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TOBACCO GROWERS WIN OUTSTANDING COURT DECISION

Supreme Court Hands Down Opinion Holding Co-Operative Statute Constitutional And Contracts Valid

DISPOSES OF MANY CASES PENDING NOW IN SUPERIOR COURT

Test Case On Legality Of Operations Of Co-Operative Marketing Association Results In Unanimous Decision; Chief Justice Clark Writes Opinion; Says Co-Operation Most Hopeful Movement For Justice Of Farmers And Laborers

The Tobacco Growers Co-Operative Association yesterday won from the Supreme Court, in affirmation of Judge Frank Daniels, in Nash court, a decision that puts the stamp of constitutionality upon the statute under which it was organized, approves its machinery of operation, and endorses it as "the most hopeful movement ever inaugurated to obtain justice for and improve the financial condition of farmers and laborers."

The opinion in the case, entitled "Tobacco Growers Co-Operative Association v. W. T. Jones," was written by Chief Justice Walter Clark, and is an elaborate recital not only of the contentions in the action brought by the Association against a member for violation of the cooperative contract, but of the history of the co-operative movement.

The defendant, W. T. Jones, of Nash, notwithstanding his co-operative contract, according to the facts of the case, sold part of his 1922 crop of tobacco on the warehouse floor and announced that he would not deliver any more of his tobacco to the Association. The action was brought by the Association for liquidated damages covering the tobacco already sold and for an injunction to prevent further breach of contract, and the defendant appealed from the order for an injunction issued by Judge Frank Daniels in Nash county in October, 1922.

Allege Act Unconstitutional
The defendant contended that the co-operative marketing act is unconstitutional and void and that the contract between the plaintiff and the defendant is invalid because in restraint of inter-State and intra-State commerce and, therefore, that the injunction was improvidently granted.

The plaintiff Association contended that the co-operative marketing act is constitutional and that a co-operative marketing association organized for the handling of its members' products only is entitled to an injunction against the grower member who threatens to breach his marketing agreement; that the marketing contract is not in restraint of inter-State commerce or violative of any Federal anti-trust law or law against monopolies and does not violate the statutes, public policy or constitution of North Carolina.

The case was handled for the plaintiff in the lower court by Aaron Shapiro, nationally known cooperative expert and attorney, Lawrence R. Levy, his associate, Burgess & Joyner, James

H. Pugh, Stephen C. Hargaw, in the lower court, Lawrence R. Levy and James H. Pugh appeared. Attorneys for the defendant included L. V. Hester, P. S. Smith and Joseph Irvin.

Other Cases Pending
The chief victory for the co-operatives, on which the court also announced decisions of similar character in four other related cases now before it, will settle it is regarded, pending litigation in Wake Superior court. The cases now in supreme court in which the court orders judgment entered affirming the decision below are against Z. A. Harrell, from Edgecombe; Maynard Mangum, from Wake; W. J. Hall from Wake; and the Peanut Growers vs. C. T. Harrell, from Bertie.

Approximately one hundred and sixty cases were brought by the co-operatives against members who, it was alleged, violated their contracts. Of all these actions started in Wake Superior court, thirty have been settled by judgment by default and inquiry, twenty by other methods, leaving more than a hundred still pending.

Statute Is Reviewed
In his opinion, Chief Justice Clark reviews Chapter 87 Laws of 1921, the enabling act under which the cooperative association was organized, and the agreement which the grower member signs for the delivery of his tobacco to the cooperatives for sale, sets forth "the opinion of the court as to the constitutionality of the act under which the cooperative association was organized and the validity of the contract which grower members sign. After reviewing a number of the cases in point, the opinion concludes:

"Naturally the cooperative movement among the farmers has aroused the opposition of the financial combinations from whose unlimited power in fixing prices the farmers are seeking to free themselves and also among some of the owners of public warehouses who are more or less allied with the big buyers."—News-Observer.

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