

Especially in highly organized communities it is almost essential they do some hauling for nonmembers. Otherwise certain farmers who are only temporarily in the community and in some instances tenants might be left without transportation facilities. In some instances it reduces the expense of handling to combine some hauling for nonmembers. This does not mean going into the general business of transportation. It is merely incidental to the hauling for their own members. It is a practical proposition.²⁸

And again:

This will not open the gate for a lot of men to go into the trucking business and thus escape, because the moment they haul more for outside people than they haul for their own members they will be out of the window so far as the exemption is concerned.²⁹

While it is clear that Congress anticipated some nonmember hauling would take place under the exemption—in fact indicated that this would be necessary to effect the general purpose of the Motor Carrier Act—the permissible limits of this activity were not defined in the debates. A pertinent comment was made during Congressional consideration of the Act, however, which offers evidence of the Congressional limits anticipated.

While the definition referred to permits the cooperatives to deal in and transport the products of non-members, restrictions in the definition and practical considerations make it impossible for cooperatives to engage in outside trucking to a degree that would injure regular, for-hire motor carriers.³⁰

The Agricultural Marketing Act

The cooperative exemption to the Interstate Commerce Act refers for definition to the Agricultural Marketing Act.³¹ The latter Act establishes the Farm Credit Administration, a function of which is to make loans to eligible cooperative associations meeting the statutory qualifications.³² In section 1141j of the Act, the cooperative definition is propounded. The difficulty in interpretation has come with respect to the third requisite for qualification, that a cooperative, "shall not deal in farm products, farm supplies, and farm business services with or for non-members in an amount greater in value than the total amount of such business transacted by it with or for members."³³

It is significant to note that the Interstate Commerce Act provision exempts cooperatives "as defined in the Agricultural Marketing Act"³⁴ rather than merely referring to the specific cooperative definition expressed in section 1141j of that Act. This indicates that the scope and purpose of the entire Act should be taken into account when applying the bare words of the definition to the facts of a particular case, and provides yet another source of determining the intent of Congress as to those organizations falling within the definition.

The policy of the Agricultural Marketing Act is expressed in section 1141. This section provides:

"(a) It is declared to be the policy of Congress to promote the effective merchandising of agricultural commodities in interstate and foreign commerce so that the industry of agriculture will be placed on a basis of economic equality with other industries, and to that end to protect, control, and stabilize the currents of interstate and foreign commerce in the marketing of agricultural commodities and their food products—

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"(2) by preventing inefficient and wasteful methods of distribution.

"(3) by encouraging the organization of producers into effective organizations or corporations under their own control for greater unity of effort in marketing and by promoting the establishment and financing of a farm marketing system of producer-owned and producer-controlled cooperative associations and other agencies.³⁵

In view of the general reference to this policy in the exemption clause of the Interstate Commerce Act, the purpose of the definition should be considered in light of the avowed congressional policy establishing that definition.

²⁸ *Id.* at 12,218.

²⁹ *Id.* at 12,219.

³⁰ Letter from Joseph D. Eastman, Federal Coordinator of Transportation, to Senator Wheeler, July 27, 1935, quoted in *Machinery Haulers Ass'n v. Agricultural Commodity Serv.*, 86 M.C.C. 5, 15 (1961).

³¹ 12 U.S.C., §§ 1141-114j (1964).

³² 12 U.S.C. § 1141e (1946).

³³ 12 U.S.C. § 1141j(a) (1964).

³⁴ 49 U.S.C. § 303(b)(5) (1964).

³⁵ 12 U.S.C. § 1141(a)(2)-(3) (1964).