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NATIONAL POTATO LABELING ACT

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HEARING

BEFORE THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S. 562

TO REQUIRE FRESH POTATOES PURCHASED OR SOLD IN
INTERSTATE COMMERCE TO BE LABELED ACCORDING TO
THE STATE IN WHICH SUCH POTATOES WERE GROWN

AUGUST 8, 1967

Serial No. 90-32

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HEARING

BEFORE THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

IN SENATE

COMMITTEE ON COMMERCE

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NATIONAL POTATO LABELING ACT

TUESDAY, AUGUST 8, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met at 10:05 a.m. in room 457, Old Senate Office Building, Hon. Frank E. Moss presiding.

Senator Moss. The committee will come to order.

This morning the Committee on Commerce opens hearings on S. 562, the National Potato Labeling Act. This bill would require fresh potatoes, purchased or sold in interstate commerce, to be labeled according to the State in which they are grown.

A copy of the bill and the several agency comments will be inserted in the record.

(The bill follows:)

[S. 562, 90th Cong., first sess.]

A BILL To require fresh potatoes purchased or sold in interstate commerce to be labeled according to the State in which such potatoes were grown

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Potato Labeling Act".

SEC. 2. For purposes of this Act—

(a) The term "State" means the forty-eight contiguous States and the District of Columbia.

(b) The term "interstate commerce" means commerce between any State or the District of Columbia and any place outside thereof; or between points within the same State or the District of Columbia but through any place outside thereof; or within the District of Columbia.

(c) The term "potatoes" means potatoes of any variety included in the species *solanum tuberosum* and which are in a state generally considered as perishable, but not including potatoes which have been processed by cooking, freezing, peeling, drying, or canning, or by any other means which changes them from their natural state into a prepared food.

(d) The term "container" means the immediate container in which otherwise unpackaged potatoes are contained, including but not limited to sacks, bags, trays, crates, boxes, barrels, bulk boxes, display cases, bins, bulk cars, or trucks. Such term also means the master container in which any immediate container or containers may be packed.

(e) The term "invoice" means any written itemized list of potatoes sold, offered for sale, shipped, delivered for shipment, or consigned for selling or shipment in interstate commerce.

(f) The term "dealer" means any individual, firm, partnership, association, or corporation engaged in the buying or selling of potatoes in wholesale or jobbing quantities, but such term shall not include any individual, firm, partnership, association, or corporation which purchases potatoes solely for selling at retail if the total purchases of all perishable agricultural commodities (as defined in the Perishable Agricultural Commodities Act, as amended) made by the individual, firm, partnership, association, or corporation in the preceding calendar year did not exceed \$90,000.

[Staff member assigned to this hearing: Norman K. Maleng.]

(g) The term "wholesale or jobbing quantities" means two thousand or more pounds of all types of potatoes purchased or sold by any dealer in any day.

(h) The term "to pack" or "packed" means the placing of potatoes into containers for the purpose of sale, shipment, or display.

(i) The term "Secretary" means the Secretary of Agriculture or his designee.

(j) The term "State of origin" means the State in which any potatoes subject to the labeling provisions of this Act were produced.

(k) The term "label" means a display of written, printed, or graphic matter upon or attached to any container of potatoes in such a manner as to be readily seen under ordinary conditions of purchase.

(l) The term "repacker" means any individual, firm, partnership, association, or corporation engaged in the packing of potatoes in containers for shipment or delivery to any wholesale or retail outlet after such potatoes have been previously shipped or delivered in containers one or more times.

SEC. 3. (a) Except as provided in subsection (d) of this section, it shall be unlawful for any dealer to—

(1) sell or offer for sale,

(2) ship or deliver for shipment,

(3) receive and having so received, sell, offer for sale, or deliver or offer for delivery, or

(4) consign for selling or shipment, any quantity of potatoes, if such transaction is in interstate commerce or directly or indirectly affects interstate commerce, unless the container in which such potatoes are packed bears a label which clearly indicates, in such manner as may be prescribed by the Secretary, the State of origin of the potatoes and the name and address of the packer or repacker, and unless the invoice for such potatoes clearly indicates the State of origin of the potatoes and the name and address of the packer or repacker.

(b) It shall be unlawful for any dealer to sell, offer for sale, ship, deliver for shipment, or consign for selling or shipment any quantity of potatoes in a container labeled with more than one State of origin.

(c) It shall be unlawful for any person to detach, alter, deface, or destroy, in whole or in part, or to do any other act with respect to any label required under the provisions of this Act to be affixed to a container in which potatoes are packed if such act may defeat the purpose of this Act.

(d) The provisions of this Act shall not apply with respect to—

(1) potatoes officially certified as seed potatoes and tagged or otherwise appropriately identified by the official State potato certifying agency of the State concerned or by any other certifying agency approved by the Secretary;

(2) potatoes which have been sold, offered for sale, shipped, delivered for shipment, or consigned for selling or shipment in interstate commerce and which, prior to being offered for sale at retail, are to be processed by cooking, freezing, drying, canning, or in some other manner so as to change them from their natural state; or

(3) the transfer or delivery of potatoes from the farm on which they are produced to a temporary storage facility or packing shed, if such temporary storage facility or packing shed is not outside the area (as defined by the Secretary) in which such potatoes are produced.

SEC. 4. For the purpose of enforcing the provisions of this Act—

(a) Officers and employees designated by the Secretary, upon presenting appropriate credentials to the person in custody of any potatoes subject to the provisions of this Act, are authorized, at reasonable times, to inspect such potatoes and the containers in which they are packed.

(b) Carriers engaged in interstate commerce, and persons selling, shipping, or receiving potatoes subject to the provisions of this Act shall, upon the request of an officer or employee designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records relating to potatoes subject to the provisions of this Act and the quantity, shippers, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any record so requested. Evidence obtained under this subsection shall not be used in a criminal prosecution of the person from whom obtained. Carriers shall not be subject to the other provisions of this Act by reason of their receipt, carriage, holding, or delivery of potatoes in the usual course of business as carriers.

(c) Dealers shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this Act. Such information

shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such dealer.

SEC. 5. Any person who violates any provision of this Act or any rule or regulation promulgated under authority of this Act shall upon conviction thereof be fined not less than \$100 or more than \$1,000 or be imprisoned for not more than ninety days, or both; but for the second and subsequent offenses the penalty shall be a fine of not less than \$500 or more than \$3,000, or imprisonment for not more than one year, or both such imprisonment and fine.

SEC. 6. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure to restrain violations of this Act.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) All criminal proceedings and all injunction proceedings for the enforcement, or to restrain violations, of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district in any such proceeding.

SEC. 7. The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 9. The provisions of this Act shall take effect on the first day of the first calendar month which begins more than sixty days after the date of enactment of this Act.

FEDERAL TRADE COMMISSION,
Washington, D.C., August 9, 1967.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of January 30, 1967, for comment on S. 562, 90th Congress, 1st Session, a bill to require fresh potatoes purchased or sold in interstate commerce to be labeled according to the State in which such potatoes were grown.

As we interpret the bill, it would make it unlawful for any dealer in potatoes to sell, offer for sale, ship, deliver for shipment, receive, or having so received, sell, offer for sale, or deliver, or offer for delivery, or consign for selling or shipment, any quantity of potatoes in or affecting interstate commerce, unless the container in which such potatoes are packed bears a label which clearly indicates, in such a manner as may be prescribed by the Secretary of Agriculture, the State of origin of the potatoes and the name and address of the packer or repacker, and unless the invoice for such potatoes clearly indicates the State of their origin and the name and address of the packer or repacker. The bill contains exceptions where the potatoes are certified as seed potatoes, or are to be processed, or their transfer or delivery is from the farm on which they are produced to a temporary storage facility. The bill imposes criminal penalties for violations of its provisions.

The enactment of the proposed bill would not, in our opinion, in any way affect the operations of the Federal Trade Commission.

By direction of the Commission.

PAUL RAND DIXON,
Chairman.

N.B.:

Pursuant to regulations, this report was submitted to the Bureau of the Budget on March 9, 1967, and on August 8, 1967, the Bureau of the Budget advised

NATIONAL POTATO LABELING ACT

that there is no objection to the submission of this report from the standpoint of the Administration's program.

JOSEPH W. SHEA,
Secretary.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 15, 1967.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 562 (90th Cong., 1st Sess.), a bill to require fresh potatoes purchased or sold in interstate commerce to be labeled according to the state in which such potatoes were grown.

The bill provides for issuance of labeling regulations, and inspection by agents of the Department of Agriculture to insure compliance. Violations are punishable by fines of not less than \$100 nor more than \$1,000 or imprisonment for not more than 90 days, or both, for a first offense. Subsequent offenses are punishable by a fine of not less than \$500 nor more than \$3,000 or imprisonment for not more than one year, or both.

The Department of Justice has reservations about the desirability of enactment of this legislation. The passing off of potatoes grown in one state as having been grown in another is already a violation of the Federal Trade Commission Act. Under section 5 of that Act the Federal Trade Commission has authority to issue cease and desist orders against unfair or deceptive acts or practices in interstate commerce. Violators of cease and desist orders may be prosecuted in the district courts of the United States by the Department of Justice and are liable to a civil penalty of \$5,000 for each offense.

We do not perceive the need for legislation, particularly criminal legislation, specifically dealing with the false labeling of potatoes.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WARREN CHRISTOPHER,
Deputy Attorney General.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 21, 1967.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In your review of S. 562, "To require fresh potatoes purchased or sold in interstate commerce to be labeled according to the State in which such potatoes were grown," we would appreciate your taking into consideration the following comments on that bill.

The Federal Food, Drug, and Cosmetic Act prohibits the shipment in interstate commerce of a food if its labeling is false or misleading; and the Federal Trade Commission Act authorizes the Federal Trade Commission to issue cease and desist orders against unfair or deceptive acts or practices in interstate commerce. Actual misrepresentation with respect to State of origin, therefore, is now adequately covered by Federal statute.

Therefore, we believe that a requirement for mandatory labeling should be demonstrably meaningful and helpful to producers, handlers, and consumers. Since State of origin, it appears, is not of particular significance in the marketing of potatoes and is not a factor in quality differentiation in potatoes of a given variety and U.S. grade, mandatory State of origin marking would have the effect of serving a specialized promotional practice and not of benefiting producers, handlers, or consumers in general. Also, the bill would add substantially to the expense of marketing, create substantial enforcement problems, and would not serve the consumers' interest.

In its report on the bill, the Department of Agriculture recommended an amendment to permit regional marking as an alternative to State marking. While we understand that there are differences in appearance and quality of potatoes coming from different regions, and to this extent, an identification of the region

of origin might afford a degree of consumer benefit, we question whether this benefit is worth the additional cost involved and the burden it would impose on many thousands of growers, wholesalers, and retailers. Moreover, under the amendment recommended by the Department, labeling by State would still be retained as an alternative and is, therefore, subject to the objections raised in this connection earlier in this letter.

Accordingly, the Bureau of the Budget recommends against enactment of legislation providing for mandatory labeling of potatoes.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

OPENING STATEMENT BY THE CHAIRMAN

Senator Moss. S. 562 was introduced by Senator Church, Senator Jordan, and Senator Magnuson. It is designed to prevent misrepresentation in the labeling of potatoes. It appears, for example, that a significant number of potatoes in the stream of commerce bear the label "Idaho potatoes," and are in fact grown elsewhere.

The purpose of these hearings is to determine, one, whether the mislabeling of potatoes is a significant problem to producers and consumers, and two, whether existing laws are adequate to prevent misrepresentations as to State of origin.

I have a degree of sympathy on this issue because my State of Utah, before we had so many subdivisions, used to grow the finest celery in the world—Utah celery. And I, as a young man, went to California and I noticed that they advertised some Utah celery there in one of the markets. I went over and examined it and I concluded immediately that it did not come from Utah. So I raised the question with the seller, and he said, "Oh, well, that is just the name of the celery, Utah celery." So I have great sympathy with the problem we are considering here this morning.

Our first witness this morning will be Senator Church, to be followed by Senator Jordan. We would be very happy to hear both of you Senators. We know that there is a bill on the floor this morning that is going to require you to depart promptly after your testimony, so we will proceed at once.

Senator Church?

STATEMENT OF HON. FRANK CHURCH, U.S. SENATOR FROM THE STATE OF IDAHO

Senator CHURCH. Thank you very much, Mr. Chairman.

Let me say first of all, Mr. Chairman, how much we appreciate the hearing this morning. Judging from the list of witnesses, I think it will be possible for the committee to complete the hearing today, and we are very hopeful that we can do so.

Mr. Chairman, I welcome this opportunity to restate my support for legislation that has long been a goal of potato growers in my State: S. 562, the National Potato Labeling Act.

The bill is simple enough. It would require that all fresh potatoes marketed in interstate commerce be labeled both with the State of origin of those potatoes and the name and address of the packer or repacker. That, with enforcement provisions, is the sum of the bill.

Mr. Chairman, largely through promotional efforts in my State and others, housewives have come to identify areas of potato production

with specific qualities they desire in potatoes. But this identity is being undermined. Repackers are currently mixing potatoes from one area of production with other potatoes of lesser quality. This results in confusion and dissatisfaction among consumers. Potato growers across the Nation now desire State-of-origin labeling, to maintain the identity of their product in the marketplace.

Recently, my wife bought potatoes in a nearby grocery store. The sign said "Prime U.S. No. 1 Idaho potatoes." But the potatoes were not. The biggest one was about the size of my fist balled up, and about the same shape. When baked, it oozed water; when opened, the skin cracked like a dry leaf. This was definitely not an Idaho No. 1, yet my wife's experience is repeated every day in thousands of markets.

The reason potatoes are repacked this way is obvious enough. Idaho potatoes cost more in eastern markets, and the unscrupulous are anxious to make an extra profit by selling all kinds of potatoes under an assumed "Idaho" name.

Such practices can easily be verified with similar stories from the other areas; some who testify here today will doubtless have their own examples. Thus, this is not only an Idaho problem—it faces any potato producer anywhere who wants his product to stand or fall on its own merits.

Idaho producers spend a great deal of money each year to advertise their product. An increasing number of packers are capitalizing on this advertising and representing, by inference, that potatoes actually grown elsewhere come from the fields of Idaho. These packers try to make the word "Idaho" a designation of variety, rather than a place of origin. They claim, in effect, that the "Idaho" potato is like the "Irish" potato—an entirely inappropriate analogy, as any horticulturalist can verify.

Obviously the grower suffers from this deception; and so does the shipper. However, growers and shippers all over the country, not just in Idaho, have increasingly recognized that misrepresentation of this kind injures the entire potato industry. Potato quality is too low nationwide, the growers feel, because no incentive exists to maintain quality. If quality is poor, housewives will gradually switch to various potato substitutes, which is the last thing the industry wants. So, the incentive provided by State-of-origin labeling is widely supported. The potato growers of Idaho have laid considerable groundwork by communicating with counterpart grower organizations all over the United States.

Mr. Chairman, S. 562 is necessary protection for the consumer as well as the grower. The buying public is entitled to know the source of its food products, and must be protected from false implications in sales. The thrust of this bill is directed at fraudulent repackaging practices. It does not apply to processed potatoes; nor does it apply to seed potatoes or potatoes in temporary intrastate transfer.

Idaho potato growers favor S. 562 as it is written, without amendments.

Their detailed case will be presented here later this morning by experts who have come from Idaho, representing the various phases of our industry and I am sure, Mr. Chairman, that they will be able to answer whatever questions you put to them with thoroughness and skill. They have put a number of years of work into this bill. We think it is a good one. And we are hopeful that for the protection of con-

sumers and growers alike that this committee of the Senate will recommend enactment of this legislation to the Senate during this session.

Again, Mr. Chairman, let me thank you for this opportunity to be heard this morning.

Senator Moss. Well, thank you Senator Church.

I think your statement is very clear and points to the problem we have.

The only thing that occurred to me originally is whether we ought to have a more general application of this same principle rather than restrict it just to potatoes. But we are here to talk about potatoes this morning, so we will have a record made on that and then the committee may want to decide whether it ought to be expanded to other commodities. Because really it is a sort of a truth-in-labeling bill, isn't it?

Senator CHURCH. Yes, it is, and for this reason the bill is before this committee, Mr. Chairman.

There is a particularly grievous problem where potatoes are concerned. We feel that perhaps twice the number of potatoes are being sold as Idaho potatoes as are actually grown in Idaho.

That is why we think that this is a field where truth-in-packaging is highly important and where fraudulent practices have become so widespread as to make the case for this legislation an urgent one.

Senator Moss. Thank you very much. We appreciate your testimony.

Senator CHURCH. Thank you, Mr. Chairman.

Senator Moss. Senator Jordan, we are very glad to have you. You may proceed in whatever manner you see fit.

STATEMENT OF HON. LEN B. JORDAN, U.S. SENATOR FROM THE STATE OF IDAHO

Senator JORDAN. Thank you, Mr. Chairman. I am pleased to have the opportunity to appear here this morning with my colleague, Senator Church, and with at least four witnesses from the State of Idaho who will present in some detail the various aspects of the problem with which they deal out in the State.

Mr. Chairman, this committee has in recent times quite properly focused major attention on the protection of the consumer. The bill we are discussing here today—S. 562, the National Potato Labeling Act—fits admirably into this familiar context, for its intent is to guarantee to the shopping housewife that the label on the potatoes she buys does not misrepresent the product.

We of Idaho are proud—and I believe justifiably proud—of our potato industry. The word "Idaho" used in connection with potatoes is accepted throughout the world as a hallmark of quality.

Agriculture is Idaho's largest industry and potatoes are Idaho's biggest crop. Idaho leads all States in potato production and shipping. There are over 7,000 farms growing potatoes commercially in Idaho. The value of Idaho potato production in a good year has exceeded \$80 million.

The production of this in Idaho, then, is no small potatoes. It is big business, a mainstay of the State's economy.

Thus, since Idaho is traditionally associated with potatoes and since potato production is, in fact, so important to the State, it is

only natural that Idaho growers would be very jealous of the integrity of their product and very concerned when misrepresentation tends to call its quality into question.

Idaho potatoes are not a variety of potatoes. Idaho potatoes are simply potatoes grown in Idaho. It is obviously contrary to the best interests of Idaho producers for large quantities of often inferior potatoes to be marketed in this country under false pretenses, untruthfully labeled as Idaho potatoes.

However, I wish to emphasize that the potato-labeling legislation we are discussing is not just a parochial matter for the benefit of Idaho. The best interests of the entire potato industry nationally suffers from the loss of confidence which misrepresentation causes.

A requirement for truthful labeling as to State of origin would stimulate healthy competition. Idaho growers want to be sure that every potato identified as an Idaho potato is a top-quality item which a buyer will remember favorably so that he will want to buy the same product again. Certainly other growers from other areas desire that consumers will make this kind of positive identification with their produce.

False labeling hurts all potato producers interested in building trust in a quality product. The only beneficiaries of mislabeling are the unscrupulous. The most severely victimized are the consumers.

There is not, I believe, any question about the undesirability of false labeling. The question that remains is whether reasonable and workable means can be found to combat the practice. I feel that S. 562 is both reasonable and workable.

We have been directing our attention to this problem for some time. Twice before State-of-origin potato labeling bills have been introduced. With the passage of time, the legislation has been refined and improved. S. 562 represents the result of this process.

Language is included which seeks to anticipate possible problems of implementation and to direct enforcement to the source of the problem without superimposing cumbersome requirements which might merely annoy nonviolators and preclude effective administration of the act.

The bill applies only to potatoes in their natural state and exempts those which have been processed in any way. The bill exempts small dealers. It does not apply to seed potatoes; it does not apply to shipments of potatoes which will be processed before being sold at retail; it does not apply to potatoes transferred from the farm to a temporary storage facility.

With these exceptions, the bill makes it unlawful in interstate commerce for any dealer to sell, ship, receive, or consign any quantity of potatoes unless the container in which such potatoes are packed bears a label indicating the State-of-origin of the potatoes and the name and address of the packer or repacker and unless the invoice for such potatoes indicate the State-of-origin of the potatoes and the name and address of the packer or repacker.

The bill gives the Secretary of Agriculture adequate inspection authority to enforce the act and imposes reasonable penalties for violations.

Mr. Chairman, I am convinced that this legislation would be beneficial not merely to the producers of Idaho but to all the producers and all the consumers of the Nation. I think that, as drawn, it would be

enforceable and it would effectively combat the potato mislabeling problem.

I urge this committee to give every consideration to favorable action on this proposal. Thank you for the opportunity to present my views at this time.

Senator Moss. Thank you, Senator Jordan, for your statement. It is very helpful.

I note from reading the bill that the penalties are fairly stiff for violation of the bill. Were these modeled on any other particular penalties in this area when you drafted your bill?

Senator JORDAN. I am not sure that they are, Mr. Chairman. We sought advice from all quarters, and this just seems to be the consensus of views as to the penalties. We hope they will never have to be imposed. Perhaps, being high, it would be a deterrent to violation of the act.

Senator Moss. And you have felt that you should put in a minimum penalty to get away from mere wrist slapping?

Senator JORDAN. Yes. Yes, I think that is important to do that.

Senator Moss. Well, I think I have no further questions of you, Senator Jordan. I think your statement is an excellent one, and it will help us make the record here on this problem we have. Thank you very much.

Senator JORDAN. Thank you, Mr. Chairman. I appreciate the chance.

Senator Moss. The next witness is Hon. George L. Mehren, Assistant Secretary of Marketing and Consumer Services, Department of Agriculture.

We are pleased to have you here.

STATEMENT OF HON. GEORGE L. MEHREN, ASSISTANT SECRETARY, MARKETING AND CONSUMER SERVICES, DEPARTMENT OF AGRICULTURE

Mr. MEHREN. Thank you, Senator.

I am pleased to have this opportunity to testify on S. 562, a bill which establishes labeling requirements for Irish potatoes.

Specifically, it would require that containers of Irish potatoes packed, shipped, sold, consigned or offered for sale in interstate commerce, or directly or indirectly affects interstate commerce, should be labeled as to the State of origin.

Other provisions relate to the method of labeling and recordkeeping, and to the marking of display bins in retail stores to show the State of origin.

The Department of Agriculture believes this legislation should be modified in two aspects:

First, we believe that the label requirement should be broadened to allow containers to show production area of origin, and

Second, that U.S. grade markings should be used only when the potatoes are officially inspected and certified as meeting the requirements of the grade marked on the container.

And I have available, Mr. Chairman, language whereby the suggested modifications of the Department could, we think, be achieved. If you wish, I would be happy to submit this to you for your consideration.

Senator Moss. I would like to have it submitted, and I would like it placed right in the record so that we will have it at hand.

(The information referred to follows:)

Amend Section 2 of Bill to read as follows:

(j) The term "State of origin or production area of origin" means the State or area in which any potatoes subject to the labeling provisions of this Act were produced.

Section 2 Insert two new Sub-Sections as follows:

(m) The term "U.S. Grade" means one of the grades provided in the U.S. Standards for Potatoes promulgated by the Secretary, or other markings denoting quality or condition which the Secretary by regulation determines could be construed as or intended to represent a U.S. Grade;

(n) The term "inspector" means any person who is licensed or otherwise authorized by the Secretary to inspect and certify the grade, quality, or condition of potatoes;

Amend Sub-Section 4 of Section 3(a) of the Bill to read as follows:

(4) consign for selling or shipment, any quantity of potatoes, if such transaction is in interstate commerce or directly or indirectly affects interstate commerce, unless the container in which such potatoes are packed bears a label which clearly indicates, in such manner as may be prescribed by the Secretary, the State of origin or production area of origin of the potatoes and the name and address of the packer or repacker, and unless the invoice for such potatoes clearly indicates the State of origin or production area of origin of the potatoes and the name and address of the packer or repacker.

Amend Section 3(b) of the Bill to read as follows:

(b) It shall be unlawful for any dealer to sell, offer for sale, ship, deliver for shipment, or consign for selling or shipment any quantity of potatoes in a container marked or designated with a U.S. Grade unless the potatoes have been inspected and certified by an inspector as meeting the requirements of the U.S. Grade marked or designated on the container.

Amend Section 3 of the Bill by adding as Sub-Section (d) the following:

(d) It shall be unlawful for any dealer to use a production area designation unless such designation has been authorized by regulations issued by the Secretary.

Amend Section 3 by changing in line 24 the designation (d) to (e).

Mr. MEHREN. With these modifications, the Department believes, and I personally concur, that the legislation would be a useful and profitable merchandising instrument for the whole potato industry. We believe that broadening the label requirement to show production areas of origin will avoid unnecessary, costly, and burdensome requirements on the potato industry. This is particularly true in areas where potatoes are grown in adjacent States and where the handling, grading, packing, and shipping is done across State lines.

Frequently, lots from the different States are commingled so that the designation by State of origin would require additional handling and extra costs. In these cases, as well, the potatoes produced in one State often are indistinguishable from those produced in the neighboring State, and a production area designation would be more meaningful and useful to the consumer. Provision of the production area of origin would overcome these problems and, in addition would allow those areas which follow this practice now to continue to develop their label as a merchandising tool.

The second amendment would be an important adjunct to enhance the merchandising potential of the first. If potatoes are to be labeled either by the State or the area of production, it would be to the interest of the producer as well as the eventual consumer to be assured that the label as to grade means what it says. The only way to provide the assurance is through official inspection.

Otherwise, should the consumer lose confidence in the product because it was misrepresented, the real loser would be the producer

who is attempting to strengthen his market position by providing a product of quality and distinction.

With these amendments, the legislation can provide the potato industry with a reliable and productive merchandising tool. It would enhance a segment of the agricultural economy which already does a significant annual business.

Potatoes are produced commercially in most States, but the top producers are California, Idaho, Maine, New York, Washington, North Dakota, and Minnesota. According to the U.S. Department of Commerce Census Bureau's preliminary report for 1964, 310,000 farms in the United States harvested potatoes. In 1966, these farmers produced some 306.9 million hundredweight of potatoes and received some \$663 million for them. These potatoes were distributed by over 20,000 commission merchants, dealers, and brokers, and were ultimately disposed of through at least 32,000 retail stores which would be subject to this bill.

The scope of the industry, as you can see, is broad, and involves many steps from harvest to the point of purchase. We believe we can insure the integrity of the label, but it will require an additional 39 employees, and an expenditure of approximately \$512,000 each year to support their effort to enhance the merchandising of potatoes in the rapidly changing food market today.

I thank you, Mr. Chairman, for the opportunity to speak here this morning, and I would be happy to respond to any questions you may have, sir.

Senator Moss. Thank you very much, Mr. Mehren. I am glad you gave an estimate of the additional number of employees and the approximate cost that would be needed to provide the inspection services which you referred to earlier. If these inspectors were required to be employed, who would pay for them? Where would the money come to support them?

Mr. MEHREN. The Department's estimate of cost for administering this bill is based on the magnitude of the task of surveillance that would have to be undertaken in producing areas, terminal markets, and retail foodstores. Except in the relatively few producing areas where Federal or State marketing orders make quality inspection of potatoes by an official inspection agency mandatory, it would be necessary for an enforcement staff to make periodic spot checks to assure that the State of origin labeling requirements were being observed. Similarly, periodic spot checks would have to be made at the plants of the thousand or more repackers of potatoes throughout the country and in the estimated 32,000 retail foodstores which would be subject to the bill. The cost of this enforcement staff, including the usual clerical and other support activities, would be borne by the Federal Department.

Customary official inspection services for fresh fruits and vegetables, including potatoes, on the other hand, are conducted in producing areas on a cooperative Federal-State basis. Qualified inspectors, employed by the States, are licensed and given technical supervision by the Federal Department. This inspection service, which is voluntary, is provided to growers, shippers, buyers, or other interested parties on a fee-for-service basis. Insofar as possible, the service is self-supporting. The States collect the inspection fees charged, pay the inspectors, and forward to the Federal Department a small

overhead charge which defrays a part of the cost of supervising the inspection service.

Senator MOSS. So, in this instance you would expect that there would be an additional levy of some sort on the producers to provide the funds to pay for the inspection.

Mr. MEHREN. Fees for Federal-State inspection service are set by the individual States. Consequently, there is some variation in the fees from State to State. In addition, the fees vary widely from commodity to commodity.

Senator MOSS. Do you have a rough estimate of how much this would cost per hundred, say, to a producer of potatoes?

Mr. MEHREN. It would be relatively small.

Senator MOSS. Well, by "relatively small," are you talking just about a cent or two for a hundred pounds, or something like that?

Mr. MEHREN. The fee for inspection of potatoes in producing areas averages about 3 cents per hundredweight. Sometimes fees are assessed on a carlot basis, sometimes on a hundredweight basis. The carlot inspection fees for potatoes generally range from \$10 to \$15 per car, depending upon the size of the car.

Senator MOSS. I notice at the beginning you referred to Irish potatoes in talking about them. I didn't see anything in the bill that called them Irish potatoes. I wonder, can you explain the difference, now why aren't Irish potatoes all from Ireland?

Mr. MEHREN. Well, I don't believe the Irish potato ever started in Ireland. I am no potato specialist in terms of its horticultural attributes. I believe it started somewhere down in Central America. I think the "Irish potato" designation is designed to distinguish it from yams and sweet potatoes and other tasteful dishes of that sort. The appropriate definition of the commodity is in the statute in Latin. If you will look on page 2 of the bill.

Senator MOSS. *Solanum tuberosum*.

Mr. MEHREN. Yes.

Senator MOSS. In your discussion, you talk about showing area of origin. Would you amplify this, as to how this is different from State of origin?

Mr. MEHREN. First, the suggested amendatory language, Senator, would not preclude the Secretary of Agriculture, subject to the normal rulemaking procedures under the Administrative Procedure Act, from designating a State as the production area. It would, however, also give the Secretary latitude to designate such areas as the Klamath Basin, including adjacent parts of northern California and southern Oregon, which is an identifiable source of potato production. It is an area which has carried the words "Klamath Basin" through primarily to the San Francisco and Los Angeles markets. It does give a basis of differentiation. It has proved to be an excellent merchandising instrument.

In addition, there are a few counties on the eastern side of Oregon which produce potatoes identical to those that are grown in an area across the State line in Idaho. This area is a substantial distance from the other large potato production area in eastern and central Idaho.

The Red River Valley traditionally for many, many years has merchandised potatoes as Red River. This production area involves the two States of North Dakota and Minnesota. If those people choose to represent to the Secretary through the usual rulemaking procedures

that they would like to designate a production area encompassing the Red River Valley and merchandise and label on that basis, in all likelihood the record would sustain their view. It would be difficult to require them to label their potatoes either as North Dakota potatoes or Minnesota potatoes in that overlap area.

There also are two or three other similar areas, including some in New England, but the major ones are the Klamath Basin and the Red River Valley. In these instances we think that to restrict labeling to a single State of origin would be most difficult and, in fact, inimical to the objectives of the producers themselves.

Senator Moss. In other words, you are saying that political boundaries of the States should not necessarily be controlling because there are areas, valleys, and other production areas that extend beyond those political boundaries?

Mr. MEHREN. Yes. There are a few areas.

Senator Moss. Would it be possible, under the language you are proposing, to have labeling on that basis?

Mr. MEHREN. We could fit the designation of the area and the label requirements to the facts of the industry. I would say that it would be rather silly to say California potatoes, because there are many different types of California potatoes which are quite substantially different. You see our southern county early summer potatoes are quite a different potato from the northern California potato. In that case, if the record would sustain it, the Secretary might find a different area of designation within a State of that size, if in fact there were substantial differentiation of the product.

Senator Moss. I understand there are already gradings and markings of potatoes required for marketing. Can you tell me how that was accomplished? Who does it, and how do they establish the grade?

Mr. MEHREN. At the present time, most potatoes that have been sorted and packed for marketing in fresh form carry a U.S. grade label. However, there is no requirement that potatoes so labeled have to be officially inspected and certified as meeting the grade. If they do not meet the grade, then they are subject to penalties for mislabeling. The proposal here for official inspection when potatoes are labeled as to grade is quite obviously intended, Mr. Chairman, to give us the instrumentality for enforcement. If potatoes were to be labeled, say as "Idaho" potatoes, or "Red River Valley" potatoes, and if the trade were to so handle them and consumers were so to buy them, then our people feel quite strongly we should add the instrumentality of assuring that this is in fact so. Since such a large proportion of potatoes are marketed with grade labels, a requirement that potatoes so labeled must be officially inspected and certified would provide an excellent opportunity for determining and certifying, at the same time, the State or production area of origin.

Senator Moss. Well, did I understand then in grading the potatoes now, it is actually done by the producer himself?

Mr. MEHREN. Or the handler.

Senator Moss. And the only time that the Department comes into it is in the event of misgrading and of fraud.

Mr. MEHREN. Not exactly. The Federal-State inspection service or the Department may be and frequently is requested by the seller or buyer to inspect the potatoes and certify that they meet the grade as marked. In the event the potatoes are mislabeled as to grade,

State of origin, weight, or other specification, the Department will take action against the responsible party under the Perishable Agricultural Commodities Act, which is administered by the Department of Agriculture.

Senator Moss. On this question of mislabeling potatoes, do you have any estimate of the degree or amount of potatoes that are mislabeled as to State of origin, and how serious is this problem?

Mr. MEHREN. I have no quantitative basis for an estimate. I would just say, as an individual, that I am doubtful that every Idaho potato I have seen so represented is an Idaho potato in fact. But I do not have, nor do my colleagues in the Department have, any definitive numbers. We have never been required to investigate the matter. And ours would be personal opinion, I guess, just as anybody else's would. I can't give you specifics on it.

Senator Moss. You don't have any figures on which to base this.

Mr. MEHREN. No; we do not.

Senator Moss. That was going to be my next question, whether the Federal Trade Commission has jurisdiction in this on misrepresenting or false advertising.

Mr. MEHREN. I believe the Federal Trade Commission does have a generalized authority to move on matters affecting foreign or interstate commerce if there be substantive misrepresentation. I am not certain—and I am not a lawyer, sir—but I am not certain that to designate a potato as "Idaho" would be a direct violation of the Federal Trade Commission's basic statute. I don't know.

Senator Moss. Do you know of any instance where some potato seed company might have adopted the name Idaho just to name their seed in order to utilize the deception?

Mr. MEHREN. I don't know of any such cases. I would be rather surprised if they did, because I know that our own people would not be happy with such a situation in the seed trade. And I suspect the customers would be rather disturbed by it also. I don't know of any specific instances of this sort, Mr. Chairman.

Senator Moss. I would like to ask you also a question that I suggested earlier to Senator Church.

Do you know of other similar areas, other than potatoes, where this problem has become acute, and where we might need to consider the requirement of State of origin?

Mr. MEHREN. I don't know of any similar situations domestically. I do know of foreign areas in which I personally have seen products marked as having originated in certain parts of the United States, when in fact they did not so originate. I don't know of any widespread misrepresentation domestically. I don't think that necessarily we would be opening the door to any massive numbers of such designations. The Department has no particular worry along that line, Mr. Chairman, because we would take them one by one. And where the facts supported such a proposal, we would support it. But we don't see any necessity to generalize a statute of this sort, and we would much prefer to do it case by case, product by product, where the facts of the industry, the differentiation of the product, and the viewpoints of the consumers support it as being reasonable, a proposal of this sort.

Senator Moss. The only recollection I have is from reading in the press about the disputes on wine in European areas, where it is mis-

labeled as a kind of grape that comes from a particular area, and that designation is taken over, which I think happens in some foreign legal actions.

Mr. MEHREN. Well, I have been told that within the last 6 months the French have stated that if the Californians choose to ship Californian burgundy it must be so designated. There is a statute in England I am also told, about a month ago, such that if we ship New York sherry into London it must be designated as "New York sherry" in order to differentiate it from Jersey sherry. And when they do that, it appears to us to be a bit narrowminded but nonetheless they have the same purpose, I think, as this bill does.

Senator Moss. Now, if the shoe fits we have to put it on.

Mr. MEHREN. Yes.

Senator Moss. Thank you, Mr. Mehren. That is a very fine statement, and we are glad to have you suggest some amendatory language that, in the opinion of the Department, would improve the bill to be considered by the committee.

Mr. MEHREN. Thank you, Mr. Chairman.

Senator Moss. Thank you very much.

Senator Moss. Our next witness is E. D. Michaelson, a representative of the Idaho-Oregon Fruit & Vegetable Association. Mr. Michaelson is from Parma, Idaho. He represents Idaho origin. Now we are going to find out whether it is better on the Idaho side or the Oregon side.

We are glad to have you, Mr. Michaelson.

STATEMENT OF E. D. MICHAELSON, REPRESENTATIVE OF IDAHO-OREGON FRUIT & VEGETABLE ASSOCIATION, PARMA, IDAHO

Mr. MICHAELSON. Thank you, Mr. Chairman.

My name is Everette D. Michaelson. I am the manager of the Idaho-Oregon Fruit & Vegetable Association, Inc., with offices in Parma, Idaho. Today I am speaking in behalf of the potato grower and shipper members of the association who do business in western Idaho and Malheur County, Oreg., whose names appear on exhibit A of this statement.

With this statement we are asking the Committee on Commerce of the U.S. Senate to give consideration to the amending of Senate bill 562, a bill which in its present form would require all potato containers to carry a single State point of origin designation. The amendment is necessary so as to permit the potatoes produced and packed in western Idaho and Malheur County, Oreg., to be marketed, as they have been for at least the past 24 years, under the area designation "Idaho-Oregon." It should be noted by the committee that there are other potato-producing areas in the United States needing this same consideration, who are in the same unique position of being a single production area which crosses State lines—for example, there is the Klamath Basin production area where potatoes are grown in southern Oregon and northern California and the Red River Valley production area where potatoes are grown in western Minnesota and eastern North Dakota.

The "Idaho-Oregon" fresh fruit and vegetable production area is, as its name implies, a single-production area in western Idaho and Malheur County, Oreg., located on both sides of the Snake River and

its tributaries. Nearly everyone who lives in this area considers himself as living in the "Idaho-Oregon" area, and we find the name "Idaho-Oregon" used frequently in all lines of business. However, it is in agriculture that the "Idaho-Oregon" area designation is most significant in this case. For instance, we have the Idaho-Oregon Prune Marketing Committee, the Idaho-Eastern Oregon Onion Committee and the Idaho-Eastern Oregon Potato Committee, which are Federal marketing orders set up under the supervision of the U.S. Department of Agriculture. These marketing orders were formed at the request of the growers and shippers of Idaho and Malheur County, Oreg., because they consider the area as being a single-production area of the commodities involved with common growing and marketing problems. It should be obvious to the committee that with this thinking among the growers and shippers of the area that we do have a unique situation which needs special consideration.

If you will note exhibit B, a part of this statement, you can easily understand the dilemma which would be created for our potato industry if a single State point of origin designation is required by law. There are farms located along the State line which extend into both States. There are many instances of growers operating farms in both Idaho and Oregon, as well as shippers who operate packing warehouses in each of the two States. Approximately 90 percent of the fresh potato shipments from this area originate from the cities of Weiser, Idaho; Payette, Idaho; Ontario, Oreg.; Nyssa, Oreg.; Adrian, Oreg.; Parma and Homedale, Idaho. All of these cities are within 5 miles of the State line between the States of Idaho and Oregon. It has been the practice in this area since potatoes have been grown for commercial purposes for Oregon-grown potatoes to be packed in Nyssa and Ontario, Oreg. The immensity of this problem can be understood when you consider that the Crop Reporting Service of the U.S. Department of Agriculture estimates for this marketing season there are 20,000 acres of potatoes in Malheur County, Oreg., and 31,000 acres of potatoes in the 10 southwest counties of Idaho.

To add to this confusion there is the problem of commingling of potatoes produced in Idaho and in Oregon. A large portion of the potatoes marketed from this area is done during the months of August and September of each year. These potatoes are dug, sorted, packed, and shipped in 1 day's operation. Usually there will be two or more growers delivering their potatoes to a single warehouse at the same time. If one of these growers happens to be from a different State than the others, you can well imagine the problems that a single State of origin designation would create. If different containers must be used because the potatoes came across the State boundary it would not only cause packing problems in the warehouse, but also cause delays in the loading of shipments and problems in the selling of the finished product when two production area designations are shown on the labels of the containers in one shipment. These problems need not be, for there is no difference in the commodities just because they happened to be grown in one State or the other. Recognition of the Idaho-Oregon production area would be the answer.

The Federal-State shipping point inspection services of the States of Idaho and Oregon has long recognized the problems regarding the movement of produce between the two States by having the Oregon Inspection Service perform all inspections in Weiser, Idaho;

produce moving from Oregon into Payette, Parma, and Homedale, Idaho, is inspected by the Idaho Inspection Service; and produce moving from Idaho into Ontario and Nyssa, Oreg., is inspected by the Oregon Inspection Service.

The Federal-State Market News Service recognizes the "Idaho-Oregon" potato production area by quoting prices paid for "Idaho-Oregon" potatoes in the various major cities on their reports. In checking the Market News Service reports for September 1967 you will find prices quoted for "Idaho," "Idaho-Oregon," "California," "Washington," et cetera, potatoes.

I imagine that one of the principal reasons this legislation is receiving the committee's careful consideration at this time is because of the recent "truth in packaging" legislation. Believe me, when I say that our industry is as interested in having our produce truthfully labeled, as is any other production area of the United States. It is our contention, however, that when we use the area designation "Idaho-Oregon" on the containers of our potatoes, we are more nearly telling the truth than if we are required to use either the term "Idaho" or "Oregon." When the public or receiving trade sees the name "Idaho" on a potato container they immediately associate it with the potatoes which are shipped for the most part from central and eastern Idaho during the fall and winter months. When these same people see the name "Oregon" on a potato container they associate it with the potatoes which are shipped from central and southern Oregon during the fall and winter months. As stated earlier, most of the fresh shipments of potatoes from the "Idaho-Oregon" area are made during the months of August and September, which is considered late summer shipments, and at least the receiving trade recognizes this factor.

It is, therefore, our industry's conclusion that a single State point of origin designation for potato containers is not the complete answer to the problems which the committee is seeking to find with Senate bill 562, in its present form. The bill needs to be amended so as to give recognition to the potato production areas, such as the "Idaho-Oregon" area and others, so that the law will be workable for the potato industry and the enforcement people who will be making the law "work."

Thank you very much, Mr. Chairman.

Senator Moss. Thank you, Mr. Michaelson, for your very good statement. Exhibit A will be printed in the record following your statement but exhibit B will be incorporated by reference rather than an attempt to reproduce it.

(Exhibit A follows:)

EXHIBIT "A"—LIST OF GROWERS AND SHIPPER MEMBERS OF IDAHO-OREGON
FRUIT & VEGETABLE ASSOCIATION, INC.

Parson's Packing, Inc., Weiser, Idaho
Haraguchi Produce, Weiser, Idaho
Hells Canyon Produce, Weiser, Idaho
Central Produce Distributors, Payette, Idaho
Lynn Josephson Produce, Payette, Idaho
Ontario Produce Company, Ontario, Oregon
Thos. Iseri Produce Company, Ontario, Oregon
Nagaki Farms, Ontario, Oregon
Earl Winegar, Ontario, Oregon
Royal Produce, Inc., Nyssa, Oregon
Muir-Roberts Company, Inc., Nyssa, Oregon

Lewis Yoder Company, Nampa, Idaho
 Henry Ankeny Company, Inc., Nampa, Idaho
 Russell Produce, Vale, Oregon
 Hartley Produce, Adrian, Oregon
 Bowman Produce Company, Marsing, Idaho
 B. W. Produce Company, Nampa, Idaho
 Burns & Bay, Nampa, Idaho
 Karl Hostetler, Nampa, Idaho
 J. C. Watson Company, Parma, Idaho
 S. E. Johnson Company, Parma, Idaho
 R. C. Kellett, Inc., Caldwell, Idaho
 J. C. Palumbo Produce, Caldwell, Idaho
 Pacific Fruit & Produce Company, Ontario, Oregon
 Treasury Valley Growers & Sales, Nyssa, Oregon
 Growers Produce Company, Nyssa, Oregon
 Sam Bloom, Boise, Idaho
 Ore-Ida Foods, Inc., Ontario, Oregon
 Idaho Farmway, Inc., Caldwell, Idaho

Senator Moss. I take it that you support the suggestion made by the Department of Agriculture witness who appeared immediately preceding you?

Mr. MICHAELSON. That is correct, sir. With that we could live.

Senator Moss. In other words, the production area designation?

Mr. MICHAELSON. That is correct, because of the fact that in many instances the single State requirement fits those particular production areas. But for areas such as ours, it does not.

Senator Moss. You heard the testimony of Mr. Mehren about the need to have some additional inspectors for enforcement on this. Could you comment on that for me?

Mr. MICHAELSON. In our particular area that would cause no problem, because all of our potatoes are required to be inspected by Federal marketing order requirements. So that all of the potatoes from Idaho and Oregon are inspected, at least those potatoes that go into the fresh shipments.

Senator Moss. Well, it's your opinion that there would be no extra burden at all on your area on this inspection?

Mr. MICHAELSON. No. No.

Senator Moss. Is the grade marking done by the State inspectors in your area, or is this done by the producer himself?

Mr. MICHAELSON. The grade requirements are inspected and required by the Federal State Inspection Service. We have set up the standard under the marketing order requirement that the potatoes have to grade to a certain grade or better. And the Inspection Service controls that part of it.

Senator Moss. It's working well now? Is there any problem with it?

Mr. MICHAELSON. It's working very well.

Senator Moss. Well, thank you, Mr. Michaelson. We are glad to have you come and give us your testimony for the record here. We appreciate it very much.

Mr. MICHAELSON. Thank you, Mr. Chairman.

Senator Moss. I might announce, for witnesses who may have to leave early, that the record will not be finally closed for 2 weeks. So if there is any additional material that is to be submitted, for instance, if the Chair should ask a question for which it might require additional data, that can be submitted to the committee any time within 2 weeks after the close of this hearing.

Our next witness is Mr. Edd Moore, Idaho Potato Growers & Shippers Association, from Idaho Falls. Will you come forward, Mr. Moore, please?

Mr. MOORE. Mr. Chairman if it is agreeable with the committee, Mr. Bryant has to leave and I would step aside long enough to let Mr. Bryant testify, so that he can keep his commitment and he can be heard before this committee.

Senator Moss. That is kind of you, and we are glad to accommodate Mr. Bryant in that manner. Mr. Bryant has been on the Maine Potato Council.

Mr. MOORE. I hate to concede to Maine.

Senator Moss. I was going to comment on this deference of Idaho for Maine. When I listened to Senator Church and Senator Muskie talking on the floor, sometimes I decided that maybe Idaho and Maine didn't see eye to eye at all on potatoes.

Mr. BRYANT. Mr. Chairman, this is unusual for Idaho to step aside for Maine. We appreciate it very much.

Senator Moss. Well, we are pleased to have you, Mr. Bryant. You may go right ahead with your statement.

STATEMENT OF HAROLD BRYANT, MAINE POTATO COUNCIL, PRESQUE ISLE, MAINE

Mr. BRYANT. I have a prepared statement, but with your permission I would like to speak from notes in the same general vein.

Senator Moss. You may do so. The statement will appear in full in the record and you may comment on it in any manner you suggest.

Mr. BRYANT. Thank you.

(The statement follows:)

STATEMENT OF HAROLD E. BRYANT, EXECUTIVE VICE PRESIDENT, MAINE POTATO

My name is Harold E. Bryant. I am executive Vice President of the Maine Potato Council, and Consultant to the Maine Potato Commission, both offices being located in Presque Isle, Maine.

The Maine Potato Council is a trade association of growers, shippers and allied industries associated with the production and marketing of Maine potatoes. We have as members all potato growers in the State of Maine.

I also represent the Maine Potato Commission. Since 1936 potato growers in the State of Maine have had a self-imposed tax whereby they tax themselves two cents a barrel (a barrel weighs 165 pounds) for all potatoes produced in Maine being used for human consumption. These funds are used for research, advertising and the promotion of Maine potatoes.

At the present time Maine is the second largest producer of potatoes in the United States, being second to the State of Idaho. Maine has been recognized over a period of many years as one of the leading producers of quality potatoes in the United States. Being located in the extreme northeastern part of the United States our natural sales and distribution territory for Maine potatoes is that area east of the Mississippi River.

Our potatoes are harvested in September and October and marketed throughout the winter months. In the marketing of our crop we compete with most of the other states who harvest their crop in the fall of the year and market during the winter months. This would include Idaho, N. Dakota, Minnesota, Wisconsin, Michigan and all of the eastern states north of Pennsylvania and New Jersey.

Like some, but not all, of our competing states our growers are continually trying to upgrade the quality of our product and improve the image of Maine potatoes in the market place. In addition to trying to deliver quality merchandise we, like Idaho and some other states, spend large sums of money promoting our potatoes in the market place. We believe we have an excellent quality product and we want the housewife to be able to identify that product and ask for it if

she believes it to be the most desirable for her purposes. Regardless of the fact that we are spending a great deal of money promoting and advertising our potatoes we find that in many cases our efforts are being nullified and the housewife finds it impossible to identify our product or the product of any other quality-minded potato producing states because in too many cases potatoes may be advertised in the retail stores as coming from one state when actually they were grown in some other state.

In addition to this a practice has been developed in the retail stores whereby a broad area of identification will be used such as having signs saying "Eastern Potatoes". This is a very common practice in the markets along the eastern seaboard. "Eastern" potatoes could mean potatoes coming from anywhere in the east; they may come from excellent potato producing areas or may be extremely poor quality. If they are and the housewife is dissatisfied, far too often she will cease to buy potatoes of any kind, so that those states who are trying and do a good job of production and marketing are penalized along with those areas who do not put out the effort necessary to deliver quality merchandise.

Idaho for illustration is a strong competitor of Maine. We are willing to compete with Idaho or any other quality-minded potato producing state, and let the housewife and the consuming public be a judge of the merits of our product compared to competitors. If we are unable to meet competition we must suffer the consequences.

However, we do believe that both consumers and growers are entitled to have the product they buy, and in the case of growers the product they sell, identified so that everyone knows what they are buying and may be able to reward or penalize the producers on the basis of the quality merchandise they are delivering.

Representing the potato industry in the State of Maine we urge this committee to support S. 562.

Mr. BRYANT. Mr. Chairman, my name is Harold E. Bryant. I am serving at the present time in two capacities in the Maine potato industry. I am executive vice president of the Maine Potato Council and consultant to the Maine Potato Commission.

The Maine Potato Council is a trade association of growers, shippers, and allied industries, representing all potato growers in the State of Maine. We have, as members, all growers in the State of Maine. We also represent allied and associated industries such as fertilizer manufacturers, credit institutions, and organizations of that type. In this capacity we serve as spokesman for the potato industry of the State of Maine.

The Maine Potato Commission is similar to the Idaho Commission and various other State organizations that have a self-imposed tax on the part of growers to raise funds to advertise and promote Maine potatoes. These funds are used for research, advertising, and promotion.

The State of Maine is the second largest potato-producing State in the Union, second only to Idaho—who just conceded a minute ago to let me come on first. The State of Maine is proud of its quality, as is Idaho. We try to do a very good job on production and delivery of quality potatoes. From that standpoint, and based on our promotional activity, we are very anxious to make sure that our product is identified in the consuming markets as Maine potatoes. We don't want them to be identified necessarily as Idaho or any other State. We want to rise or fall on the merit of our own commodity.

Now, one of the problems that we run into—and this hits on the subject that has just been discussed, of area of production—we find that in recent years the trade is adopting a practice of identifying potatoes as eastern potatoes. Now, this could be anywhere east of the Mississippi River, and we object to it, because we believe we have a quality product. We are spending large sums of money to advertise

and promote that product. And we don't like to have our efforts diluted by using the terminology "Eastern Potatoes."

Therefore, we are very anxious to have our potatoes identified as Maine potatoes and have the State of origin bill supported.

Now, Secretary Mehren has indicated that, in order to support this legislation, it would be desirable to have compulsory inspection. To that issue I would like to indicate that, in the State of Maine at least, our growers have become disillusioned with the idea of compulsory inspection. Rightly or wrongly, they many times believe that the inspector becomes particularly arbitrary if you have compulsory inspection. And I think, human nature being as it is, that there is probably some merit to the growers' position. And I think by the same token that the inspection service has a problem when you have compulsory inspection.

Therefore, we would suggest that a great deal of consideration be given before we are forced to have compulsory inspection of potatoes across, the United States.

We support, this bill, S. 562, and would recommend that your committee give it very favorable consideration.

Thank you.

Senator Moss. Thank you, Mr. Bryant.

On this question of arbitrariness, the problem wouldn't be quite as severe, would it, simply on inspection to make sure it came from a certain area as it would on the grading. Aren't you likely to come into arbitrariness more on grading?

Mr. BRYANT. Yes, you are correct, and here, I think, we should question what Secretary Mehren had in mind. If he had in mind merely inspection for origin, this would be an entirely different deal. But if he is talking of inspection for grade, then it does become a problem.

Senator Moss. I see. Would the proposal of Mr. Mehren that there might be production area designations give you any troubles?

Mr. BRYANT. It gives us troubles if it is too broad. In other words, using my illustration, eastern potatoes, what does that mean?

Senator Moss. I see.

Mr. BRYANT. It could be anywhere east of the Mississippi in the United States. And this is too broad an area.

Senator Moss. But if it were limited to, say, Aroostook production area or a smaller area within Maine, you would not have objection to that?

Mr. BRYANT. No. We wouldn't have objection, although I did catch Secretary Mehren's statement, something to the effect of New England States.

Now, we certainly would not support a measure that would identify potatoes as coming from New England.

Senator Moss. That would be too large, in your opinion, as a designation?

Mr. BRYANT. That is right.

Senator Moss. But I think I would agree, if you have great, large areas you would dilute the very idea that you were trying to get established in this field.

Mr. BRYANT. That is right.

Senator Moss. In this bill.

Mr. BRYANT. Mr. Chairman, I am glad to note that you indicated Aroostook County, evidencing the fact that you realize that it is a single county of production.

Senator MOSS. Well, I have heard that before. I sit side by side with Senator Muskie in the Senate. You must realize I have been indoctrinated on many things about Maine.

Thank you, Mr. Bryant. We appreciate your coming. And you may be excused, as it is necessary for you to leave.

Mr. BRYANT. Thank you.

Senator MOSS. And now, Mr. MOORE, we will ask you to come forward and I say again we appreciate your courtesy to Mr. Bryant.

**STATEMENT OF EDD MOORE, EXECUTIVE MANAGER, IDAHO
POTATO GROWERS & SHIPPERS ASSOCIATION, IDAHO FALLS,
IDAHO**

Mr. MOORE. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Edd Moore. I am the executive manager of the Idaho Grower Shippers Association, Inc. This is a nonprofit voluntary association, with headquarters at 357 C Street, Idaho Falls, Idaho 83401, whose members are engaged in growing, packing, and shipping of Idaho potatoes. In the aggregate, they handle approximately 90 percent of the State's tonnage of fresh potatoes.

The importance of potatoes as a staple food has increased through the ages until today the annual world production exceeds 8 billion bushels—which now exceeds the production of wheat. Their annual value is greater than all the gold and silver produced. On a national basis, potatoes rate sixth in cash receipts exceeded only in value by cotton, wheat, soybeans, corn, and tobacco—which, incidentally, are Government supported.

Potatoes are the No. 1 basic food in America and account for nearly 25 percent of all fresh fruits and vegetables purchased at retail. The per capita consumption is now reported to be 120 pounds.

Potatoes are produced in all 50 States and somewhere among these States potatoes are being planted and harvested every month in the year. In 1965 they were the most important cash crop in Maine, Rhode Island, New York, Idaho, and Alaska. Production amounts to about 1½ million acres annually and is valued at retail in excess of \$1½ billion.

Presently, Idaho leads the United States in potato acreage, production, and processing. Economically, potatoes are the mainspring of Idaho—the largest industry, dollarwise. We have been producing and shipping potatoes for approximately 60 years and during that period of time have shipped over 1,815,000 carloads of potatoes from Idaho.

One of the most popular varieties produced in this country is the Russet Burbank. Idaho produces approximately one-half of this variety, the balance being grown in Washington, Oregon, California, Nevada, Utah, Arizona, New Mexico, Colorado, Wyoming, Montana, Texas, Nebraska, North Dakota, Minnesota, Wisconsin, Michigan, Indiana, Ohio, New York, and Maine. In the past several years Idaho's production of potatoes equals about 30 percent of the U.S. late production.

In recent years increased agricultural technology has resulted in many thousands of dollars being spent annually by the Federal Gov-

ernment as well as the various States, for research at the production level, to improve the quality of potatoes for growers and consumers alike. Quality in potatoes is often based on the adaptability of a given variety to weather and soil conditions in a given locality. This, of course, leads to the phenomena of increased locality identification.

We wholeheartedly support S. 562. Enactment of this National Potato Labeling Act will afford the necessary protection to potato growers in their respective States who assess themselves for the purpose of promoting their potatoes. Most of the major potato-producing States today are engaged in various types of promotional programs. To substantiate this fact we offer you copies of advertisements taken at random during the past year from the Packer, a fresh fruit and vegetable publication. From these ads you will note that each State is promoting its own potatoes, and if I am permitted to digress, I will show you these various ads.

Senator Moss. Yes, they may be incorporated by reference. If you can leave those with us, they will be in the committee files and by reference in this record we will be able to look through them. And I would be glad to see them briefly, if you would like to show them now.

Mr. MOORE. Thank you.

As I have previously stated, each State, of course, is proud of its potatoes.

Here is an advertisement from Wisconsin. It is sponsored by the Wisconsin Potato & Vegetable Growers Association, Inc., on their potatoes.

Here is again Wisconsin Seed Potato Improvement Association, promoting their potatoes.

Here is from the State of Idaho, and I am sure we have been promoting for some time, a copy of our advertisements which we have many of.

The State of Washington has been promoting their potatoes, and this is by the Washington State Potato Commission, which is grower assessment, grower sponsored.

Here are potatoes again from the North Dakota State Seed Department, specifically, if you will note it says, "North Dakota table potatoes," in which they are promoting their State's potatoes rather than by area.

Here again is the North Dakota State Seed Department, for which they are specifically advertising their North Dakota seed potatoes; which I will get into a little later.

Here is the North Dakota Seed Department again.

We have here the North Carolina potatoes. This is sponsored by the North Carolina Potatoes Association, Inc., in behalf of their State's specific identity in the promotion of their potatoes.

The Minnesota Department of Agriculture, progressive growers, of fresh potatoes, and so forth is sponsoring their own as an individual State, not by an area.

Maine, of course, has for some time the Maine commission as Mr. Bryant has indicated.

I will go on down through here, but not to take any more time on this, I will show you this one which should be of particular interest to the committee.

"Looking for a good potato? Then look for Malheur County." And this is supported by the Potato Growers Association of Ontario,

Oreg., specifically sponsoring their potato by Oregon rather than an area.

According to USDA, acreage harvested this past year from these 14 States was in excess of 1 million acres, or slightly over two-thirds of the total U.S. production. Potato growers are not subsidized by the Federal Government. Promotion is strictly a self-help program.

Congress has passed legislation directed to truth in labeling. Enacted over 25 years ago was the Federal Seed Act, which includes seed potatoes shipped across State lines. This act specifically provides, among other things, for identification of the State of origin of the seed potatoes and the name and address of the shipper on all seed offered for sale. It is submitted that one of the principal reasons this legislation was enacted was to give to the growers who were buying seed protection as to the identity of the growing region, of the type of seed he desired to purchase, and of the type of seed that would best serve his needs.

The Perishable Agriculture Commodities Act was passed in 1930, which was sponsored by the late Senator Borah of Idaho. This act specifically applies to trading rules and regulations governing the fresh fruit and vegetable industry, which were sorely needed to correct unethical trading practices. Under the existing provisions of the PAC Act, misbranding only occurs when the contents of a container do not correspond with the markings on the container. There are no specific provisions requiring identification of grade, variety, State of origin, shipper, packer, or repacker. Here is a typical container extensively used throughout the country, which is completely void of the aforementioned identifications, yet in complete compliance with the PAC Act.

Mr. Chairman, you will note here that it just says "potatoes," has the net weight and a place for price, and no further identification. This is the type of container that is causing our industry at the retail level no end of mystery.

Again, please bear in mind that misrepresentation only occurs when the contents of a container do not correspond with the markings on the container. The positive need for enactment of the National Potato Labeling Act is to correct the many abuses of this unidentified container by word, act, or deeds. For example: Visualize, if you please, a display of Russet Burbank potatoes in this unidentified container in a supermarket. Over or nearby this display is placed point of purchase material such as we use in Idaho, and is available from some 15 other major Russet-producing States which is suggestive, appealing, and positive in its identification which here is an example. It would be hanging in the stores, over wires as a rule. Potatoes might be displayed here, and this could be hanging over a wire right over here.

Senator Moss. And that says on it?

Mr. MOORE. Very specifically identified as "Try better tasting Idaho potatoes, baked," and it shows a picture of what we consider to be a very tempting dish.

Senator Moss. Very good.

Mr. MOORE. The adverse and improper result of this unethical practice is sale by association or inference. The innocent housewife is duped into thinking that the potatoes she buys in the unidentified package are potatoes coming from the State shown on the point of purchase material, which could be any one of the 14 that I just mentioned.

This situation would be equally true for any variety from any area. Further, it would be equally true on a display of bulk potatoes. This devious sale technique is not a violation of the act.

In addition, the use of containers without representations of any sort lend themselves very readily to misrepresentation either by inference, or by word, act, or deed, in the merchandising and sale of potatoes. In addition to this problem the failure to place any identification also makes it extremely difficult, if not impossible, to trace potatoes for the purpose of procuring enforcement of the PAC Act.

By contract, here is a container that factually identifies the producer and State of origin. This particular container, Mr. Chairman, says "The Birch Knoll Farms, grown in Tia Juana Valley." Here it is shown in Alaska, Fairbanks, Alaska, the weight and grade and they are Alaska potatoes.

Now, that is very informative to the housewife. Of course it would be very difficult for me, I am sure you can appreciate, not to show a properly identified Idaho bag. So we have one here that shows the brand, big "V." They are Idaho potatoes. They are picked in Idaho and by Mr. T. S. Vanderford of Aberdeen, Idaho. So it is very clear with recipes and very colorful representation of facts.

Certainly this type of container identifies the product so that a given consumer, having purchased the product, can then go back and repurchase the product knowing she will be getting the same product she previously purchased.

In addition, Congress passed the Federal Food, Drug, and Cosmetic Act, which is administered by the Department of Health, Education, and Welfare. This act prohibits the shipment in interstate commerce of a food if its labeling is false or misleading in any particular. The main difference between the two acts is that the food and drug law deems a food to be misbranded, if in package form, unless it bears a label containing the name and place of business of the manufacturer, packer, or distributor. We have been informed on several occasions by officials of the Food and Drug Administration that the origin of the food product is not required to be shown on the container. Nor does the manufacturer, packer, or distributor need to be located at the point of origin of the product shipped. Therefore, a packer or distributor of potatoes could be located anywhere and ship his otherwise unidentified containers into any State and sell them into any market to this advantage and be within the Federal laws.

The very fact that potatoes can be legally sold without the identification of origin creates a very favorable atmosphere for those unscrupulous operators who practice the art of deception by inference or otherwise. Sales by deceptive means or oral representation are practically impossible to enforce.

Following is an example as to the manner in which this type of deception works.

Let us say that a packer or repacker, licensed under the PAC Act, is located in Chicago, Ill., and is packaging potatoes for retail outlets. Further, that he is packing the Russet Burbank variety on a specified order for Washington Russets. Assume for the sake of discussion that the f.o.b. price of Russets in Wisconsin was about the same as in Washington. The freight differential between Washington and Wisconsin is approximately \$1 per hundredweight, or about \$500 per car. Through the use of the unidentified container as to point of origin, the retail

buyer has absolutely no way of knowing where his potatoes originated. All the buyer can do is accept the oral word of the seller that he received Washington Russets. You can rest assured that the delivered price was based from Washington, and that the grower in Wisconsin was not compensated accordingly. Both the retailer and the consumer have paid an exorbitant price as a result of these trading practices.

This same example could be used on red potatoes from Wisconsin and Red River Valley. An operator in New York City could purportedly be selling Maine potatoes but substituting locally grown potatoes. The same tactic could be performed in most of the major markets. This is vicious competition. With this excessive profit, this unethical operator can always undersell the legitimate operator. Results: either the legitimate operator is forced out of business or joins the club of the quick-buck artists. Passage of S. 562 is urgently needed to correct these flagrant abuses.

The purpose of the bill is simple. It provides for the labeling of all fresh potatoes so that the ultimate consumers and buyers may know with certainty the State of origin of the potatoes purchased. Also, it will provide positive protection for the growers who are willing to invest their dollars to promote the sale of their potatoes.

It is our observation that labeling will improve product quality by identification of the packer, if for no other reason than pride of label. Packer identification will enhance the enforcement at the terminal or retail level when misbranding exists.

Enactment of the National Potato Labeling Act will materially assist the Food and Drug Administration in identifying the origin and packer when contaminated potatoes are shipped.

The fresh potato industry needs only true and accurate branding of State of origin, and the name and address of the packer, repacker, or seller on every package or lot of fresh potatoes offered for sale.

The provisions of this bill will equally protect the grower and the consumer. Presently, the buying public is left entirely unprotected where specific identifications are lacking. To assure that the best practice of the marketplace becomes common practice against the selfish minority who defraud and deceive the public, charge unfair prices, or engage in other sharp practices, there exists an unquestionable need for passage of this vital legislation.

In closing, Mr. Chairman, we very much appreciate the opportunity afforded us to present our views on this bill. We respectfully request favorable action on this National Potato Labeling Act to afford the consumers an honest product selection as well as to protect the growers and merchandisers of potatoes.

Thank you.

Senator Moss. Thank you, Mr. Moore, for a very fine statement.

The various exhibits that you had will be placed in the exhibit files and by reference will be identified in the record so that they may be inspected.

There is a lot of very good information in your statement, and I was astonished when you said potatoes were the most important cash crop in Alaska. I also thought they mined a lot of gold or else caught fish up there.

Now you tell me it is potatoes. And this is a rather astonishing thing. People think of Alaska being so far north they hardly even have agriculture, and here they are growing potatoes. Of course, you

pointed out that Idaho has the largest industry, dollarwise, and although I have always known about Idaho potatoes, I thought you had a lot of cattle and sheep and other items that probably would take first place over potatoes. So I learned a good bit.

Mr. Mehren, when he testified, suggested two amendments.

Are you familiar enough from his testimony as to what he was talking about? Could you comment on them for me?

Mr. MOORE. Yes, sir. Mr. Chairman.

We would not be in favor at all of having areas. "Areas" is confusing. State growers in a given State, be it Maine or be it Idaho or be it Colorado, are assessing themselves to promote their product within that State. When you start associating other State names with that, you are only adding to the tremendous confusion that already exists, which also would be unfair to the growers' investment under the circumstances. We would not favor it. We think it is much better to have it very specific.

Commingling of the potatoes at the point of origin or commingling of potatoes at the destination of the terminal markets is approximately the same thing as Mr. Bryant spoke of, the eastern potatoes.

One of our problems is western Russets. Well, that covers practically everything then from the Mississippi River to the Pacific Ocean. This is extremely wrong.

Montana raises a good Russet potato. Utah raises potatoes and California is a big market for them. If it is right to have Idaho-Oregon, it is right to have Idaho-Washington. Because there is a relationship in the panhandle. It is all right to have Idaho-Utah, because there are potatoes grown on the line, but it is of no problem. They market theirs as Utah potatoes. We market ours as Idaho potatoes.

There is a little history to this origin, Mr. Chairman, that may be of particular interest to you. I have been in the industry 25 years. I spent 7 years packing and growing and shipping potatoes myself. So I have had some experience in this.

Before World War II, there, the relationship of Idaho-Oregon as an area did not exist. What brought it about was the fact that the burlap situation was so acute during World War II, that in order to get containers to ship potatoes to the Government on the Government orders, we doubled up the States just simply to get burlap. The understanding was at the time that this was to be abandoned after the war and the conditions cleared up.

Now, Oregon itself has a specific labeling law that says that "Oregon" shall be on their containers, the same as we in Idaho.

Your acreage production on the part of the area mentioned by Mr. Michaelson would be less than 10 percent of the acreage in the State. He refers to exhibit A. That would be the people that he represented.

In B, the area there, it is approximately from Napa to the border. About a hundred miles east of there the potatoes are produced in the 10 southwest counties that he refers to that are under contractual arrangements mostly and are used by the processors in southern Idaho. So that the fresh shipments involved in interstate commerce out of that area would amount to less than 5 percent or about 5 percent of the State's production. So there will be further testimony on that particular point later.

Senator Moss. I was wondering about his testimony, that some Idaho potatoes are taken across the line and actually packed in

Oregon and reversed on another part of the area, where Oregon potatoes were actually packed in Idaho.

Now, would there be an undue burden or restriction on this practice if we had to have strict labeling by State and not by production area?

Mr. MOORE. We think not, Mr. Chairman, for this reason, considerable time and experience. Since 1952 this is the 17th bill that I have helped write or written on this subject. And our local problem, so to speak, has always been somewhat difficult to cope with. And the wording in this bill provides specifically in here the State of origin and only one State of origin, but it also specifically provides that the name and address of the packer shall be on the container.

So, using your question, if potatoes produced in Idaho were packed in Oregon, which they are, it would show the Idaho origin. But it would show the Oregon packer, his name and address, which gives you your relationship that he is seeking, identification right there. And that would confine it down to simplicity of specific State identification or vice versa would be the case if the potatoes were originated in Oregon and packed in Idaho. They would be Oregon potatoes as the point of origin, but they might be packed by one of the exhibitors shown there as packers in Idaho.

Senator MOSS. What about this problem of Federal inspection and additional inspectors that would be required? Do you see any problem with producers assuming the burden of payment of additional inspectors?

Mr. MOORE. I do, Mr. Chairman. Not so much for our State, as indicated by Mr. Michaelson, but when you get out in the more scattered areas, say, Iowa, Kansas, Tennessee, Oklahoma, they raise potatoes in those States, and it would cost the Government considerable more money than I think Mr. Mehren indicated if they were to establish inspection facilities and make it available to those growers where they are going to check for grades, and so forth. It just would be prohibitive. Because we have cases now where potatoes are shipped out by car and the buyer questions the grade at destination and we ask for reinspection federally.

Well, they are not always available; and we sometimes have to wait a day or more, especially down in the southern part of the Nation, for an inspector to come in. They might have to travel a couple of hundred miles to get there just to inspect that car. So a lot of this is done by railroads, because they are lacking the facilities. So, to make it compulsory, anything that is compulsory tends to take away the initiative of the people that are doing it, and you get more or less an arbitrary action rather than a real service action when it isn't on a compulsory basis.

So for the rest of the Nation—and I think there will be more testimony on this subject later, but we couldn't accept it.

Senator MOSS. You would simply rely on enforcement by some sort of an inspection terminal.

Mr. MOORE. Yes. It is concentrated there, Mr. Chairman. It is simple. Either the Food and Drug people or the PACA personnel can go up to Philadelphia or here in Washington, D.C., or any of the cities and make the round of the grocery stores. They have got the name of who packed those potatoes right on that bag, and where they come from. And if that grade isn't correct, the most concentrated point of inspection would be the result of the passage of this bill and minimize expenses.

Senator MOSS. Do you know whether the Federal Trade Commission has ever taken any action on misbranding of potatoes in any way? Has there been any action along that line?

Mr. MOORE. No. We have contacted them in the past, but they have given us no satisfaction or are not interested in the subject.

Now, they may have laws—and I am not an attorney, Mr. Chairman—but I don't know of them if they have.

Senator MOSS. So you are not aware of any national action they have taken?

Mr. MOORE. No. Food and Drug's reply to us is, "If there is contamination, we are interested. If not, we are not."

Senator MOSS. One thing I wanted to ask you is this: Is the freight differential really about a dollar a hundredweight between Washington and Wisconsin in Chicago, or is that simply an illustration?

Mr. MOORE. No. The freight rate is approximately \$1.36 a hundredweight and it is about 25 to 30 cents a hundredweight out of Chicago to Wisconsin.

Senator MOSS. So there is a differential of about a dollar?

Mr. MOORE. Yes, sir.

Senator MOSS. I didn't realize it would be that high.

Getting back to this area-of-origin concept again, haven't a number of these marketing areas, like the Red River Valley, pooled themselves and really done a lot of promotion in establishing that as an area of origin?

Mr. MOORE. Yes. Red River Valley—they do advertise them as Red River Valley's on a joint arrangement between the two States, on a joint advertising program. But, like the Seed Act, they are very specific on their seed and you will notice from the advertisements, and so forth, they are very specific on the promotion of their table stock potatoes.

Now, their reason for this, which would be true to my knowledge, or to the best of my knowledge, for the other areas is that you are collecting tax money, so to speak, from the growers in Minnesota, you are doing the same identical thing in North Dakota. So you must spend the tax dollars for where they were collected for, for the specific purpose. And you can't be intermingling.

However, they have adopted for the valley as a valley the Red River Valley and they both use the Red River Valley.

Senator MOSS. Do you think that it would not be particularly harmful to them to say Red River Valley, Minn., or Red River Valley, N. Dak.?

Mr. MOORE. No, they do that in their present advertisements.

Senator MOSS. Thank you, Mr. Moore. You have given us a great deal of information, and you, of course, from your position and your long experience, can help the committee greatly by the information that you have brought here. And you made a great addition to our record.

If you have any further material that you think you would like to submit, as I indicated before, you may submit it in writing in the next 2 weeks.

Mr. MOORE. Thank you very much, Mr. Chairman.

Senator MOSS. Our next witness is Mr. Clarence Parr, who is president of the Potato Growers of Idaho, from Burley.

Is Mr. Parr here?

Mr. PARR. Yes, Mr. Chairman.

Senator MOSS. All right. Will you come forward, please.

**STATEMENT OF CLARENCE A. PARR, PRESIDENT, POTATO
GROWERS OF IDAHO, INC., BURLEY, IDAHO**

Mr. PARR. Mr. Chairman, if you will bear with me through my somewhat extended introduction here, I will go on with my prepared statement.

Senator MOSS. All right. Go ahead, sir.

Mr. PARR. Mr. Chairman, honorable members of the Senate Commerce Committee, my name is Clarence Alan Parr. I am presently serving as president of the Potato Growers of Idaho, Inc., a nonprofit cooperative association, organized pursuant to chapter 36, title 22, of the Idaho Code.

Of the approximately 4,000 potato growers in the State of Idaho, 2,200 are signed members of our association. It is on behalf of these members that I offer this testimony in support of S. 562, a bill to require that fresh potatoes purchased or sold in interstate commerce, be labeled as to State of origin.

In addition to serving as president of the Potato Growers of Idaho, Inc., I am also a member of the University of Idaho's Agricultural Consulting Council, the Idaho State Chamber of Commerce Farm City Committee, and I am presently serving as a director of the National Potato Council.

The farming operation of Parr Bros., Inc., in which I am a stockholder and employee consists of 3,600 acres; 3,000 acres are irrigated by deep-well turbine pumps. Principal crops are alfalfa hay, wheat, sugarbeets, potatoes, and cattle. I also offer this testimony on my own behalf as an individual producer of potatoes.

Throughout the remarkably successful history of American agriculture, the consumers of our great Nation have been treated not only with graceful abundance, but also with quality foodstuffs unsurpassed in the history of the world. We are all aware of the multitude of reasons for this great horn of plenty, but how many of us fully realize the important part competition plays in supplying this bottomless cornucopia. This competitive spirit between individual farmers also holds true between States. Potato growers of each specific variety in every potato-producing State take well-deserved pride in the quality of their product. I firmly believe that enactment into law of Senate bill 562 will insure and enhance continuance of this competitive spirit among potato growers.

It is an unfortunate fact that potatoes, which sometimes bear a close resemblance on the surface, do not always react alike in the cooking process, allowing unsuspecting housewives to be bilked by some unscrupulous dealer or retailer.

As a producer of potatoes, I sometimes have wondered why I strive for the quality necessary to win me a place in the Nation's marketplace, if through misrepresentation, I am, in effect, subsidizing the poor quality growers.

It is a unique situation of soil and climatic conditions that allows certain States to excel in the production of a particular variety and tens of thousands of dollars are spent yearly by individual States to improve the quality of the variety best suited to their condition. In

the 39th session of the Idaho Legislature producers asked for and were successful in gaining a self-imposed tax of one-fourth cent per hundred-weight, earmarked exclusively for production and market research. S. 562 will help to insure that this additional tax was not imposed in vain.

If I may digress a moment here, Mr. Chairman, in support of this statement that I made concerning research, I would like to refer to a section of *The Packer*, a trade newspaper in which the State of Washington makes a point of pointing out in their ad that research contributes to top quality potatoes.

Senator Moss. That will be adopted by reference and will be in the committee's files.

Mr. PARR. Potato growers across the United States are alarmed at the decrease in per capita consumption of potatoes, especially in the fresh form. I believe this decrease to be, in some part, indicative of the lack of confidence on the part of housewives that they oftentimes do not get what they pay for. S. 562 would certainly restore this confidence and be an important factor in reversing this downward trend.

Being closely associated with the potato industry in Idaho, it is necessary that I attend countless meetings across the width and breadth of the State, and it is inevitable that sometime during every meeting there will be an account of a grower or a shipper observing flagrant misrepresentations in some retail market.

Producers in Idaho pay a tax of 2 cents per hundredweight on all marketable potatoes for the purpose of advertising and promotion, and I believe the one thing that angers them the most are these deliberate misrepresentations. They feel cheated, and rightfully so. I believe the same feeling of frustration exists with California producers of long white potatoes, or Colorado producers of red potatoes, to name just a few.

The provision of Senate bill 562 and especially section 3(A), (1), (2), (3), and (4), which I believe is the heart of this bill, will offer protection to growers who are taxed or voluntarily pay into advertising and promotion campaigns.

Legitimate retailers, rebaggers, and wholesalers also will find protection and profits in this same section of Senate bill 562. Complaints received by retailers from customers on a certain purchase can be immediately traced and corrective action taken. Identification of those with whom you deal, all the way back to the grower, should be very helpful to retailers especially. In the past identification was practically impossible. With the implementation of Senate bill 562, we have the perfect vehicle for instant response to customer preference.

If I may digress just a moment more, Mr. Chairman, I would like to point out at this time the importance of identification in cases of insecticide and herbicide residues and the consumer protection offered within Senate bill 562, wherein a particular lot of potatoes can be immediately traced, this information could be of invaluable assistance to the Food and Drug Administration in protecting the public health.

In conclusion, Mr. Chairman and members of the committee, Idaho growers feel this legislation is long overdue. They realize that it may not be a panacea for all their problems, but it does offer the protection consumers and producers are entitled to.

We respectfully request that you recommend passage of S. 562 to the Senate of the United States.

Senator Moss. Thank you, Mr. Parr. That is a very fine statement. What is your position on this production area proposal?

Mr. PARR. Mr. Chairman, I would have to take the stand as was outlined here by a previous witness. It happens that our organization does cover the area in question. And it also happens that within this area that we have approximately 400 members. I believe our roster lists 444 members within this particular area. And the indication is that I receive from growers within this area are that they are wholeheartedly in support of Senate bill 562.

In 5 years that I have been on the board of directors of the Potato Growers of Idaho, Inc., and in the year that I have been president, I have yet to hear one grower complain as to the content or the application of Senate bill 562. As a matter of fact, I have contacted the chairman of our district in this particular area, and he has, in turn, contacted and talked this bill with his directors and in particular three directors who this bill would actually affect them, and they all say that this bill would be good for the State of Idaho and for the growers in that particular area.

Senator Moss. Fine. So you like the bill as it is drafted. Thank you. I do appreciate your testimony. It has been fine and helps us in considering this matter. We appreciate your coming to be with us today, Mr. Parr.

Mr. PARR. Thank you, Mr. Chairman.

Senator Moss. The committee will call on Mr. Darwin Young now, who is vice chairman of the Potato & Onion Commission of Idaho. We will have a few onions with our potatoes and spice them up a bit.

Mr. Young, we are glad to have you, sir.

**STATEMENT OF DARWIN YOUNG, VICE CHAIRMAN, IDAHO
POTATO & ONION COMMISSION, BLACKFOOT, IDAHO**

Mr. YOUNG. Thank you, sir. It doesn't pay to get too relaxed, does it? I anticipated being last.

I appreciate the opportunity to add my testimony to those of other Idaho people who have appeared here.

My name is Darwin Young and I am a potato grower from Blackfoot, Idaho. Blackfoot is located in Bingham County, which is the third largest potato-producing county in the United States. I grow about 150 acres of potatoes each year on a diversified irrigated farm, pumping water from deep wells. I am at the present time serving as the chairman of our board of county commissioners; as a director of the Idaho Potato Growers, Inc., a cooperative marketing association; as a member of the Potato Promotions Committee of the National Potato Council, a committee formed in December of last year to try to halt the declining consumption of potatoes in the United States, and as a grower representative and vice chairman of our Idaho Potato & Onion Advertising Commission.

Now, Mr. Chairman, this part of my testimony coming up has been covered by Mr. Moore and our point of sales and so I feel would be merely repetitious. With your permission I will skip a couple of paragraphs.

Senator Moss. That may be done. You may skip those parts.

Mr. YOUNG. I would like to merely comment that the different States that have this point of advertisement material, some specific States, they are Washington, Maine, Florida, Long Island, Red River Valley, Oreg., San Luis Valley, Colo., and Idaho. San Luis Valley, Colo., is one State, incidentally.

As a representative of Idaho Potato Growers on our advertising commission, I feel that I can speak for our growers and say that we back Senate bill 562 100 percent and would urge its passage as soon as possible. We, along with growers from other States, are concerned with the declining consumption of potatoes by the American people, and feel that this bill will raise the quality of all potatoes presented to the housewife.

I, along with about 4,000 other potato growers in Idaho, contribute to a fund which is used to finance the activities of our Idaho Potato & Onion Commission. This commission was established more than 30 years ago by a group of farsighted men who realized that because Idaho is so far away from her markets, we have to advertise our potato to the rest of the Nation. Starting with a modest budget, potato sales and contributions have increased so that this year we are spending over \$700,000 on advertising and about \$200,000 on a research and education program.

Because of this continuous advertising and promotion program, we have built up a demand for our product which we feel gives us a consumer preference during certain seasons of the year, and we feel that certain people who do business in this field have the opportunity to sell other potatoes as Idaho potatoes, thus gaining an advantage over their competitors. This has caused our industry much concern.

I would like to show you a sample of some of our point-of-sale material and tell you how this misrepresentation can come about. These banners and cards are often spread out over an entire counter or display containing potatoes from two or maybe three different States. It is easy to see then that if the bags do not have State of origin labeled on them, the housewife can easily be led to believe by inference that all are Idaho potatoes.

Sometimes the produce man himself does not realize that he is not selling genuine Idaho potatoes because he must rely upon his supplier for identification.

At a recent potato conference in Maine the executive secretary of our advertising commission noted eight potato-producing States who had similar material. They were Washington, Maine, Florida, Long Island, Red River Valley, Oregon, San Luis Valley, Colo., and Idaho. There are others. These growers are proud of their product and wish them to be properly identified so that the housewife knows what she is buying.

The State of Idaho, along with many other potato-producing States, has passed legislation and regulations requiring the name of the State be on every bag of fresh potatoes along with the name and address of the packer, which is what Senate bill 562 calls for, but after the potatoes enter into interstate commerce we have no control over what becomes of them. Senate bill 562 will help us to protect the identity of our potatoes so that the housewife, if she has a preference for potatoes from any particular State, may have the privilege of exercising that preference simply by looking for the State of origin printed on the bag.

She should have that privilege.

And I would like to add just a little bit to this statement.

Mr. Chairman, this commission is charged with the responsibility of protecting the identity of our Idaho potatoes insofar as we can to the consumer. There has been a great deal more activity in this phase of our program these last 2 or 3 years. We have developed our program now to where we feel it is satisfactory. And we have given our shippers till March 1, 1968, to conform with all of our rules and regulations, and also the regulations that are prescribed into the Federal Food and Drug Administration and PAC acts. So we have this deadline set up, and they have this time to conform.

Senator Moss. Thank you, Mr. Young.

I understand that you fully support S. 562 as it is now drafted, so you would favor the requirement that State of origin be on every label on fresh potatoes and would not eliminate that to have just area of production. Is that right?

Mr. YOUNG. Our commission feels that we have to have the State of origin on these potatoes in order to fully protect the consumer as she buys them. And I, in support of this, would like to add to the testimony from the other gentlemen from Idaho, the member on our commission who is from this area fully endorses this and feels that wherever Idaho potatoes are packed they should have the Idaho label on them.

Senator Moss. Thank you very much.

We are very glad to have you testify. You made a fine statement. Mr. Doyle Burns, who is the executive director of the National Potato Council here in Washington, will be our next witness.

Mr. Burns?

STATEMENT OF DOYLE BURNS, EXECUTIVE DIRECTOR, NATIONAL POTATO COUNCIL, WASHINGTON, D.C.

Mr. BURNS. Mr. Chairman, my name is Doyle Burns. I am executive director of the National Potato Council.

With your permission, I will offer my testimony. I will not read it. I would like to make an observation or two, if I may.

Senator Moss. You may do so. Your statement will be printed in full in the record.

(The statement follows:)

STATEMENT BY DOYLE BURNS, EXECUTIVE DIRECTOR, NATIONAL POTATO COUNCIL

My name is Doyle Burns. I am Executive Director of the National Potato Council. This is a non-profit, voluntary organization whose membership is made up of all commercial potato growers from throughout the United States. I am authorized to testify here on behalf of the National Potato Council.

During the most recent Eighteenth Annual Meeting of this organization, held November 14-15, 1966, in Phoenix, Arizona, several resolutions were adopted, of which Resolution No. 3 reads as follows: Resolved, that the National Potato Council request and support legislation requiring that all potatoes packed or shipped, with the exception of potatoes for processing, be labeled as to the State of Origin.

Potatoes are a rather unusual crop in many respects. There are no government controls or restrictions on the acreage which can be planted or the amount which may be marketed. As a result, potato plantings are influenced by the allotments allowed on certain other crops. This oftentimes works to the disadvantage of potatoes by creating a huge surplus of supplies for which there is no market. It has

also been established that the demand for potatoes is fairly static. We do not eat more potatoes just because we have more available or when they are selling at a lower price.

Generally speaking, when there is an excess of potatoes available to the market, the market becomes more selective and only the better qualities of potatoes will be shipped with the poorer qualities finding their way into salvage outlets such as livestock feed or starch. During periods of scarcity the market will accept some potatoes of a poorer quality in order to meet its needs. Thus the quality of any given lot of potatoes becomes an important factor in its marketability.

Many production areas have become quite conscious of the importance of marketing *only* quality potatoes regardless of the available supply and have restricted themselves to selling or offering for sale only the better qualities. As a result of this practice (and it is to be highly commended in the public interest), some areas have developed an enviable reputation. This reputation is on rather shaky ground so long as unscrupulous operators in other areas of production can prepare potatoes for shipment and represent them as being the product of a quality marketing area. This is being done and has been a common practice on the part of some dealers in some areas for years.

There is a second group of offenders, however, who contribute to this practice and probably make up a greater volume of business than those mentioned above. These are the people who buy potatoes from many areas of the country, bring them together at a central location and proceed to regrade the entire lot and place them in consumer packs without bothering to identify the origin of any of the lots; or, declaring on the consumer container that the potatoes therein are from some particular state when in actuality only part of the pack, or in some cases, none of the potatoes come from the state or area declared on the container.

Finally, there is the retailer who does not bother to remove identification on or about the potato bin which states that the potatoes on display are from a certain specific area. This law would not prohibit him from leaving such signs on his potato bin but, if the state of origin is on the container, the customer will soon learn to read the label and disregard such misleading signs.

These are the three principal types of offenders. The next question is: "Who is hurt by this practice?"

This bill has been offered in the interest of the general public. If the consumer wants to buy potatoes from some particular state, regardless of her reasons, she is entitled to some assurance that those potatoes are accurately labeled. It is misleading and false advertising to continue such practices.

Secondly, the potato industry must strive vigorously to make sure that high quality, usable potatoes will be found in the retail stores in order to defend ourselves against the inroads of competing food products. One of the few ways that such quality can be assured is to encourage areas of production to develop their identity by putting out only the very best pack possible. It is important that each area develop a pride in its own product. This bill, S. 562, will afford the area a reasonable protection and some guarantee that its efforts to deliver to the consumer a full measure of value have not been thwarted by someone whose only goal is a fast, easy dollar.

I respectfully urge that this Bill be favorably received and reported out at the earliest possible date.

Mr. BURNS. First of all, I would like to consider with you a group of people who are concerned about what the results of this legislation might be. Most of what we have heard here this morning has been about Idaho and Oregon and the Red River Valley. There is another group of people that I know that you, as Senators, are genuinely concerned with of necessity, and that is the consumer. And I think that why we in the National Potato Council are also concerned about the results of this type of legislation on the consumer is for perhaps a different reason. You would like to see her receive a better quality potato because she would be happier with a better quality potato. We would like to see her receive a better quality potato because we realize that the potato industry is in trouble. And a part of that trouble is the result of the poor quality of potatoes that are getting into the market.

During the past year we have had more complaints about quality than we have had for some time, coming primarily directly from the consumer. We feel that legislation like this will help to assure that the consumer is going to receive a better quality product.

The people in Idaho are aware of this, that once the labeling is placed upon the product that other areas may decide to do the same thing that Idaho has done, and that people may begin to realize that not only Idaho has a good potato and is going to make all areas of the country more competitive. And when they become more competitive we know under our capitalistic system this does create a better price for the consumer.

I just wanted to point that out, because I think that it is important.

There is another group that I think we should consider in this matter, and that is the people who produce the potatoes and sell these potatoes. And these are the ones, of course, that I am representing here. There are certain areas of the country that are very interested in producing that quality potato. And we should give them every protection that we can and every encouragement that we can to produce that kind of a potato.

There was earlier testimony this morning concerning compulsory inspection being tied to this bill. The council cannot take a position of supporting the bill with this type of legislation attached to it—not so much for the reason that we are against compulsory inspection, but we feel that the potato industry must crawl before it walks. And we feel, that if compulsory inspection is tied to this bill, that it will probably cause a great deal of opposition to arise for the very reason that compulsory inspection is added to it. The cost of inspection runs from \$10 or \$12 to as much as \$25 or \$30 or more per car. And because potatoes are generally a low-margin product, this sometimes is the difference between profit or loss. Or it might even be the profit in some cases on the entire car of potatoes.

Many areas of the country are not to the point yet where they are willing to accept compulsory inspection. And we think that if this bill can be passed as it is, that at some future date compulsory inspection along with grade labeling may be a second step that we can do to improve the quality that the consumer will receive.

That is about all I have, Mr. Chairman. I would be happy to try to answer any questions.

Senator Moss. Well, thank you, Mr. Burns. I appreciate your comments and your statement, which I rapidly glanced through. It does provide for our record additional information. I was glad to have you emphasize the benefits that would come to the consumer in this regard. I have felt strongly about that, and I am sure our committee does generally. Although the potato grower may suffer for economic reasons from these losses, it is the consumer who gets an inferior product by not knowing what he is buying especially if he is misled by this inferential label or whatever else. So this again does come back really to giving him the facts, the truth on which to base his judgment in buying. If he wants to buy an inferior product maybe to save a few cents, that is his election. But he shouldn't be deceived into thinking he has gotten a certain kind and then going away with it and be disappointed.

Mr. BURNS. That is very true.

Senator Moss. Thank you very much, Mr. Burns. We appreciate your testimony. Mr. A. E. Mercker, who is executive secretary of the Vegetable Growers Association here in Washington.

We are glad to have you, Mr. Mercker.

**STATEMENT OF A. E. MERCKER, EXECUTIVE SECRETARY,
VEGETABLE GROWERS ASSOCIATION OF AMERICA, WASHINGTON, D.C.**

Mr. MERCKER. I am glad to be here, Mr. Moss.

Mr. Moss, I thank you for your indulgence of continuing the hearings to hear all of the witnesses, although I am located here in Washington.

My statement is very brief.

Senator Moss. You may go right ahead, sir.

Mr. MERCKER. Mr. Chairman, my name is Albert E. Mercker. I am executive secretary of the Vegetable Growers Association of America, which was established in 1908. The address is 815 17th Street NW., room 226, Washington, D.C. 20006. The organization in general is comprised largely of small- and medium-sized family-operated vegetable and potato farms, including the small market gardeners that surround the large eastern municipalities and the larger commercial family-operated farms of the Southeast and Midwest.

Our association favors this bill and urges its adoption.

There is a certain amount of misrepresentation of potatoes and vegetables in the marketplace, sometimes brought about by deliberate mislabeling or the failure of the repacker or retailer to place any label on the potatoes or labeling them under areas of production that have a good-to-excellent reputation. An increasing proportion of fresh potatoes, in my judgment about 75 percent, are sold at retail in consumer-size packages and often lose their identity as to their State of origin.

We firmly believe that potatoes should be marked so that at the time of purchase the purchaser of fresh potatoes, be he a consumer or purchaser for a restaurant or other public eating places, may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such markings should influence his will.

Any grower, shipper, or repacker who has confidence in the grade, quality, and pack of his potatoes has nothing to fear from this legislation. This bill would help to place the potato industry on a merchandising basis. Individual brands or area brands of quality potatoes, would obtain premiums over other packs and encourage the packing of a higher quality pack with a minimum of defects. In this way, the per capita consumption of fresh potatoes would be increased.

Consumers have a record high take-home pay and are constantly looking for better quality merchandise. When consumers see a labeled package of potatoes as to grade and State of origin, they are more likely to purchase the labeled potatoes or vegetables. This decision, multiplied many times over each day, would add significantly to the income of potato or vegetable producers.

This bill, if enacted into law, would enable every State to protect its fair name within and without its borders. It would be also beneficial to the entire potato industry.

I thank the committee for the opportunity and privilege of appearing before you on behalf of the Vegetable Growers Association of America.

In addition, Mr. Chairman, I was in the produce business, both on the street and the dock in New York City, and sold carlots of fresh fruits and vegetables for a period of 5 years. After I came out of the Army in World War I, I entered the Government Market News Service and then turned over to the Inspection Service and was supervisor of inspection in New York City for a time, and then went out into the country to teach young men out of colleges how to inspect fresh fruits and vegetables. I believe I started it in your State in 1922.

In addition, I wrote these bills that Idaho has. I was assigned to potatoes after a disastrous year by the Secretary of Agriculture, the late Mr. Jardine, in 1929. Since then I have been on potatoes ever since. I happened to handle potato problems from then on, including the price support programs. I was executive director, I think it was, of the National Potato Council from November 1, 1956, until about September 15, 1964. I have put them on their feet financially. I retired. They won't let me retire. Now I am handling the groups. But I did write the bill for Idaho. I wrote the bill for Maine. And I wrote the bill for 11 other States. And I can show you when a potato association of America was established—back in 1912, I think it was, of which I am a honorary life member—that the problems then were identical to the problems we have now.

Senator Moss. And which we are still dealing with.

Mr. MERCKER. And we are still treating them.

Mr. Moss, I thank you for your indulgence. If you have any questions, I would be glad to answer them.

Senator Moss. Well, I am just delighted that you came here to testify for us, Mr. Mercker. With the long experience you have had in the field, I am sure it exceeds any of the others that have come before us and your assurance that these problems that existed for years and your endorsement of this bill means a great deal to us in the record.

And I think you're too young to retire, too. I am glad they kept you on. I think you ought to be working on the problems of marketing and branding and information for our consumers.

I congratulate you for coming to state your position. Your organization is rather venerable. I note it was founded in 1908. So it has been in the field for a long time.

Mr. MERCKER. A long time and I am glad to say that, as you see, it's a group of small growers. We are down, although we do have, I believe, the largest greenhouse vegetable grower in the country in the organization. But we are largely small growers, and the dues haven't changed much since the time it was founded.

Senator Moss. Fine. Thank you, Mr. Mercker.

Mr. MERCKER. Thank you, Mr. Moss.

Mr. Moss. That completes the list of witnesses we are to hear this morning. I'd like to announce again that the record will still be open for 2 weeks' time. If there is additional information that any of you wish to contribute to expand the record, to explain your statement in any way, or to give additional information that may have come to your attention from hearing other witnesses testify, we'll be glad to receive it. But at that time, the record then being closed, the committee will proceed in executive session to consider the bill.

We are now adjourned.

(Whereupon, at 12:03 p.m., the subcommittee was adjourned.)
 (Subsequently, the following material was received for the record:)

SALEM, OREG., August 3, 1967.

Senator WARREN MAGNUSON,
 Chairman, U.S. Senate Commerce Committee,
 Washington, D.C.:

Oregon producers and shippers of fresh produce advise that your committee will hold hearing on S. 562 August 8 to consider an amendment requiring State of origin labeling on all fresh produce shipped in interstate commerce. Such requirement would impose serious economic penalty on our producers and shippers in production areas contiguous to adjoining States where commodities now move freely across State lines on basis of nearest packing plants thus making it impractical if not impossible to keep them segregated by State of origin. We have not had copies of this proposed legislation.

Please send 10 copies of S. 562 and amendments thereto at once for our study and delay final decision on this matter until Oregon has been granted an opportunity to be heard. Please advise.

TOM MCCALL,
 Governor of Oregon.

PARMA, IDAHO, August 7, 1967.

Senator WARREN G. MAGNUSON,
 Senate Commerce Committee,
 Washington, D.C.:

Reference S. 562 we are growers and shippers of potatoes on the Idaho-Oregon State line. This has always been known as Idaho-Oregon District and potatoes move back and forth across the State line for packing. Impossible to designate origin of each potato in cars or trucks by State. We are in support of bill but need amended to area of origin. Respectively urge your consideration.

J. F. WATSON Co.
 J. C. WATSON Co.

ONTARIO, OREG., August 2, 1967.

Hon. WARREN G. MAGNUSON,
 Chairman, Commerce Committee,
 Washington, D.C.:

Re Senate bill 562, we request an amendment designating Malheur County, Oregon, Canyon, Owyhee, Payette, and Washington Counties, Idaho, as an area of origin. Idaho-Oregon potatoes from this area for years have been associated with these producing counties. The restriction of the label Idaho to potatoes grown in the counties mentioned would not truly identify the area from which produced as would tend to be identified with the Idaho potato from the fall producing area. Potatoes from Malheur County labeled strictly "Oregon" would be misleading as they could be identified as originating from Klamath Falls, Deschutes Valley, Umatilla, etc. The identity of the Idaho-Oregon area of origin would be lost and we feel prove to be a disservice to the area. The late Idaho russet problems will not be cured by eliminating the Idaho-Oregon area of origin label. The fall russet potato from Idaho is confronted with misbranding of potatoes produced from other fall producing areas as Idahos. The Idaho-Oregon summer potato deal is almost finished when the fall Idaho deal commences. As a packer of potatoes from both areas of origin we can see no gains being made by eliminating the Idaho-Oregon label on potatoes produced from the counties mentioned. Please give our proposal your earnest attention. We would appreciate hearing your views. Thank you.

TOM EGAN,
 Manager, Pacific Fruit and Produce Co.

ONTARIO, OREG., August 2, 1967.

HON. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
Senate Office Building,
Washington, D.C.:

Reference S. 562, State of origin bill which is coming up for hearing August 8, please review the following facts. We are not in opposition to the idea in the bill. We who grow and ship from along the Idaho-Oregon border have always designated our produce as originating from the Idaho-Oregon area and our packages have been so marked. This designation best fits our area because the area in eastern Idaho, east of Glens Ferry, designates their area of production as Idaho, whereas the area in central Oregon, namely, the Prineville, Madras, and Redmond area designate theirs as Oregon. One area is about 200 miles east of us and the other about 200 miles west of us. They are completely separate deals from two separate areas in two different States, and we are in between with another completely separate deal right on the border. If we on the border designate potatoes grown on the Oregon side by putting them in sacks marked "Oregon" and those grown on the Idaho side by putting them in sacks marked "Idaho" our customers will confuse our potatoes with the two other areas mentioned above. It would be an impossible task to explain and the designation would be very deceptive, whereas under the present designation of Idaho-Oregon we pinpoint the area of origin exactly instead of deceiving the consumer into thinking that they were grown in the other areas. Please give this your kind consideration and we hope that you will use your influence to have the bill changed to read "area of origin" instead of "State of origin." Thank you.

TOM ISERI.

ONTARIO, OREG., August 7, 1967.

Senator WARREN MAGNUSON,
Chairman, U.S. Senate Commerce Committee,
Washington, D.C.:

Urgently request delay on final decision of S. 562 to permit opposing testimony to be submitted from Idaho and Oregon. Shippers and growers in southwestern Idaho and Malheur County, Oregon, vigorously oppose this bill as presently written requiring State of origin labeling.

Produce grown in this area is delivered to packing sheds on both sides of the Snake River, which is the dividing line between Oregon and Idaho, regardless of whether such produce is grown on Oregon side or Idaho side. Potatoes placed in cellars completely lose identity as to State of origin and would be impossible to separate when packing and shipping to markets. It is entirely impractical to keep either potatoes or onions segregated in packing sheds. Would appreciate receiving transcript of August 8 hearing. Please advise.

RAY RUSSELL,
President, Malheur Potato Growers Association.

ONTARIO, OREG., August 8, 1967.

HON. WARREN MAGNUSON,
Senate Building,
Washington, D.C.:

We appreciate your consideration Senate bill 562. I am against passage of the bill but would favor passage if amended to include area of origin rather than State of origin.

ONTARIO PRODUCE CO.

ONTARIO, OREG., August 8, 1967.

HON. WARREN MAGNUSON,
Senate Building,
Washington, D.C.:

We appreciate your consideration Senate bill 562. I am against passage of the bill but would favor passage if amended to include area of origin rather than State of origin.

JOE KOMOTO.

NYSSA, OREG., August 7, 1967.

Senator WARREN MAGNUSON,
Chairman of Commerce Committee,
U.S. Senate, Washington, D.C.:

Opposed Senate bill 562, State of origin bill. Will favor if area instead of State. Historically and geographically our area known as Ida-Ore for 40 years for fruit and vegetables. Much confusion and inconvenience.

ROY HIRAI.

PARMA, IDAHO, August 8, 1967.

Hon. FRANK CHURCH,
U.S. Senate Building,
Washington, D.C.:

Regarding S. 562, State of origin bill, have no quarrel in principle but amendment to designate an area rather than State in cases where production is on both sides of boundary and produce identical in quality, appearance, and marketability, would alleviate many grower and shipper problems of separating potatoes carrying double inventory of containers as well as problems of marketing and enforcement where produce moves freely back and forth across State line from farm to closest shipping point such as in western Idaho and Malheur County, Oregon.

S. E. JOHNSON COMPANY.

BAKERSFIELD, CALIF., August 7, 1967.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Senate Office Building, Washington, D.C.:

The undersigned is a producer and shipper of California potatoes and president of the Potato Growers Association of California, with headquarters at 931 Union Avenue, Bakersfield, Calif. On behalf of the aforesaid association, I respectfully urge passage of Senate Bill No. 562.

The organization I represent is a nonprofit trade and service association of voluntary membership, incorporated in 1944 and dedicated to the advancement of the California potato industry, constantly striving through joint effort to improve methods of potato production, marketing, and utilization. This association's membership represents approximately 85 percent of all potato producers and shippers throughout the State of California.

California is the third ranking potato-producing State in the Nation and approximately 75 percent of our production is shipped outside the State, to points throughout the United States and Canada.

The principal potato variety produced in California is identified as "California Long White" and, with the inherent high quality characteristics of this potato variety, developed over the years through painstaking cultural practices, we wish to have its identity preserved as having been produced in California.

The consumer, especially, is entitled to the protection of being confident at all times of purchasing our potatoes, and those of all other States, labeled according to the State of origin.

Our industry therefore respectfully urges favorable action by your committee on S. 562, to be considered at public hearing on Tuesday morning, August 8, 1967—which would require fresh potatoes purchased or sold in interstate commerce to be labeled according to the State in which such potatoes are grown.

JAMES D. PAUL,
President, Potato Growers Association of California.

STATEMENT OF JAMES D. PAUL, PRESIDENT, POTATO GROWERS ASSOCIATION
OF CALIFORNIA

Mr. Chairman, my name is James D. Paul. I am a producer and shipper of California potatoes and president of the Potato Growers Association of California, with headquarters located at 931 Union Ave., Bakersfield, California.

On behalf of the aforesaid association, I respectfully urge passage of Senate Bill No. 562.

The organization I represent is a non-profit trade and service association of voluntary membership, incorporated in 1944 and dedicated to the advancement of the California potato industry, constantly striving through joint effort to

improve methods of potato production, marketing and utilization. This association's membership represents approximately 85 percent of all potato producers and shippers throughout the state of California.

California is the third ranking potato-producing state in the nation and approximately 75 percent of our production is shipped outside the state, to points throughout the United States and Canada.

The principal potato variety produced in California is identified as the "California Long White" and, with the inherent high quality characteristics of this potato variety, developed over the years through painstaking cultural practices, we wish to have its identity preserved as having been produced in California.

The consumer, especially, is entitled to the protection of being confident at all times of purchasing our potatoes, and those of all other states, labeled according to the state of origin.

Our industry, therefore, respectfully urges favorable action by this committee on S-562, which would require fresh potatoes purchased or sold in interstate commerce to be labeled according to the state in which such potatoes are grown. Thank you.

STATEMENT OF CLARENCE G. ADAMY, PRESIDENT, NATIONAL ASSOCIATION OF FOOD CHAINS

I appreciate the opportunity to present the views of the National Association of Food Chains (NAFC) in opposition to S. 562. NAFC is a trade association representing approximately 240 corporate food chains, operating 23,000 stores. We have as members all the larger food chains, most of the medium-sized chains and a representative group of the smaller chains.

S. 562 as drafted would require the labeling of all containers of fresh potatoes marketed in interstate commerce to show the state of origin of the potatoes and the name and address of the packer or repacker. Container is broadly defined to include not only package and box but also display case, bin, bulk car, and truck. All retail firms are covered if they are subject to the Perishable Agricultural Commodities Act, as amended (purchases of over \$90,000 per year of PACA commodities).

The members of the National Association of Food Chains are opposed to S. 562 as written. It is our sincere belief that this bill is neither needed nor is it desirable.

Proponents support this measure from the standpoint of protection for the consumer and the potato grower. We are not convinced, however, of the additional value to the consumer or to the grower. Additionally, the proposal would raise problems for food distributors in the handling and sales of fresh potatoes as well as other fruits and vegetables. Such problems would result in increased cost of distribution through waste, duplicate supplies, and less effective utilization of manpower; this, of course, would increase consumer prices—with its concomitant development of lower sales.

First, to the extent that there is a claimed benefit to the consumer or the grower, it seems clear that this could only come about if the bill contained mandatory inspection provisions to insure compliance. The bill, however, contains no specific provision for inspection or enforcement of the labeling requirements in order to insure compliance. If compliance is to remain voluntary, we see no added benefits to the consumer or grower because those sellers, receivers or shippers who would voluntarily comply with the bill's requirements are already complying with appropriate existing federal regulations which prohibit misdesignation or mislabeling of products which move in interstate commerce.

We also oppose this bill because of the many food distribution problems that it would create. They may be divided into three parts: (1) Bulk potato sales. Many distributors sell potatoes in bulk at the supermarket or other retail store level. Sometimes such bulk sales are limited to higher priced potatoes such as russet bakets. To identify these potatoes in bins at the store level by packer and by state would mean an extra job on the part of every retailer in making sure that each container of potatoes was identified when put on display and would raise problems when potatoes on hand in the store came from more than one packer. This apparently would mean using a single bin until the contents were completely used up, or unless the potatoes were replenished by other potatoes packed by the same packer and produced in the same state. Thus, an additional problem and an additional cost in the handling of potatoes would arise.

(2) When packaging potatoes for consumer sale (repackers) it would become the responsibility of each retail distributor not only to watch for the 50 possible states of origin, but to carry a greatly expanded inventory of repack bags with

varying identifications to cover all requirements. It should be noted that there are some potatoes which are designated by regional area rather than by state of origin. For example, there are "Southern" potatoes—Florida, Georgia, South Carolina, North Carolina—and "Eastern" potatoes—Virginia, Maryland, and Delaware. Many repackers presently obtain potatoes from several nearby states (during some period of the year) where production is comparable and do not define the potatoes by the state of origin but rather by regional designation. Under the proposed bill these shipments would have to be broken down by state instead of by region. This additional requirement again would add to the cost of potatoes.

(3) The proposed bill would establish a bad precedent. It would not be long before proposals could come from raisers of corn, beans, and other fruits and vegetables where some producer felt that his state's production was superior to someone else's. The resulting costs of segregation and designation could appreciably increase consumer food costs.

There would be increased cost of distribution in the handling of bulk potatoes, in the handling of packaged potatoes, and possibly in the precedent set for other fresh fruits and vegetable items if this measure were adopted. There is already consumer objection to food prices which they regard as too high. This would indeed be a bad time to enact legislation which would be of doubtful consumer value and which would increase costs. Additionally, consumers would be continuing to seek ways of getting best values and this would mean a more careful survey by them of alternative products so that the overall result could be to reduce the sales of fresh potatoes and perhaps later, of other fruits and vegetables.

For the foregoing reasons the National Association of Food Chains respectfully requests that the committee not accord favorable consideration to S. 562.

STATEMENT OF HEADLEE WRIGHT, MANAGER, SAN LUIS VALLEY POTATO ADMINISTRATIVE COMMITTEE, MONTE VISTA, COLO.

My name is Headlee Wright. I am manager of the San Luis Valley Potato Administrative Committee and a potato grower. I reside in Monte Vista, Colorado.

I would like to urge the passage of S-562. The committee I work for is on record as favoring the National Labeling of Potatoes.

The San Luis Valley of Colorado annually produces from 32,500 to 36,000 acres of potatoes. The majority of these are shipped out of state and are distributed to the fresh market. The San Luis Valley produces three-fourths of all the potatoes raised in Colorado.

Colorado was one of the first states to recognize the need for proper labeling of their product. Colorado has a state labeling law requiring the State of Origin and the name and address of the packer on the container of all potatoes moving in interstate commerce. This law has helped but we need to go further. We need help after our product crosses the state line. We have no authority to enforce state laws after interstate shipment. Reports are ever present of mixing, changing bags and operations that are not conducive to the good marketing practices we feel are essential to good business.

The San Luis Valley Potato Committee is made up of twelve men elected by the approximately 600 growers and shippers of the Valley.

We urge you give favorable consideration to S-562. Thank you for allowing my testimony.

J. R. SIMPLOT Co.,
August 4, 1967.

HON. LEN B. JORDAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JORDAN: May I compliment you, Senator Church and Senator Magnuson for your sponsorship of S. 562 (National Potato Labeling Act). I have read the bill and certainly concur with you gentlemen.

One of the most effective ways that we can assure the American consumer of top quality foodstuffs is to label the merchandise as to point of origin.

In the last few years the American potato farmer has built up a massive investment of private capital. This bill will help greatly in protecting that investment and further the future growth of America's agricultural empire. Over the years the potato growers have spent millions of dollars in promoting their product. In all fairness others should not be permitted a free ride from their efforts.

Under the competitive system we live in producers of all commodities are continually striving to improve their product. The passage of S. 562, by increasing incentive, would greatly improve the chances for continual improvement in the type of product the consumer would receive by requiring the identity of the source of the item.

May we congratulate you gentlemen on your far-sightedness in sponsoring this legislation. We certainly urge its passage.

Sincerely,

P. K. HARWOOD.

TULELAKE GROWERS ASSOCIATION,
Tulelake, Calif., August 18, 1967.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Senate Office Building, Washington, D.C.

DEAR MR. MAGNUSON: Would you please include the following in your written testimony on August 23rd concerning Bill 562:

The Oregon-California state line divides the Klamath Basin potato production area. Some growers produce potatoes in both states. Packing sheds handle potatoes in both states. It would be difficult, if not impossible in many instances, to verify in which state production occurred; as potatoes are bulked from storages to be graded at sheds during the October-May shipping season. Maintenance of an adequate inventory of various containers from Oregon-California "origins" would create a considerable problem. Record keeping would be a rather insurmountable problem in this area.

This association requests that the label designation "Klamath" be approved as an origin designation here in lieu of the state names "Oregon and California", for those shippers unable to comply to fully if "origin" is limited to state names.

Your interest and efforts on our basin's behalf is greatly appreciated. If our association could be of further service please feel free to contact us.

Sincerely,

CECIL C. MOORE, *President.*

KLAMATH POTATO GROWERS ASSOCIATION,
Klamath Falls, Oreg., August 17, 1967.

Re: S. 562.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Washington, D.C.

DEAR SENATOR MAGNUSON: Please include the following in record of hearing: The Oregon-California state line divides the Klamath Basin potato production area. Some growers produce potatoes in both states.

Packing sheds handle potatoes from both states. It would be difficult if not impossible in many instances to verify in which state production occurred, as potatoes are bulked from storages to be graded at sheds during the October-May shipping season.

Maintenance of an adequate inventory of various containers for Oregon and California "origins" would create a considerable problem. Record keeping would be a rather insurmountable problem in this area.

The Association requests that the label designation (*Klamath Basin*) be approved as an origin designation here in lieu of the state names Oregon and California for those shippers unable to comply fully if origin is limited to state names.

Very truly yours,

ART EVANS, *President.*

MALHEUR POTATO GROWERS ASSOCIATION,
Ontario, Oreg., August 24, 1967.

Senator WARREN G. MAGNUSON,
Chairman, U.S. Senate Commerce Committee,
Washington, D.C.

DEAR SENATOR MAGNUSON: May we add our voice to those being raised in opposition to the "National Potato Labeling Bill", S.B. 562, in its present form, as submitted to your Commerce Committee for consideration and action. It is

not our intent to question the need for such legislation, but rather to advance our suggestions for making this act more meaningful and enforceable inasmuch as we acknowledge the necessity for effective identification of "production growing areas", brand names, etc.

It is our recommendation that the wording of S.B. 562 be amended or changed to read: "Production Area of Origin" rather than "State of Origin" believing that in so doing the full legislative intent of this law, informing the consumer as to where the potatoes are grown, will be achieved. In our particular "production area", popularly known as "Oregon-Idaho" for more than 24 years, we constantly, during the normal course of business, cross state lines and comingle potatoes during growing, harvesting, grading, handling, and shipping. This is necessary because of our unique "production area" which consists of Malheur County, Oregon and Southwestern Idaho Counties; forming one continuous farming community extending from Boise, Idaho on the South to Weiser, Idaho on the North and including those potato growing areas of Malheur County. It is not unusual for growers and/or shippers to own and operate farms and packing sheds in both states where they experience identical weather, soil, and growing conditions which produce potatoes of equal quality and quantity. For these reasons we maintain that by labeling our potatoes as "Idaho-Oregon" potatoes we are most accurately designating and pin-pointing our "Production Point of Origin". To separate or segregate these same potatoes by state would be extremely difficult, if not impossible, to enforce and could, in fact, create chaos, confusion and unreasonable expense and hardship on everyone concerned.

Attached with this letter is a list of the shippers in this area who handle Oregon-Idaho potatoes. This list is mailed throughout the U.S. to all major potato buyers who recognize the Oregon-Idaho potato as being produced in a district "area of production". You will note that there are more shippers on the Idaho side of on the state boundary than on the Oregon side, both of which are growing, handling and marketing potatoes grown in the Area regardless of which side of the state line the potatoes are actually grown.

Also enclosed is an example of promotional material which very definitely serves both Idaho and Oregon potato shippers.¹

The Federal State Market News Service published by the Idaho Department of Agriculture in cooperation with state and federal agencies, list Shipping Point Information and shows "Western Idaho-Malheur County, Oregon" as one "producing area" again showing the importance of maintaining this "area of production" rather than separating by state lines.

We therefore respectfully request that serious and thoughtful consideration be afforded to rewording of this act or an amendment be executed exempting existing or established growing and marketing areas presently extending interstate and over state boundaries. With this revision or amendment much confusion and misunderstanding will be eliminated and would enable us to most accurately identify and distinguish our "Production Area of Origin" to the consumer.

Your early consideration and favorable action on this pending legislation will be welcomed by the Malheur-Oregon-Idaho potato industry.

Respectfully submitted.

RAYMOND F. RUSSELL,

President, Malheur Potato Growers Association.

BILL BORCHARDT Co.,

East Grand Forks, Minn., August 16, 1967.

Hon. WARREN B. MAGNUSON,
*Chairman, Senate Commerce Committee,
Washington, D.C.*

DEAR MR. MAGNUSON: Reference is made to Senate Bill No. 562 having to do with the state of origin for agricultural commodities.

I have directed previous correspondence to proponents of this type of legislation, expressing myself in favor, except that in some areas the mere mention of the State does not necessarily perform the duty it should. This is brought about by areas lying in adjacent states who are cooperating in the marketing of their commodity. This is precisely true in Minnesota and North Dakota where we have

¹ The enclosures were placed in the committee files

a large area comprised of eleven counties on either side of the Red River of the North producing seed and table potatoes. Potatoes are produced in other sections of both states but the growers in the Red River Valley have joined hands to assess themselves for funds to advertise as "Red River Valley Potatoes." Hence the mere mention of either Minnesota or North Dakota would not cooperate with the efforts of the growers in our area, i.e. The Red River Valley of the North.

This same condition would exist in western Idaho and eastern Oregon where growers have joined hands to market their crop as an area. Another would be Tule Lake, California-Klamath Falls, Oregon area. There may be others, but these would be prime examples.

Therefore, I would urge your committee to seriously evaluate this request. We are not opposed to the bill per se, but we believe in some instances the area is more important than the state itself. The consideration of your committee accordingly would be greatly appreciated.

Very truly yours,

WM. A. BORCHARDT.

PIGGLY WIGGLY SHOP RITE FOODS, INC.,
Fort Worth, Tex., September 18, 1967.

Senator WARREN MAGNUSON,
Chairman, Senate Commerce Committee,
Washington, D.C.

DEAR SENATOR MAGNUSON: The purpose of this letter is to voice our opposition to S. 562, "The National Potato Labeling Act". Our opposition is based on the fact that, in our opinion, the bill is entirely unnecessary and would be very costly to enforce. Passage of S. 562 would undoubtedly cause an increase in costs for the potato industry. The resulting increase would ultimately be borne by the consumer with no increase in value. The proposed legislation would benefit one state in our Country and serve only a selfish motive.

Your consideration and support in non-passage is respectfully requested.

Sincerely,

GILBERT L. WENK,
Vice President.



