No. 1819.

An Act to provide for the Inspection and Grading of Potatoes and Onions, and for other purposes.

[A ssented to, December 21st, 1927.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Potato and Onion (Grading) Act, 1927," and shall come into operation on a day to be fixed by proclamation.

2. (1) This Act shall apply to all potatoes and onions grown within the portions of the State to which the Governor by proclamation declares that this Act shall apply.

   (2) The Governor may make any such proclamation, and may, by proclamation, revoke or vary any such proclamation.

3. In this Act, unless the context otherwise requires—

   "Foreign substance" includes any earthy matter, stones, sand, or gravel, or any leaves, stalks, or loose skins, or any substance declared by the Governor, by notice published in the Government Gazette, to be a foreign substance for the purpose of this Act:

   "Inspector" means inspector appointed under this Act:

   "Lot" means any quantity of loose potatoes or onions other than that contained in packages:

   "Owner" includes consignee, consignor, part-owner, or agent for the owner:

   "Package"
“Package” means any box, case, sack, or receptacle used or capable of being used or intended to be used for containing potatoes or onions:

“Place” includes orchard, vessel, railway station, wharf, pier, jetty, warehouse, market stall, shop, shop-window, store, factory, yard, shed, barrow, and any vehicle, stand, or premises whatever:

“Sell” includes barter or exchange; and also includes agreeing to sell or offering or exposing for sale or having in possession for sale or receiving, sending, forwarding, or delivering for or on sale, or exporting from South Australia to any other part of the Commonwealth or causing, suffering, or attempting any of such acts or things; and “sale” has a corresponding meaning:

“Soundness” means freedom from damage or decay and from any abnormal condition of or in potatoes or onions whether consisting of the presence of or caused by or due to the operations, development, growth, or decay of any insect, bacterium, or fungus:

“Ticket” includes label, card, slip, disc, or sign:

“Vendor” means any person who sells potatoes or onions.

4. The Governor may appoint any person to be an inspector for the purposes of this Act.

5. (1) No person (whether by himself or by an agent, servant, or on behalf of another person) shall—

(a) pack any potatoes or onions intended for sale in a package unless—

i. the potatoes or onions are packed and graded as prescribed; and

ii. the package is marked as prescribed; or

(b) sell any potatoes or onions contained in a package—

i. if such potatoes or onions are not packed and graded as prescribed; or

ii. if the package does not comply with the provisions of this Act.

(2) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable to a penalty of not more than Five Pounds for a first offence and of not more than Ten Pounds for every subsequent offence.

6. (1) For the purposes of this Act any inspector may at any reasonable time—

(a) enter or inspect any place whatever, and examine any potatoes or onions in or on such place, and open any package,
package, but if the owner or person for the time being in charge is present the inspector shall first call upon him to open such packet;

(b) examine any potatoes or onions or package containing potatoes or onions being conveyed through the public streets or roads for sale in such streets or roads or being sold in any street or road;

(c) if any potatoes or onions in a packet are not packed and graded as prescribed, mark in legible characters on the package the words "Falsely packed";

(d) if any package of potatoes or onions is falsely marked, efface such false marks and mark in legible characters on the package the words "Falsely marked";

(e) take samples of or seize the whole or any part of any potatoes or onions or of any package thereof.

(2) If the inspector is of opinion that with respect to any such package or to any such potatoes or onions there is any contravention of or failure to comply with any of the provisions of this Act he may direct the owner or person for the time being in charge of such package, potatoes, or onions to take all such measures or do all such acts as the inspector determines to be necessary for the proper observance of this Act.

(3) The inspector shall give notice orally or by letter or telegram to the person whose name is marked on any such package or on a slip or label contained therein as the packer or to the agent of the said person within twenty-four hours after marking the words "Falsely packed" or "Falsely marked" on the package.

(4) Any person who disobeys or fails to comply with any such direction shall be liable to a penalty of not more than Ten Pounds.

7. (1) Any inspector may detain for the time necessary to complete his inspection or examination any package or lot of potatoes or onions if he has reasonable grounds for believing that with respect thereto there is a contravention of or a failure to comply with this Act.

(2) Such potatoes or onions shall at all times during the detention thereof be at the risk and charges of the owner thereof.

(3) Any inspector so detaining any potatoes or onions shall give the owner when ascertained notice orally or by letter or telegram that such potatoes or onions are being detained in storage or otherwise (as the case may be).

8. Any person who, not being an inspector—

(a) wilfully alters defaces or obliterates wholly or partially; or

(b) causes to be altered defaced or obliterated wholly or partially—

any marks made in pursuance of this Act on any package containing potatoes or onions for sale shall be liable to a penalty of not more than
9. Any person who—

(a) resists or wilfully obstructs any inspector in carrying out any duties under this Act; or

(b) refuses to give information, or knowingly gives false information in answer to any reasonable inquiry made by any inspector for the purposes of this Act,

shall be liable to a penalty of not more than Five Pounds for a first offence and of not more than Ten Pounds for every subsequent offence.

10. Proceedings may be taken in respect of offences against this Act by any inspector if so authorised by the Minister either generally or in any particular case.

11. When an offence for which a vendor is liable to a penalty has in fact been committed without the authority of the vendor by some agent, servant, workman, or other person, such agent, servant, workman, or other person, shall be liable to the like penalty as if he were the vendor.

12. (1) Where a vendor is charged with an offence, he shall be entitled upon complaint duly laid by him to have any other person whom he charges as the actual offender brought before the Court at the hearing of the charge, and if after the commission of the offence has been proved the vendor proves to the satisfaction of the Court—

(a) that he used due diligence to enforce the execution of the provisions of this Act; and

(b) that the said other person committed the offence in question without his knowledge, consent, or connivance, and in contravention of his orders—

the said other person shall be summarily convicted of such offence and the said vendor shall be exempt from any penalty. The person so convicted shall in the discretion of the Court be also liable to pay any costs incidental to the proceedings,

(2) Where it is made to appear to the satisfaction of any inspector at the time of discovering an offence—

(a) that the vendor has used all due diligence to enforce the execution of the provisions of this Act; and

(b) by what person the offence has been committed; and

(c) that it has been committed without the knowledge, consent, or connivance of the said vendor and in contravention of his orders—

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the said vendor.
18. In any proceedings in respect of any offence against this Act—

(a) no proof shall be required of the authority of an inspector to take proceedings or of the appointment of an inspector;

(b) it shall lie on the defendant to prove that in respect of any lot or package of potatoes or onions the provisions of this Act have been complied with; and

(c) the allegation in the complaint that any specified potatoes or onions were grown within the portion of the State to which this Act applies shall be deemed proved in the absence of proof to the contrary.

14. The person whose name is marked on the outside or inside of any package of potatoes or onions or on any slip or label therein as the packer thereof shall (until evidence to the contrary is given) be deemed to be the packer thereof.

15. Any notice which under this Act may be given by letter or telegram shall be deemed to have been given if it is shown that the letter was properly addressed and was prepaid, registered, and posted or that the telegram was properly addressed and was prepaid and delivered at a post office for despatch.

16. (1) The Governor may make regulations for or with respect to—

(a) standards and methods for the packing of potatoes or onions in packages for sale;

(b) standards and methods for the grading of potatoes or onions for sale whether in packages or in lots; and whether grading shall be according to number, variety, size, soundness, colour, maturity, or all or any of them or otherwise;

(c) the methods of stacking or arranging lots of potatoes or onions for sale;

(d) the description, kind, capacity, materials, dimensions, measurements, and condition (including the regulation or prohibition of the use of secondhand packages) of packages for potatoes or onions for sale and standards in respect of capacity, dimensions, and measurements of packages containing potatoes or onions for sale;

(e) the marking to be placed on the inside or outside (or both) of packages containing potatoes or onions for sale and prohibiting the use of marks other than those prescribed;

(f) the classes of packages in which slips or labels are to be placed and the kinds of slips or labels to be placed in packages and any particulars, statements, information, words, or marks which are or are not to be placed on any such slips or labels; and prohibiting the use of slips or labels other than those prescribed;

(g) the
(g) the placing of tickets on lots of potatoes or onions for sale; and the kind of tickets to be used for the purpose; and any particulars, statements, information, words, or marks which are or are not to be placed on any such ticket; and prohibiting the use of tickets other than those prescribed;

(h) the maximum quantity of foreign substances, wrappers, packing material, or advertising matter that may be contained in packages of potatoes or onions for sale;

(i) fees payable for inspection under this Act of potatoes and onions;

(j) the duties of inspectors; and

(k) generally, carrying into effect the provisions of this Act.

(2) Any such regulation may prescribe penalties of not more than Ten Pounds for the breach of that or any other regulation.

Procedure.

17. All proceedings for offences against this Act shall be disposed of summarily.

Expenses under Act.

18. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament for those purposes.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Lieutenant-Governor.