

Avocado Standardization Since the Freeze

HAROLD J. RYAN

*Agricultural Commissioner Los Angeles, California
Delivered at Annual Meeting at Whittier, May 8, 1937*

Carter Barrett, President: At this time we have another phase of the problem created by the freeze and one which is of very great interest to us all. We have, to present this subject today, one of the men who is universally respected and has the affection of a good many of us in Los Angeles County. He is often called on by officials of the Federal Government and others to assist them in their problems. I refer to Mr. Harold J. Ryan, our Agricultural Commissioner in Los Angeles County—best known to many as "Buddy Ryan".

Harold J. Ryan: Thank you, Mr. Barrett. The freeze set up a mean job for us but only from the point of view of the difficulty of our understanding of what the law meant. We knew we had a group of avocado growers in the Southern California area who believed that the law meant business and wanted it enforced. I don't think we need to explain what our mechanical set-up is except for those few who might not be familiar with it. Your local Agricultural Commissioner, with District Agricultural Inspectors scattered throughout the county, compose the county organization in their areas. The Director of the State Department of Agriculture is the Chief Enforcement Officer of the State, who supervises and coordinates the work so it may be carried on uniformly—giving the same standard of inspection in all counties.

Since 1929 the agricultural code has made it unlawful to sell avocados when more than 5 per cent of the fruits were seriously damaged by freezing but it was not until the middle of last January that anyone concerned himself about how to determine frost damage to an avocado. A legally frozen avocado had never before been seen.

The first trouble came with the sale of fruit that didn't have any stems. Almost immediately that sort of fruit commenced to mold in the stem socket and very shortly developed a rot.

Somewhat less than 8,000 lbs. of fruit was rejected by inspectors during January. That seems a very small quantity considering the enormous amount of fruit that growers saw going onto the ground and let stay there because they knew it would not please the consumer.

Early in February we began to learn some of the more direct results of freezing injury to avocados. The most serious trouble came from two types of injury. Neither of them could be seen from the outside. One developed slowly after the freeze into kernels and strings of corky tissue inside the fruit with no surface indication of injury and the other was a breakdown that seemed to have a "delayed fuse"—it would wait until the fruit had

been carefully sorted, graded and sorted again and put in storage, then would suddenly be evident as a severe rot in half or more of the fruits. Careful handling and sorting before storage was not enough to insure damage-free fruit. For several weeks the only safe practice was careful examination of the fruit after it came out of storage.

However, this last type of fruit could be and was handled under the decay provision of the state law. There is no tolerance for the amount of rot in a fruit. Any amount of rot is illegal except that 5 defective fruits per hundred are permitted.

DEFINED "FREEZING INJURY"

In previous years this provision as to rots has been rather strictly applied in enforcement work in the belief that the avocado growers wanted the law enforced as written but as the size of the policing job became apparent this year we found that too much time would be taken up if we held literally to the line. A great deal more slightly rotted fruits reached the market than usual because there was so much **badly** rotted fruit that needed attention.

Before the end of January it was evident that fruit containing corky blackened tissue from freezing would go on the market in considerable amounts unless some way was found to stop it. The law itself does not define freezing injury—it merely provides that fruit damaged from freezing so as to cause a waste of 15 per cent by weight was illegal for sale, allowing the 5 per cent tolerance in number of fruits affected.

While the local enforcement of the Agricultural Code is in the hands of the County Agricultural Commissioner, the Director of Agriculture, as chief enforcement officer for the state, is given authority in law to make rules and regulations necessary to secure uniformity in enforcement. After a number of conferences over the severed remains of numberless avocados, an agreement was reached as to the appearance of a fruit showing 15 per cent waste. Director Brock then under date of January 26th issued rules and regulations declaring that "Freezing injury to avocados **shall not be** considered as causing a waste of 15 per cent or more, by weight, of the entire avocado, including the skin and seed if, at the time of cutting on a transverse cut through the blossom end of the specimen, at the base of the seed, such cut surface shows ten or less dark spots each having a diameter or length of one-sixteenth of an inch or less. Such damage **shall be** considered as causing a waste of fifteen per cent or more if such cut surface shows more than this amount of damage or any other evidence of serious damage from freezing such as discoloration of the flesh or other indications."

As a further aid to uniformity, a photograph was issued showing the cut surface of an avocado representing the limit of tolerance denned in the regulation.

For the next three weeks the effort of the inspection force on avocado standardization in the market was divided between attempts to see as much as possible of the fruit in dealers' hands, supervising the reconditioning of rejected lots and informing the wholesalers and retailers of the standards of tolerance. By February 14th it was believed that all wholesale dealers had been thoroughly informed and thoroughly warned and inspectors were then instructed to prosecute in every instance where evidence was sufficient to get a complaint. Prior to that time prosecutions had been

made of three flagrant cases out of a total of 46 violations found.

EFFECTIVE ENFORCEMENT

In the end, the effectiveness of enforcement in a market where a great amount of produce is handled depends not so much upon the volume of fruit inspected as upon the certainty of prosecution whenever a violation of law is found. The success of that policy results in a much more careful sorting of fruit by the handler than will be the case if he thinks he has a chance of keeping out of court when he sells a lot of bad fruit. He does his own inspection work and saves just that much time for the inspector to make other inspections.

There are two possible plans for dealers to follow; one is to attempt to pack and sell only a class of fruit that has no serious defects. Assuming a knowledge of the defects and proper supervision of the graders and packers, the handler who follows that program is never likely to find he has suddenly become a criminal for the tolerance allowed in the law for such defects is sufficient to allow for mistakes.

The second plan is to try and take advantage of every tolerance in the law. If five bad fruits are allowed in every hundred, then leave them in and sell them, just try to pick out the sixth bad fruit. If a tolerance of fifteen per cent injury is allowed in the individual fruit, then sell all the fruits that show 15 per cent injury or less so long as the buyer doesn't kick and if he does kick, all you have to do is prove that the fruit is legal and then you are all right. It is the adherents of this plan and those who are careless that get into trouble with a strict enforcement policy because they have left themselves no leeway for errors. Always they disclaim any intent to violate the law and insist upon clemency for the error if they get over the line.

EVIDENCE CAREFULLY SECURED

Aside from the strenuous plea put to the inspectors or commissioner to let this one case go by, it is a somewhat difficult matter to get into court at best. Discovery of a violation is easy—what comes next is the tough part of the job. First, the evidence must be carefully taken, the fruits both good and bad precisely counted to arrive at a percentage, a witness—preferably another inspector, should be on hand, the fact of packing, sale, offering for sale or whatever it may be must be determined, the person or persons responsible for the act must be known, the date, time and place must of course be noted, it must be known whether the act was done by a company or a partnership, if a company, then an officer must be named to appear for them. The city prosecutor or the district attorney, as may be, must be satisfied that the evidence is in proper order and must draw a complaint. Then finally, we are ready to go to court and try to prove that everything we say is true, is true beyond a reasonable doubt.

During February, Los Angeles county inspectors found 66 violations involving 3,453 flats (average 56 flats) and during March, 32 violations involving 816 flats (average 22 flats), a decrease of 50 per cent in the number of violations and 80 per cent in the amount of fruit, while at the same time the total amount of fruit marketed locally dropped 50 per cent. According to the Federal-State Market News Service the equivalent of

130,874 flats were sold locally while 65,366 were sold in March.

From the first appearance of frost damaged fruits about the middle of January to the end of April, county agricultural inspectors required reconditioning of 108 lots of fruit totaling 4,905 flats of which approximately one-half were thrown away in re-sorting.

During this same period eleven complaints were filed; three of them against wholesalers, six against operators of retail stands and two against peddlers. The courts gave careful consideration to all cases and showed considerable interest in the intent of the law to protect the consumer and recognized repeatedly the prime interest to the producer in the possible effect of the sale of fruit that would not satisfy the consumer.

100% CONVICTIONS

Nine cases were in Los Angeles; six before Judge LeRoy Dawson. Two were Long Beach cases before Judge Downs. Convictions were secured in every case with guilty pleas from all but three. One of these asked for a jury trial. Penalties were fixed according to the court's opinion of the flagrancy of the violation. In all cases but one with a \$50 suspended sentence, at least a part of the fine was collected in cash.

Three cases may be taken as examples of the various typical problems and conclusions.

The first complaint filed was against a wholesaler and was the only case that was tried before a jury. Inspection at a retail stand on February 9th, after the examination of 18 lugs and 13 flats of avocados disclosed from 75 per cent in some containers to 100 per cent of fruits in other containers seriously damaged by frost. Upon confirmation of the retailer's statement that the fruit had been delivered to him in that condition by a Los Angeles wholesaler, complaint was filed, finally coming to trial on March 12th. Taking a little more than a full day to be heard, the jury and court had plenty of opportunity to determine responsibility and decide whether the defendants (both the company and salesman were named) were familiar enough with avocados to know what condition the fruit was in when they sold it. The defendants were found guilty and each was fined \$50 cash.

SEVERAL CASES

In another case, a complaint was received that a truck peddler was selling bad avocados. A follow-up by the inspector found the peddler with a roadside truck displaying 5 lugs of avocados for sale. Nine-two per cent of the fruits were seriously damaged by decay, much of it undoubtedly due to frost. The peddler pleaded guilty but claimed that he had bought the fruit from a wholesaler and supposed therefore that it was all right for sale. The evidence indicated that it had been in his possession a couple of days and since there was some question about his being able to prove that he had purchased it from that wholesaler, the peddler was the only one named in the complaint. The court fined him \$50, suspending \$30 but the wholesaler voluntarily and "off the record" told us that he was giving the defendant the money with which to pay his fine. That is rather an unusual occurrence in our experience.

The third case was the prosecution of a retail dealer selling avocados at a stall in a well known centrally located Los Angeles retail market. The inspectors found 61 avocados, or approximately 48 per cent of the total of 126 avocados on display, affected by decay, disease and rancidity with 15 additional fruits, or approximately 12 per cent, seriously injured by freezing. The inspector purchased three avocados in order to have proof of the sale and out of the three, two were bad. Both the manager of the stall and the salesman on duty at the time of the inspection were named in the complaint. On arraignment, the manager pleaded guilty and the prosecution asked that the charge against the salesman be dismissed.

When these cases come before the court there is placed in his hands what is known as an arrest report. This gives briefly the previous history, if any, so far as enforcement is concerned, of the defendant. In this case the arrest report showed that on two previous occasions less than a month before the defendant had been warned to recondition avocado fruits he was offering for sale. He was fined \$100 or fifty days. Upon request of the defense attorney that part of the sentence be suspended because this was a first offense, the judge remarked that if two previous warnings did no good he was not going to suspend any part of the sentence so the fine of \$100 cash was paid.

NAME MORE THAN ONE

It is a usual thing in making complaints to name two or three parties as defendants; perhaps a retailer and a wholesaler in the expectation that the retailer may be used as a witness against the wholesaler if it is felt that he is the one who should really be held responsible. Almost invariably in the case of retail violations, both the manager and the salesman are named in the expectation that the case against the salesman will be dismissed if it proves that he can be used as a witness to fix responsibility upon the owner. Occasionally however, the offense is so flagrant that all of the several defendants are held to trial and found guilty. In one instance where three persons were actively concerned in the operation of a retail stand and two of them had each had previous convictions in 1936, all three were found guilty; the two who had had previous convictions were each fined \$250 with \$200 suspended and the third against whom there was no previous conviction was fined \$50 cash.

In another retail case where every one of the 60 fruits displayed for sale were severely injured by rot and where it was shown that a previous warning had been issued, the court fined the owner and the salesman each \$50 cash.

The consideration given these cases by the courts encouraged us to believe we were following a reasonable enforcement policy. There was no encouragement to take in cases on flimsy evidence or where responsibility could not be definitely fixed. While this situation undoubtedly results at times in our failing to bring cases to court because of lack of proof, even though we are certain in our own minds where the responsibility lies, it also results, we believe, in a much more careful consideration by the court of the complaints filed than if we were in the habit of rushing in on any pretext in order to make a showing.

COOPERATION ASSURES CONTROL

The support of the courts and the prosecuting attorneys and the good judgment of the avocado growers who voluntarily held back the greater part of the frost damaged fruit this year is all that made it possible to exercise any control through inspection. The law is still an experiment. Every two years many changes are made in standardization legislation with a view to improving its effectiveness. Since the freeze many suggestions have been made for changes in the avocado requirements.

An amendment has been introduced this year as Assembly Bill 1267 which changes the present tolerance for defects. The old law provides that avocados shall be "free from decay, disease, over-ripeness and rancidity" and free from all other defects that cause a waste of fifteen per cent of the entire avocado. The new amendment provides that the avocado shall be free from all defects that cause a waste of ten per cent or more of the entire avocado. This will increase the tolerance allowed for decay, over-ripeness and rancidity while it tightens the tolerance for freezing injury and other defects.

The amendment also changes the oil content provision to conform to actual inspection practice by excluding the skin and seed from the part of the avocado to be weighed.

Whatever amendments may be passed this session it would probably be well for growers' committees or groups interested in further changes to arrange meetings at the close of this marketing season to gather and apply a maturity test to the opinions ripened from this season's crop of new experiences.

President Barrett: Thank you, Mr. Ryan, for that very fine explanation of the experience we have gone through.