



REGULATORY AFFAIRS

Gary Gnirss

A History of Food Law in Canada

This month Gary Gnirss begins a series of articles on the history of food regulation in Canada. In this issue he looks at the early years of regulation, from the late 19th century to early 20th century.

Food in Canada is celebrating 70 years – a span of time in which it bore witness to a considerable history of food regulation in Canada. However, the regulation of food in Canada predates our own confederation in 1867. In those early days the priority was the scarcity of food and the stability of prices for essential foods, including alcoholic beverages.

It was not until 1876 when the *Inland Revenue Act* (IRA) of 1875 came into effect. This Act, cited as “An Act to Impose License Duties on Compounders of Spirits and to amend the *Act Respecting Inland Revenue to Prevent the Adulteration of Food, Drink and Drugs*,” was Canada’s first consolidated effort to regulate the safety of food. In those days it was not uncommon for food and liquor to be adulterated. Great concern over the “evils of strong drink,” including adulterated liquor – often containing things such as Indian Berry (*Cocculus indicus*), table salt, copperas (ferrous sulphate), opium, Indian hemp, strychnine, tobacco, darnel seed, extract of logwood, salts of zinc or lead, and alum – prompted calls to ban alcoholic beverages. The political wisdom of the time diverted such pleas into a means to regulate the sale of safe alcoholic beverages and as an aside included adulteration of foods. Under the IRA, fines of up to \$500 and imprisonment of up to five years were possible depending on the particular type of offence. First-time offences of deliberate adulteration were more likely to result in fines of \$100 and/or imprisonment of six months, with or without hard labour.

According to a report issued by the Commissioner of the IRA, 50 per cent of all foods sold in Canada at the time were adulterated. In those days adulterated meant “all articles of food with which was included any deleterious ingredients or any material of less value than is understood by the name.” Almost all coffee and pepper sold was found to include things like roasted wheat. Milk was diluted with water or had the fat skimmed off. Tea often included sand, floor sweepings and starch. Chocolate in some cases did not contain any chocolate, just a compound of wheat flour and venetian red. Ginger and mustard were other foods that were also often adulterated. In April 1884 the House of Commons

passed the *Adulteration Act* (AA), “An Act to Amend and to Consolidate as Amended the Several Acts Respecting the Adulteration of Food and Drugs,” which furthered the regulation of adulterated food and drugs and for the first time defined “food” and “drugs.” It was also apparent at this time that in order for the AA to be more effective, food standards would need to be established. The first federal food standard was for prepared tea in 1894.

Pressure to develop food standards persisted, culminating in a report written between 1908 and 1909 by Dr. Anthony McGill, the Chief Dominion Analyst at the time. Several standards for food were then prepared in consultation with the Canadian Manufacturer’s Association and were promulgated by Orders in Council in 1910 and 1911. By 1913 standards for milk, milk products, meat, honey, maple products, fruits and vegetables, grain and grain products, vinegar, glucose products, vegetable oils, alcoholic and non-alcoholic beverages and flavour extracts were in force.

Canada’s shift to a more industrialized economy, and concerns over sanitary practices in food manufacturing, placed even greater pressure on regulating foods. Following the First World War in 1918 the authority for the *Adulteration Act* passed to the reorganized Department of Trade and Commerce. In 1919 the act was again transferred to the newly established Food and Drugs Division of the Federal Department of Health. Shortly after, in 1920, the *Adulteration Act* was repealed and replaced with the *Food and Drugs Act*.

This new Act was a milestone in a number of ways. The predecessor Acts, the *Inland Revenue Act* and *Adulteration Act*, were significantly influenced by British law, in particular by the *Sale of Food and Drugs Act* of 1875. By comparison, the new Canadian *Food and Drugs Acts* and the manner in which it was enforced looked much more like what had been evolving in the U.S. since the creation of their *Food and Drugs Act* in 1906. The new law not only addressed issues of adulteration, but also gave powers to officers to take samples to test for quality. Grading and inspecting products became mandatory, and false and misleading labelling was expressly prohibited. It was not until 1927, however, that the Act actually included drugs.

Gary Gnirss is a partner and president of Legal Suites Inc., a Mansfield, Ont.-based firm specializing in regulatory software and services. E-mail: president@legalsuites.com