THE NORTHWEST DECISION

The Interstate Commerce Commission [3] sought to enjoin [4] Northwest Agricultural Cooperative Association [5] from engaging in certain transportation activities in alleged violation of the Interstate Commerce Act.[6] It claimed that the nonmember backhauling of nonagricultural products by Northwest could not be performed without requisite Commission authorization.[7] Northwest contended [8] that it was an agricultural cooperative, exempt from the regulations of the Commission by virtue of section 303, which provided:

(b) Nothing in this chapter, except the provisions of section 304 of this title relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include . . . (5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined . . .[9]

Northwest was organized under the Idaho Cooperative Marketing Act [10] "for the purpose of transporting the agricultural products of its members to market at a lower cost than that which the members would incur if transportation were arranged by each member individually." [11] Outbound, Northwest owned-and-operated vehicles carried the products of its members to market. Returning, so far as was possible, these trucks hauled farm supplies required by its members. However, the demand for such supplies did not meet the volume of members products hauled to market. Therefore, in lieu of returning empty, these vehicles hauled, on a for-hire basis, nonfarm products and supplies from and for nonmembers of the association. These nonfarm backhauls accounted for less than 18 percent of Northwest's total revenue for a 4-month test period.[12] It was these nonfarm backhauls the Commission sought to enjoin.

A "cooperative association" is defined by the Agricultural Marketing Act [13] in these terms:

"[C]ooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers. . . .

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And in any case [conform] to the following:

. . . [T]he association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members.[14]

Northwest contended that, as a cooperative association within the statutory definition, it remained exempt so long as its total dollar volume of member business exceeded its nonmember business.[15] Its status should not change because its backhauls were of nonagricultural products for nonmembers. Rather, since these backhauls were incidental to its main purpose as a hauler of member products, and comprised less than half of its total business revenue, the association should still remain within the statutory exemption.

The Commission countered this statutory construction.[16] It contended that the terms of the exemption extend only to activities "directly beneficial or function-

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[3] Hereinafter referred to as Commission.
[4] 234 F. Supp. 496 (D. Ore. 1964).
[5] Hereinafter referred to as Northwest.
[6] The alleged violations were of 49 U.S.C. §§ 303(c), 306(a), 309(a) (1964).
[7] 234 F. Supp. at 498.
[8] *Id.*
[9] 49 U.S.C. § 303(b)(5) (1964).
[10] 5 IDAHO CODE ANN. §§ 22–2601 to –2628 (1948).
[11] Brief for Appellant at 3, Northwest Agric. Cooperative Ass'n v. ICC, 350 F.2d 252 (9th Cir. 1965).
[12] *Id.*; 350 F.2d at 253.
[13] 12 U.S.C. §§ 1141–41j (1964).
[14] 12 U.S.C. § 1141j(a) (1964).
[15] 350 F.2d at 253–54.
[16] *Id.*