**SALE OF FRUIT ACT AMENDMENT BILL 1935**

**Legislative Council, 27 August 1935, pages 402-3**

Second reading

**The Hon. A. P. BLESING (Northern— Minister of Agriculture)—**This Bill is similar to one introduced into Parliament in 1934 and makes a number of amendments to the Sale of Fruit Act, 1915, which experience has shown to be necessary for the proper administration of the Act. The Sale of Fruit Act, 1915, lays down the general principle that when fruit is sold, it is to be contained in a standard case. What is a standard case is defined in the schedule to the Act, the Governor being given power to make regulations altering the standards from time to time. The principal amendment effected by the Bill is contained in clause 3, and makes amendments to section 5 of the principal Act. This section lays down the general principle that all fruit sold is to be contained in a standard case, but certain exemptions from this requirement are provided. Thus, the requirements of the section do not apply to sales of fruit in small quantities, to fruit sold in baskets, buckets, casks, tubs, or punnets, to dried, preserved, and tinned fruit, or any fruit exempted by proclamation. Other exemptions are also provided. In 1921 an amendment was passed providing that there was to be an exemption in favour of fruit sold in bulk or by weight or measure in quantities of more than 5001bs. The purpose of this provision was to deal with the case of fruit delivered to factories for preserving purposes, and it was considered unnecessary to provide for the use of a standard case in such circum­stances. This amendment, however, has led to abuse, and the practice has now grown up of packing fruit in banana and other crates not permitted by the Act and

transporting it from the country to the city in this condition. In some cases oranges have been known to transported in a loose condition on the floor of lorries. If, however, the fruit is part of a lot more than 5001bs. in weight the present Act provides no regulation. The fruit in the instances mentioned was not destined for a factory but was ultimately placed on the market and sold in the course of the ordinary retail trade. Such practices are obviously contrary to the spirit of the principal Act, can lead to a deterioration in quality of the fruit sold, and may conceivably lead to abuses as to quantity. At the present time, also, there is an abundance of fruit cases available at competitive prices made from both imported and locally grown pine wood, and it is therefore felt that no hardship would be imposed by requiring fruit transported to be included in a standard case or in one of the other means provided by the Act.

Clause 4 therefore amends section 5, and provides that this particular exemption from the requirement to pack fruit in a standard case- is to apply in the following instances in lieu of a general exemption in favour of a lot of fruit of over 500 pounds in weight:

1. Fruit sold in quantities of less than 20 pounds in weight need not be packed in a standard ease. This is merely the present provision.
2. Fruit sold in quantities of more than 500 pounds in weight need not be so packed when it is sold for the purpose of being used for the manufacture of jams or preserves of any kind in any factory. This provision applies where the fruit is sold by weight, capacity, or number.
3. When fruit is sold in bulk in a lot of over 500 pounds in weight it need not be packed in standard cases when it is sold for the purpose of being used for the manufacture of jam or preserves of any kind in any factory.

It will be realised that this amendment does not alter the provisions of the Act permitting the sale of fruit in baskets, etc. or giving other exemptions from the obligation to pack in a standard case. The amendment will principally apply to the conveyance of loose fruit in bulk, and, unless the fruit is intended for jam, this is undoubtedly a practice which requires regulation. Clause 2 inserts a provision which is now common in State legislation. The principal Act deals with the ease of fruit brought into the State, and may therefore come within the purview of section 92 of the Commonwealth of Australia Constitution Act, which prohibits interference with interstate trade. Clause 2 therefore inserts a provision which has the effect that if at any time the High Court lays down that any part of the principal Act is ultra vires as being a contravention of the Commonwealth Constitution, the remainder of the Act will not be held to be invalid. Failing such a provision as this, an adverse decision may result in the whole of the Act being held to be ultra vires. I move the second reading.

The Hon. W. HANNAFORD secured the adjournment of the debate.