

this case are bad, as they contain more offences than one; and (3) that the information did not conform to the provisions of sec. 321, and was not sufficiently definite to enable the accused to plead thereto; and, therefore, the plea of "guilty" entered by the accused was inoperative and of no effect.

Upon the construction I am bound to put upon sec. 321, the information does not state an offence.

The offence charged is that of offering for sale, or exposing for sale, or having in his possession for sale, fruit (apples) packed contrary to the provisions of sec. 321 of the Inspection and Sale Act. After the prohibition contained in sec. 321, the rest of that section states the circumstances under which the offence may be committed. It mentions the acts which, if committed, will be proof of the offence.

With a statement such as there is—alleging an offence—it is too late, after a plea of guilty, to object. If the objection had been taken before the Police Magistrate, and before the plea of "guilty" was recorded, the information could, if necessary, have been amended. Section 321 creates at most three offences: (1) to sell, offer to sell, expose for sale, or have in possession for sale, packed fruit in closed packages, unless the packages are packed as provided in the Act; (2) if marked "Fancy Quality," it is an offence, unless the fruit is as described in the sub-section; if marked "No. 1 Quality," it is an offence unless the fruit is as described in the sub-section; if marked "No. 2 Quality," it is an offence unless the fruit is as described in the sub-section; (3) it is an offence if the faced or shewn surface of fruit packed gives a false representation of the contents of the package.

The information, according to this division of the section, discloses the first offence named—if it can be said that the section creates more than one—and I think the information discloses only one offence, and so is not open to the objection taken.

This falls within the decision in *Rex v. Macdonald*, 6 Can. Crim. Cas. 1, where the offence is only one, but which may be committed in one of several ways.

I have considered in disposing of this case the following, which I cite without further comment: Criminal Code, secs. 724, 852; *Rex v. James*, 6 Can. Crim. Cas. 159; *Regina v. Hazen*, 20 A.R. 633; *Regina v. Alward*, 25 O.R. 519.

The motion will be dismissed with costs.