ally related" [17] to the marketing of member products or to the provision of member supplies and/or member business services. Northwest's provision of for-hire transportation was not so related to permissible activities. Therefore, it was not entitled to exemption, but was subject to the Commission's regulations.

HELD: *Judgment for Northwest.* Northwest complied with the statutory requirements, and was a "cooperative association" within the definition expounded by the Agricultural Marketing Act. The statutory provision limits *farm* activities performed for nonmembers, but this cannot be construed as an express prohibition of all *non*farm activities.[18] Such nonfarm activities must only be "incidental and necessary" to the cooperative's main purpose of marketing farm products and furnishing farm supplies and farm business services for members.[19] Northwest's nonmember backhauls were necessary, since without them, it could not have transported member products as cheaply as the cost of common carriage. They were incidental, comprising less than 18 percent of total business revenues. Northwest, therefore, retained its exemption by the application of this test.[20]

DETERMINATION OF LEGISLATIVE INTENT

The Interstate Commerce Act

Northwest was decided on the ultimate question of statutory construction. The court was faced with interpreting the Interstate Commerce Act and the Agricultural Marketing Act, both enacted at different times to settle different legislative problems. Of these, the legislative history of the Interstate Commerce Act is the most elucidating, and has posed the most problems.

The agricultural cooperative exemption to the Interstate Commerce Act [21] became law as part of the Motor Carrier Act of 1935.[22] The purpose of that legislation was expressly stated to be the regulation of motor carrier transportation so that economical and efficient service could be promoted "without . . . undue preferences or advantages, and unfair or destructive competitive practices. . . ." [23] The regulatory power of such a policy was vested in the Interstate Commerce Commission.[24] In enacting the bill, Congress provided its own interpretation of the policy statement:

> [Y]our committee has no intent to undertake to suppress or restrict in any way the development of motor-carrier transportation by responsible carriers for the good of the public interest. Nor do we want motor-carrier transportation subservient to or restrained or curtailed by any other transportation medium. The purpose of this bill is to provide for regulation that will foster and develop sound economic conditions in the industry, together with other forms of public transportation, so that highway transportation will always progress.[25]

Congress thus indicated its intent that the Motor Carrier Act was to be a remedial statute, designed to redress inadequacies of motor carrier regulation and to protect the public welfare against future undesirable practices. The Interstate Commerce Commission was empowered to regularize, supervise, and ultimately to regulate motor carrier activities in the public interest.

The cooperative exemption was not part of the Motor Carrier Act as originally proposed, but was added by floor amendment.[26] Discussion of the proposal was not extensive.[27] However, some indication of legislative purpose can be ascertained from the Congressional debate.

It is clear from the discussion in the House of Representatives that the basic issue was one of nonmember business conducted by cooperative associations. As described by its proponent, Representative Marvin Jones,

> [t]his exemption is consistent with the purpose of the act to regulate the use of highways by persons and corporations who use them regularly as places of business and as the primary means of gaining a livelihood. Cooperative associations do not act as moneymakers in transportation. The hauling is done as a means of reducing the marketing expenses of their members.

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[17] Brief for Appellee at 17, Northwest Agric. Cooperative Ass'n v. ICC, 350 F.2d 252 (9th Cir. 1965).
[18] 350 F.2d at 256.
[19] *Id.* at 257. This test is hereinafter referred to as the "necessary and incidental" test.
[20] Northwest Agric. Cooperative Ass'n v. ICC, 350 F.2d 252 (9th Cir. 1965), *rev'g* 234 F. Supp. 496 (D. Ore. 1964), *cert denied*, 382 U.S. 1011 (1966).
[21] 49 U.S.C. § 303(b)(5) (1964).
[22] 49 Stat. 543.
[23] *Id.*
[24] *Id.*
[25] 79 CONG. REC. 12,205 (1935).
[26] *Id.* at 12,220.
[27] *Id.* at 12218–22.