that district.

The by-laws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

When a vacancy on the board of directors occurs other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the by-laws provide for an election of directors by district. In such a case the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

13. Election of Officers.

The directors shall elect from their number a president and one or more vice presidents. They shall also elect a secretary and a treasurer, who need not be directors or members of the association; and they may combine the two latter offices and designate the combined office as secretary-treasurer; or unite both functions and titles in one person. The treasurer may be a bank or any depository, and as such, shall not be considered as an officer, but as a function, of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as and where authorized by the board of directors.

14. Stock—Membership Certificate—When Issued—Voting—Liability—Limitations on Transfer and Ownership.

When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership.

No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note; but such retention as security shall not affect the member's right to vote.

No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory notes given in payment thereof.

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.

No member or stockholder shall be entitled to more than one vote, regardless of the number of shares of common stock owned by him.

Any association organized with stock under this act may issue preferred stock, with or without the right to vote. Such stock may be redeemable or retirable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate.

The by-laws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association; and such restrictions must be printed upon every certificate of stock subject thereto.

The association may, at any time, as specified in the by-laws, except when the debts of the association exceed fifty (50) per cent of the assets thereof, buy in or purchase its common stock at the book value thereof, as conclusively determined by the board of directors, and pay for it in cash within one (1) year thereafter.

15. Removal of Officer or Director.

Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by five per cent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom such charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity.

In case the by-laws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twenty per cent of the members residing in the district from which he was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director; and by a vote of the majority of the members of that district, the director in question shall be removed from office.

16. Referendum.

Upon demand of one-third of the entire board of directors, any matter that has been approved or passed by the board must be referred to the entire membership or the stockholders for decision at the next special or regular meeting; provided, however, that a special meeting may be called for the purpose.

17. Marketing Contract.

The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over ten years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association, or any facilities to be created by the association. If they contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association upon delivery; or at any other specified time if expressly and definitely agreed in the said contract.

The contract may provide that the association may sell or resell the products delivered by its members, with or without taking title thereto; and pay over to its members, the resale price, after deducting all necessary selling, overhead and other costs and expenses, including interest on preferred stock, not exceeding eight (8) per cent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight (8) per cent per annum upon common stock.

18. Remedies for Breach of Contract.

(a) The by-laws or the marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees, in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this State; and such clauses providing for liquidated damages shall be enforceable as such and shall not be regarded as penalties.

(b) In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

(c) In any action upon such marketing agreements, it shall be conclusively presumed that a landowner or landlord or lessor is able to control the delivery of products produced on his land by tenants or others, whose tenancy or possession or work on such land or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landowner or landlord or lessor, of such a marketing agreement; and in such actions, the foregoing remedies for non-delivery or breach shall lie and be enforceable against such landowner, landlord or lessor.

19. Purchasing Business of Other Associations, Persons, Firms or Corporations—Payment—Stock Issued.

Whenever an association, organized hereunder with preferred capital stock, shall purchase the stock or any property, or any interest in any property of any person, firm or corporation or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred capi-

tal stock to an amount which at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

20. Annual Reports.

Each association formed under this act shall prepare and make out an annual report on forms to be furnished by the Dean of the College of Agriculture of the University of Kentucky, containing the name of the association; its principal place of business; and a general statement of its business operations during the fiscal year, showing the amount of capital stock paid up and the number of stockholders of a stock association or the number of members and amount of membership fees received, if a non-stock association; the total expenses of operations; the amount of its indebtedness or liabilities, and its balance sheets.

21. Conflicting Laws Not to Apply.

Any provisions of law which are in conflict with this act shall not be construed as applying to the associations herein provided for.

Any exemptions under any and all existing laws applying to agricultural products in the possession or under the control of the individual producer, shall apply similarly and completely to such products delivered by its farmer members, in the possession or under the control of the association.

22. Limitation of the Use of Term "Co-operative."

No person, firm, corporation or association, hereafter organized or doing business in this State, shall be entitled to use the word "co-operative" as part of its corporate or other business name or title for producers' co-operative marketing activities, unless it has complied with the provisions of this act.

Any person, firm, corporation or association now organized and existing, or doing a producers' co-operative marketing business in this State and embodying the word "co-operative" as part of its corporate or other business name or title, and which is not organized in compliance with the provisions of this act, must, within six months from the date at which this act goes into effect, eliminate the word "co-operative" from its said corporate or other business name or title.

23. Interest in Other Corporations or Associations.

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 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 as adequate collateral to the extent of the usual and current value of the commodity represented thereby. In case such warehouse is licensed or licensed and bonded under the laws of this State or the United States, its warehouse receipt delivered to the association on commodities of the association or its members, or delivered by the association or its members, shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

24. Contracts and Agreements With Other Associations.

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements and contracts and arrangements with any other co-operative corporation, association or associations, formed in this or in any other state, for the co-operative and more economical carrying on of its business or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using or may separately employ and use the same personnel, methods, means and agencies for carrying on and conducting their respective businesses.

25. Associations Heretofore Organized May Adopt the Provisions of this Act.

Any corporation or association, organized under previously existing statutes, may, by a majority vote of its stockholders or members, be brought under the provisions of this act by limiting its membership and adopting the other restrictions as provided herein. It shall make out in duplicate a statement signed and sworn to by its directors to the effect that the corporation or association has, by a majority vote of its stockholders or members, decided to accept the benefits and be bound by the provisions of this act and has authorized all changes accordingly. Articles of incorporation shall be filed as required in section 8, except that they shall be signed by the members

of the then board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation.

(a) Where any association may be incorporated under this act, all contracts heretofore made by or on behalf of same by the promoters thereof in anticipation of such association becoming incorporated under the laws of this State, whether such contracts be made by or in the name of some corporation organized elsewhere and when same would have been valid if entered into subsequent to the passage of this act, are hereby validated as if made after the passage of this act.

26. Misdemeanor to Induce Breach of Marketing Contract of Co-operative Association; Spreading False Reports About the Finances or Management Thereof.

Any person or persons or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association organized hereunder to breach his marketing contract with the association, or who maliciously and knowingly spread false reports about the finances or management thereof, shall be guilty of a misdemeanor and be subject to a fine of not less than one hundred (\$100) dollars and not more than one thousand (\$1,000) dollars for each such offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred (\$500) dollars for each such offense.

27. Warehousemen Liable for Damages for Encouraging or Permitting Delivery of Products in Violation of Marketing Agreements.

Any person, firm or corporation conducting a warehouse within the State of Kentucky who solicits or persuades or permits any member of any association organized hereunder to breach his marketing contract with the association by accepting or receiving such member's products for sale or for auction or for display for sale, contrary to the terms of any marketing agreement of which said person or any member of the said firm or any active officer or manager of the said corporation has knowledge or notice, shall be liable to the association aggrieved in a civil suit in the penal sum of \$500.00 for each such offense; and such association shall be entitled to an injunction against such warehouseman to prevent further breaches and a multiplicity of actions thereon. In addition, said warehouseman shall pay to the association a reasonable attorney's fee and all costs involved in any such litigation or proceedings at law.

This section is enacted in order to prevent a recurrence or outbreak of violence and to give marketing associations an adequate remedy in the courts against those who encourage violations of co-operative contracts.

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28. **Associations Are Not in Restraint of Trade.**

Any association organized hereunder shall be deemed not to be a conspiracy nor a combination in restraint of trade nor an illegal monopoly; nor an attempt to lessen competition or to fix prices arbitrarily or to create a combination or pool in violation of any law of this State; and the marketing contracts and agreements between the association and its members and any agreements authorized in this act shall be considered not to be illegal nor in restraint of trade nor contrary to the provisions of any statute enacted against pooling or combinations.

29. **Constitutionality.**

If any section of this act shall be declared unconstitutional for any reason, the remainder of the act shall not be affected thereby.

30. **Application of General Corporation Laws.**

The provisions of the general corporation laws of this State and all powers and rights thereunder, shall apply to the associations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this act.

31. **Taxation.**

The shares of corporations organized under this act shall be taxable as against the owner thereof as of the period of assessment of other personal property for taxation in this State.

Such shares will represent in the aggregate all the property held or owned by such corporation, and when taxed as against the individual owner, all of the property in the name of said association will thereby be taxed.

Under existing law, crops grown in the year of assessment are exempt from tax whilst owned by the producer. So much of the value of each share of said stock as may represent the owner's proportion of crops grown by him and delivered to the association as herein provided, shall be exempt from taxation, inasmuch as it is the same thing exempted now by the Constitution and laws of this State to such grower.

32. **Filing Fees.**

For filing articles of incorporation, an association organized hereunder shall pay ten (10) dollars; and for filing an amendment to the articles, two dollars and fifty cents.

33. **WHEREAS**, the agricultural interests of the State are of the utmost importance to the people of Kentucky; and

WHEREAS, a demoralized condition of the farming interests of the State exists, injuriously affecting all other business; and

WHEREAS, the highest interests of the State generally, demand immediate relief; and

WHEREAS, this act is designed and intended to afford such relief,

THEREFORE, an emergency is declared to exist and this act shall become effective immediately upon its passage and approval as required by law.

Delivered, received and signed this January 10th, 1922

THRUSTON BALLARD, President of the Senate.
JAMES H. THOMPSON,
Speaker of the House of Representatives.
EDWIN P. MORROW,
Governor of the Commonwealth of Kentucky.

CO-OPERATIVE MARKETING AND THE COLLEGE OF AGRICULTURE

As will be noted from a reading of the new law, reference is made in several sections to the College of Agriculture of the University of Kentucky. Section 5 urges that groups of farmers contemplating organization communicate with the College of Agriculture with the view of obtaining information and suggestions of help in organizing. The College of Agriculture is keenly interested in co-operative marketing among farmers and stands ready to advise with interested persons regarding organizing for marketing and to assist in furnishing information and in the preparation of suitable organization plans.

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