

DOMINION OF CANADA

DEPARTMENT OF AGRICULTURE

BULLETINS 1-20

1905-1907

DAIRY AND COLD STORAGE
COMMISSIONER'S SERIES

DEPARTMENT OF AGRICULTURE
DAIRY AND COLD STORAGE COMMISSIONER'S BRANCH
FRUIT DIVISION
OTTAWA, - - - CANADA

GENERAL INSTRUCTIONS

RE

THE INSPECTION AND SALE ACT, PART IX.

REFERRING TO

FRUIT AND FRUIT PACKAGES

BULLETIN No. 11

Dairy and Cold Storage Commissioner's Series

(REVISED EDITION)

LETTER OF TRANSMITTAL.

OTTAWA, July 10, 1907.

To the Honourable
The Minister of Agriculture.

SIR,—I beg to submit herewith a revision of bulletin No. 11, 'Dairy and Cold Storage Commissioner's Series,' being general instructions issued from this office for the guidance of fruit inspectors and other persons charged with the enforcement of the Inspection and Sale Act, Part IX., Revised Statutes of Canada, 1906, referring to fruit and fruit packages.

I beg to recommend that the bulletin be printed for general distribution.

I have the honour to be, Sir,

Your obedient servant,

J. A. RUDDICK,
Dairy and Cold Storage Commissioner.

THE INSPECTION AND SALE ACT

Part IX

REFERRING TO FRUIT AND FRUIT PACKAGES

The following sections will be of interest to fruit growers:—

1. This Act may be cited as the Inspection and Sale Act, R.S., c. 99, s. 1.*

INTERPRETATION.

319. In this Part, unless the context otherwise requires,—

(a) 'closed package' means a box or barrel of which the contents cannot be seen or inspected when such package is closed;

'fruit' shall not include wild fruit, nor cranberries, whether wild or cultivated. 1 E. VII., c. 27, s. 3.

THE MARKING OF FRUIT.

320. Every person who, by himself or through the agency of another person, packs fruit in a closed package, intended for sale, shall cause the package to be marked in a plain and indelible manner, in letters not less than half an inch in length, before it is taken from the premises where it is packed,—

- (a) with the initials of his Christian names, and his full surname and address, or, in the case of a firm or corporation, with the firm or corporate name and address;
- (b) with the name of the variety or varieties; and,
- (c) with the designation of the grade of fruit, which shall include one of the following four marks, viz.: Fancy, No. 1, No. 2, No. 3.

*Note.—In the Revised Statutes of Canada, 1906, 'The Fruit Marks Act,' together with other Acts referring to fruit and fruit packages, is codified in 'The Inspection and Sale Act,' Part IX.

2. Such mark may be accompanied by any other designation of grade or brand, if that designation or brand is not inconsistent with, or marked more conspicuously than, the one of the said four marks which is used on the said package. 6 E. VII., c. 15, s. 1.

321. No person shall sell, or offer, expose or have in his possession for sale, any fruit packed,—

- (a) in a closed package and intended for sale, unless such package is marked as required by the provisions of this Part;
- (b) in a closed package, upon which package is marked any designation which represents such fruit as of
 - (i) Fancy quality, unless such fruit consists of well grown specimens of one variety, sound, of uniform and of at least normal size and of good colour for the variety, of normal shape, free from worm holes, bruises, scab and other defects and properly packed.
 - (ii) No. 1 quality, unless such fruit consists of well grown specimens of one variety, sound, of not less than medium size and of good colour for the variety, of normal shape and not less than ninety per centum free from scab, worm holes, bruises and other defects, and properly packed.
 - (iii) No. 2 quality, unless such fruit consists of specimens of not less than medium size for the variety, and not less than eighty per centum free from worm holes and such other defects as cause material waste, and properly packed;
- (c) in any package in which the faced or shown surface gives a false representation of the contents of such package; and it shall be considered a false representation when more than fifteen per centum of such fruit is substantially smaller in size than, or inferior in grade to, or different in variety from, the faced or shown surface of such package. 1 E. VII., c. 27, ss. 5 and 7; 6 E. VII., c. 15, s. 2.

BRANDING FALSELY MARKED AND FALSELY PACKED.

322. Whenever any fruit in any package is found to be so packed that the faced or shown surface gives a false representation of the contents of the package, any inspector charged with the enforcement of this Part, may mark the words 'Falsely packed,' in a plain and indelible manner on the package.

2. Whenever any fruit packed in a closed package is found to be falsely marked, the said inspector may efface such false marks and mark the words 'Falsely marked' in a plain and indelible manner on the package.

3. The inspector shall give notice, by letter or telegram, to the packer whose name is marked on the package, within twenty-four hours after he marks the words 'Falsely packed' or 'Falsely marked' on the package. 2 E. VII., c. 10, s. 3; 6 E. VII., c. 15, s. 3.

FRUIT PACKAGES.

325. All apples packed in Canada for export for sale by the barrel in closed barrels shall be packed in good and strong barrels of seasoned wood having dimensions not less than the following, namely: Twenty-six inches and one-fourth between the heads, inside measure, and a head diameter of seventeen inches, and a middle diameter of eighteen inches and one-half, representing as nearly as possible ninety-six quarts.

2. When apples, pears or quinces are sold by the barrel, as a measure of capacity, such barrel shall not be of lesser dimensions than those specified in this section.

3. When apples are packed in Canada for export for sale by the box, they shall be packed in good and strong boxes of seasoned wood, the inside dimensions of which shall not be less than ten inches in depth, eleven inches in width and twenty inches in length, representing as nearly as possible two thousand two hundred cubic inches.

4. When apples are packed in boxes or barrels having trays or fillers wherein it

is intended to have a separate compartment for each apple, the provisions of this section as to boxes and barrels shall not apply. 1 E. VII., c. 26, s. 4; 4-5 E. VII., c. 44, ss. 1 and 2.

326. Every box of berries or currants offered for sale, and every berry box manufactured and offered for sale, in Canada shall be plainly marked on the side of the box, in black letters at least half an inch square, with the word 'Short,' unless it contains when level-full as nearly exactly as practicable,—

- (a) at least four-fifths of a quart; or,
- (b) two-fifths of a quart.

2. Every basket of fruit offered for sale in Canada, unless stamped on the side plainly in black letters, at least three-quarters of an inch deep and wide, with the word 'Quart' in full, preceded with the minimum number of quarts, omitting fractions, which the basket will hold when level-full, shall contain, when level-full, one or other of the following quantities,—

- (a) fifteen quarts or more;
- (b) Eleven quarts, and be five and three-fourths inches deep perpendicularly, eighteen and three-fourths inches in length and eight inches in width at the top of the basket, sixteen and three-fourths inches in length and six and seven-eighths inches in width at the bottom of the basket, as nearly exactly as practicable, all measurements to be inside of the veneer proper and not to include the top band.
- (c) Six quarts, and be four and one-half inches deep perpendicularly, fifteen and three-eighths inches in length and seven inches in width at the top of the basket, thirteen and one-half inches in length and five and seven-eighths inches in width at the bottom of the basket, as nearly exactly as practicable, all measurements to be inside of the veneer proper and not to include the top band: Provided that the Governor in Council may by proclamation exempt any province from the operation of this section.
- (d) two and two-fifths quarts, as nearly exactly as practicable. 1 E. VII., c. 26, s. 5.

INSPECTOR'S RIGHT TO EXAMINE.

327. Any person charged with the enforcement of this Part may enter upon any premises to make examination of any packages of fruit suspected of being falsely marked or packed in violation of any of the provisions of this Part, whether such packages are on the premises of the owner, or on other premises, or in the possession of a railway or steamship company. 1 E. VII., c. 27, s. 12; 2 E. VII., c. 10, s. 5.

TAMPERING WITH MARKS.

329. Every person who, not being an inspector, wilfully alters, effaces, or obliterates, wholly or partially, or causes to be altered, effaced, or obliterated, any marks on any package which has undergone inspection, shall incur a penalty of forty dollars. 1 E. VII., c. 27, s. 10; 2 E. VII., c. 10, s. 4.

OFFENCES AND PENALTIES.

330. Every person who offers or exposes for sale, or who packs for exportation, apples, pears or quinces, by the barrel or box otherwise than in accordance with the foregoing provisions of this Part, shall be liable, on summary conviction, to a penalty of twenty-five cents for each barrel or box of apples, pears or quinces so offered or exposed for sale or packed.

2. Every person who, for export, offers or exposes for sale or packs, apples by the box otherwise than in accordance with the foregoing provisions of this part, shall be liable, on summary conviction, to a penalty of twenty-five cents for each box of apples so offered or exposed for sale or packed. 1 E. VII., c. 26, s. 4; 4-5 E. VII., c. 44, ss. 1 and 2.

331. Every person who neglects to comply with any of the provisions of this Part relating to boxes of berries or currants, or berry boxes, or baskets of fruit, or who sells or offers for sale any fruit or berry boxes in contravention of any of the said provisions shall be liable, on summary conviction, to a fine of not less than twenty-five cents for each basket or box so sold or offered for sale. 1 E. VII., c. 26, s. 5.

332. Every person who obstructs any person charged with the enforcement of this Part in entering any premises to make examination of packages of fruit as provided by this Part, or who refuses to permit the making of any such examination, shall be liable to a penalty not exceeding five hundred dollars and not less than twenty-five dollars, together with the cost of prosecution, and in default of payment of such penalty and costs, shall be liable to imprisonment, with or without hard labour, for a term not exceeding six months, unless such penalty and costs and the costs of enforcing the same are sooner paid. 1 E. VII., c. 27, s. 12.

333. The person on whose behalf any fruit is packed, sold, offered or had in possession for sale, contrary to the provisions of the foregoing sections of this Part, shall be *prima facie* liable for the violation of this part. 1 E. VII., c. 27, s. 11.

PROCEDURE.

334. For the purposes of jurisdiction under Part XV. of the Criminal Code, in any complaint, information or conviction for a violation of any of the provisions of this Part, the matter complained of may be alleged and shall be held to have arisen at the place where the fruit was packed, sold, offered, exposed or had in possession for sale. 1 E. VII., c. 27, s. 13.

335. No appeal shall lie from a conviction under this Part except to a superior, county, circuit or district court, or the court of the sessions of the peace, having jurisdiction where the conviction was had; and such appeal shall be brought, notice of appeal in writing given, recognizance entered into or deposit made, within ten days after the date of conviction.

2. The trial on any such appeal shall be heard, had, adjudicated upon and decided, without the intervention of a jury, at such time and place as the court or judge hearing the trial appoints, and within thirty days from the date of conviction, unless the said court or judge extends the time for hearing and decision beyond such thirty days.

3. In all respects not provided for in this Part, the procedure under Part XV. of the Criminal Code shall, so far as applicable, apply to all prosecutions brought under this Part. 1 E. VII., c. 27, s. 14.

ORDER IN COUNCIL OF 14TH SEPTEMBER, 1901.

PRIVY COUNCIL, CANADA.

AT THE GOVERNMENT HOUSE AT OTTAWA,
The 14th day of September, 1901.

PRESENT :

His Excellency the Governor General in Council.

Whereas by section 16 of the Act, 1 Edward VII., Chapter 27, intituled 'An Act to provide for the Marking and Inspection of packages containing Fruit for Sale,' it is provided as follows:—

'16. The Governor in Council may make such regulations as he considers necessary in order to secure the efficient enforcement and operation of this Act; and may by such regulations impose penalties not exceeding fifty dollars on any person offending against them; and the regulations so made shall be in force from the date of their publication in the *Canada Gazette*, or from such other date as is specified in the proclamation in that behalf; and the violation of any such regulation shall be deemed an offence against this Act and punishable as such.'

Therefore His Excellency the Governor General in Council is pleased, in virtue of the above cited provisions of the said Act to make the following regulations, the same to come into force on the date of their publication in the *Canada Gazette*.

1. The Minister of Agriculture may make appointments of inspectors and other persons for the enforcement of the Act.

2. Any inspector charged with the enforcement of the Act may detain, for the time necessary to complete his inspection, any shipment of fruit, in respect of which he has reasonable grounds for believing that the marking of the package, or the packing of the fruit, constitutes a violation of the Act; such fruit shall at all times be at the risk and charges of the owner thereof; and any inspector detaining fruit shall give the owner, where ascertained, notice that such fruit is being detained, in storage or otherwise, as the case may be.

3. The despatch of a prepaid telegram or letter to the packer whose name is marked on the package shall be considered due notice.

4. No person shall for himself or on behalf of any other person, pack any fruit for sale, contrary to the provisions of the Act.

5. Any inspector or other person who violates any of the regulations made under the authority of the Act shall for each offence, on summary conviction, be liable to a fine of not less than five dollars and not exceeding fifty dollars, together with the costs of prosecution.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

GENERAL INSTRUCTIONS.

1. Inspectors will visit orchards and packing houses to give information with regard to the Act. They will keep notes of what they observe during such visits.

2. Inspectors will examine fruit at all points in the district assigned to them, whether at shipping stations, packing houses, orchards or elsewhere, as directed and as opportunity offers.

3. Inspectors will not examine particular lots of fruit at the request of buyers or sellers. When not under specific directions, inspectors will use their discretion as to where they can best employ their time within the district assigned them.

4. Inspectors will avoid anything which would delay unnecessarily the movement of fruit, or which would interfere with the interests of those concerned in the fruit trade, except in so far as action may be necessary to prevent violation of the Act.

5. Packages which have been inspected are to be closed by the inspector and left in marketable order after examination, unless the owner prefers to take charge of such opened packages.

6. Inspectors will report to the department by telegram regarding any particular shipments which in their judgment should be examined at the port of export or elsewhere.

EXPLANATIONS FOR GUIDANCE OF INSPECTORS.

Sec. 319. (a.) Baskets and berry crates (even with closed covers) will not be considered closed packages to be affected by Sections 320 and 321; the packing of fruit in any package is subject to the provisions of Section 321 (c).

Sec. 320. 'Premises' including the shipping station.

Sec. 320 (a). 'Firm or corporation.' Unregistered partnerships are not included in these terms.

In case no name appears on packages, proceedings may be taken against the owner where ascertained; otherwise against the party in whose possession the fruit is found.

Sec. 321 (b) (i). 'Uniform' is to be taken as referring to the specimens in each individual package. Normal sized apples and very large apples, packed in the same package, would not be uniform. 321 (b) (iii). 'Defects as cause material waste.'

These will include abnormal growths, bruises, immaturity and the effects of fungous diseases.

'Properly packed.' 'Slacks' and over-pressed packages are to be considered as not properly packed if the condition is likely to result in permanent damage during handling or transit.

EXPLANATORY NOTES.

(a).—*For the Grower.*

If the grower sells his fruit unpacked, the Act does not apply to him in any particular.

If he sells his fruit in uncovered barrels or boxes, the Act requires only that the top of each package shall be no better than the fruit throughout the package.

If the grower packs his own fruit he accepts the responsibility of the packing, as described in the following paragraph :

(b).—*For the Owner.*

Section 320 of the Act requires that the person who owns the fruit when it is packed in closed barrels or boxes must mark plainly on each package:—

1. His name and post office address.
2. The name of the variety of the fruit.
3. The grade of the fruit, whether it is 'Fancy,' 'No. 1,' 'No. 2,' or 'No. 3.'

If he marks the package 'Fancy' the fruit must be practically perfect, as described in Section 321, sub-section (b) (i).

On reading subsection (b) (ii) carefully, it will be seen that the packer should aim in packing Grade No. 1 to discard every injured or defective fruit, and not to deliberately include ten per cent of inferior specimens. This margin is meant to make the work of grading easier and more rapid than if absolute perfection were exacted.

Ten per cent is presumed to be the margin within which an honest packer can do rapid work, using every endeavour to make each specimen conform to the general standard for the grade.

Even the twenty per cent margin in grade No. 2 must be composed of specimens not less than nearly medium size. It is not presumed that any culls will be included in this grade.

The Act makes no restriction as to the quality of fruit which is marked 'No. 3.'

It should be noted that the definitions of grades do not vary from year to year; no provision is made for lowering the standard when the quality of the crop is poor. In such a case the only result is that a smaller proportion of the fruit is of the higher grades.

On the owner is laid the duty of seeing that the face of each package fairly represents the contents as required by Section 321, sub-section c. Over-facing is an offence against the Act which is most severely dealt with by the courts.

(c).—*For the Packer.*

Whether he is putting up his own fruit or that of another person, the packer is required by Section 4 of the Order in Council printed above, to pack the fruit in accordance with the law. He should read the whole Act carefully, but should give Section 321 special attention. If he violates these requirements, he is liable to the fine specified in Section 5 of the Order in Council.

