

MAGISTRATES (INTERSTATE ENFORCEMENT) BILL.

NOTES ON CLAUSES.

Clause 1. This is the usual citation and commencement clause. It should be noted that the Bill will not come into operation until a day fixed by proclamation of the Governor in Council.

Clause 2. This clause inserts a new section in the *Magistrates (Summary Proceedings) Act 1975*. The clause provides that a conviction or order under legislation of another State or Territory corresponding to Part II. of the Commercial Goods Vehicles Act may be registered by a court in the other State or Territory (a "reciprocating court") with the clerk of the Magistrates' Court at Melbourne. If it appears that a director is resident or present in Victoria, the clerk registers the conviction or order and gives notice of the registration to the director or directors by whom payment is required. This is to enable the director or directors, if they feel they have a defence under sub-section (9), to apply to the court for the registration to be cancelled. On the expiration of fourteen days from the registration of the conviction or order the clerk shall issue a warrant of commitment unless the fine is paid or the court otherwise orders. Provision is made for the clerk to note payments received and to remit payment of amounts received to the reciprocating court.

Sub-sections (8) and (9) are important in that they allow a director to apply to a Magistrates' Court for an order that a warrant of commitment be cancelled. The court may cancel such a warrant if the director establishes (1) that at the time the offence was committed, or the liability was incurred, he had reasonable and probable grounds for believing and did believe that the company would be able to meet any liabilities that it incurred at that time, and (2) that he had taken all reasonable steps in carrying on the business of the company to ensure that the company would be able to meet its obligations as they became due.

Clause 3. This section extends the definitions applicable to section 107 of the Magistrates (Summary Proceedings) Act to the new section, and incorporates a definition of "director" in the same terms as the definition of "director" in section 26A of the *Commercial Goods Vehicles Act 1958*.

Clause 4. Amends section 26A of the *Commercial Goods Vehicles Act 1958* to the same effect as is provided by sub-sections (8) and (9) of proposed section 107A. Its effect is to enable a director to exculpate himself from liability in similar circumstances to those set out in proposed section 107A (8).

Clause 5. Provides for a Schedule which lists the Acts of other States which correspond to Part II. of the Commercial Goods Vehicles Act.