



Speech by

Mr S. SANTORO

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YEAR 2000 INFORMATION DISCLOSURE BILL

Mr SANTORO (Clayfield—LP) (8.34 p.m.): One of the most immediate and pressing issues confronting the Australian community is the impact of the millennium bug, yet despite this fact I would suggest that very few people, except the most computer literate, would have a clue what the millennium bug is and what impact, if any, it will have on their jobs, their lifestyle or even their home computer. This Bill is just one measure designed to deal with this issue but, as the Minister knows all too well, it is just one of a number of tasks that have to be undertaken.

It is pleasing, nonetheless, to see speedy Commonwealth and State cooperation in dealing with the year 2000 problem, and in so far as this Bill is designed to assist in the responsible exchange of information to minimise the fallout of the millennium bug, it deserves and will get, as other speakers before me have indicated, bipartisan support.

Australia's Federal system creates some obvious obstacles for a unilateral and speedy response to this problem. Obviously, the Federal Government is in a position to legislate for certain key economic players, such as the financial sector and telecommunications. However, key utilities such as power and water are the responsibility of the States and Territories. Despite this, last December Ministers with responsibility for the year 2000 issue met with key representatives of the private sector to examine ways in which Australia would be better prepared to deal with the matter. The private sector was represented by companies of the stature of Qantas, Unisys, AGL and Telstra.

It is important to note in the context of this Bill that all participants welcomed the development of so-called good Samaritan legislation designed to facilitate the exchange of information. The meeting also agreed on the need for regular public disclosure of the state of

Y2K compliance of their own systems and the state of readiness of key supply sectors within each jurisdiction, including gas and electricity, as a way both of reassuring citizens and encouraging further private sector disclosure. All Governments agreed to provide quarterly public disclosures, and preferably on a portfolio basis.

With some assistance, I have accessed the Queensland Government Y2K Internet site and the April 1999 progress report is there for any interested person to read. I congratulate the Minister on his pledge that a public report on the progress in departments and essential services will be released each month for the rest of this year. Particular importance has to be attached to the progress made in the electricity, water and sewerage sectors, and I note that State Cabinet was due to get a report in May. I know that at a Commonwealth level some \$600 million is being spent to ensure that Federal agencies are Y2K compliant by the target date of July this year.

For the information of the House, I point out that Federal Cabinet receives quarterly reports on the state of readiness of its departments and agencies, and until April these reports were published on a portfolio basis but are now being published at an agency level in line with world's best practice. By April, 60% of Commonwealth Government business-critical systems were year 2000 compliant.

A report of the United States Senate, to which I will soon be referring, found that Australia, along with the United Kingdom and Canada, leads the world in terms of Y2K preparedness. But there are ongoing problems. A report of PricewaterhouseCoopers has indicated that, while business Y2K spending had increased by 47% over the past year, the average expected project completion dates had slipped from December 1998 to May 1999.

So there is a real and pressing need for all jurisdictions to provide extra assistance in terms of money and practical assistance to help business and Government entities to become Y2K compliant, and on top of that to facilitate the exchange of information. This is where a Bill such as the one we are now considering can have a positive impact.

I know that in the 1998 Federal Budget, year 2000 software expenditure, including on initial diagnosis, software modification, remediation and testing, would be immediately tax deductible. Information I have received from industry sources indicates that this has had a very positive impact for small businesses and is partially overcoming the time slippage that PricewaterhouseCoopers highlighted.

The Minister would also be aware that the Commonwealth, in conjunction with the States and Territories, has allocated around \$10m for a national industry awareness strategy which was launched last July. Under this Federal initiative a national inquiry hotline has been established, brochures printed, seminars held, web sites launched, national media advertising undertaken and a year 2000 register of products, systems, tools and service providers created.

I also welcome the initiative of the Department of State Development in issuing free workbooks to businesses to allow them to check their own systems for year 2000 issues. I am pleased to inform the House that I made inquiries and received some hundreds of those booklets which I am in the process of distributing to small businesses in my electorate. I can assure honourable members that the recipients of these booklets are very appreciative of the information they are receiving.

In the context of all of these diverse but positive developments, I have read the rather negative comments about national scheme legislation by the Scrutiny of Legislation Committee in Alert Digest No 5. The committee points out that really the only objectionable aspects of national scheme legislation incorporated in this Bill are the application of a limited number of Commonwealth terms and processes relating to the Trade Practices Act and the Australian Securities and Investments Commission Act. Having been a Minister who has attended intergovernmental meetings, I am fully aware of the need to balance national cooperation with the sovereignty of each State and its Parliament. As I said just a minute ago, the year 2000 issue is a matter of pressing concern around the globe and throughout Australia. This Bill is a positive attempt to deal with aspects of the problem. It is the product of sensible and appropriate cooperation between all Governments at all levels and of all political persuasions.

It is not my job to defend the Minister, but in this instance I think that the importance of this issue far outweighs the types of concerns that have been raised by the committee. If we are to have any real and practically useful form of cooperative federalism, then sometimes we have to have intergovernmental agreements. It is up to this Parliament to say yea or nay to the measures. We have that right and nothing in this Bill purports to affect that. The committee quite rightly leaves it to this House to determine if this Bill has sufficient regard to the institution of Parliament. In my respectful opinion, the answer is clearly in the affirmative.

I have some concerns about various aspects of the Bill, which I will outline, but I think that it is important not to obscure the fact that it is desirable for this Parliament to pass legislation to facilitate general disclosure and exchange of information about year 2000 issues. Although I do not hold myself out to be any computer expert—in fact, several of my colleagues and several members of my staff remarked with some surprise that I was speaking to such a Bill—it is my understanding that the millennium bug is, in essence, a date rollover problem caused by computer programmers abbreviating dates to two digits to save memory space. Therefore, 1998 would appear as 98, with no century stated, but 2000 would appear as 00 and will be interpreted by some older computers as the year 1900 rather than the year 2000.

Mr Connor: That's part of it, yes.

Mr SANTORO: As I said, I will leave it up to more expert members of this place, such as the honourable member for Nerang, to be a lot more lucid and explanatory about the millennium bug. I am just trying, particularly for the sake of some of the people who may read this speech and who may have an even less understanding of what we have—

Mr Mackenroth: Do you think people are actually going to read this?

Mr SANTORO: I will take the interjection from the Honourable the Minister. I was going to speak for far shorter than what I will speak. In fact, the honourable member for Moggill asked me, I suppose in an indirect way, why I was speaking. The reason I am doing this and what grabbed my interest is the fact that over the past month or so I have received something like seven or eight calls from businesses in my electorate who are concerned about the millennium bug. That then prompted me to ring the Department of State Development. I have their booklets and, as I mentioned previously, I am in the process of distributing them to the small businesses in my electorate. In a rather modest fashion, I may include with that booklet a copy of this speech just to let them know that I have expressed their concerns in the Parliament.

This glitch has an impact on older IBM compatible computers, software applications that use dates when performing some calculations and, critically, from the community's point of view, a potentially vast range of plant and machinery that have older chips embedded in their control systems. In addition, and the Minister can correct me if I am wrong, the date rollover problem can occur before 1 January 2000 for those applications that look ahead and calculate expiry dates, or after 1 January 2000 for those applications not recognising 2000 as a leap year. If nothing is done, what will happen on 1 January 2000 is necessarily speculation and, I should add, much of it is counterproductive speculation. However, it is pretty obvious that some systems may stop working and others may display the wrong date.

It would be interesting to know whether any members have heard the stories that all older cars with some form of computer chip will not be drivable after 1 January 2000. From the information that I have been given, with the exception of some earlier models of the Ford Falcon, cars manufactured since 1985 which have some form of computer chip, usually connected with electronic fuel injection, will not be affected at all. Although these cars have a clock function for the operation of the computer, it is not date related. In addition, I have been told that even the cars with a problem will not stop operating from that date.

Mr Connor: I hope the planes do the same thing.

Mr SANTORO: I take that interjection. I think that we are all hoping that the planes do the same thing. I certainly know that I will not be in one when the time comes.

So it is important to get things into perspective and not to think that the sky will cave in. Nevertheless, the millennium bug is a major problem. Last year, the United States Senate Special Committee on the Year 2000 Technology Problem reported as follows—

"Year 2K is about more than the failure of an individual's personal computer or an incorrect date in a spreadsheet. As one examines the multiple layers of systems and technologies that support our everyday lives, the potential Year 2K problems increase exponentially. The interdependent nature of technology systems makes the severity of possible disruptions difficult to predict. Adding to the confusion, there are still very few overall Year 2K technology compliance assessments of infrastructure or industry sectors. Consequently, the fundamental questions of risk and personal preparedness cannot be answered at this time."

The United States Senate report suggests that over 90% of American doctors' offices and 50% of small and medium-sized businesses have yet to

address the Y2K problem. Of particular importance to this Bill, the Senate report goes on to state—

"Companies are reluctant to report poor compliance levels. Fear of litigation and loss of competitive advantage are the most commonly cited reasons for bare bones disclosure. Although sharing Year 2K data could save time in companies' remediation and contingency planning efforts, such cooperation has not been forthcoming."

It was this basic lack of information sharing and disclosure that led the United States to pass the Year 2000 Information Readiness and Disclosure Act. The United States Congress has even passed the interestingly titled Crash Protection Act, which requires more meaningful Y2K disclosures by companies to shareholders. I should add that the Australian Stock Exchange is requiring regular Y2K reports from listed entities.

More controversially, over the past few months the American Congress has been debating legislation that would provide a 90-day cooling-off period for people suing companies because of computer crashes after 1 January next year. Fortunately, we have not reached the stage at which legislation, which would impede proper consumer redress, has to be contemplated. However, this move brings into stark focus the desirability of legislation such as this Bill, which is aimed at prevention by information exchange and proper information disclosure.

I turn now to the provisions of the Bill. The key clause is clause 9, which confers immunity from civil action upon persons in relation to legal liabilities that would arise from the making of a year 2000 disclosure statement. The content and nature of these statements are set out in Part 2 and, as would be expected, relate solely to year 2000 issues. At first glance the operation of clause 9, even though limited strictly to year 2000 disclosure statements, seems far too wide and potentially open to abuse. However, the Bill provides that the protection granted by clause 9 will not apply to statements that are false or misleading in a material particular or with respect to actions by consumers in relation to the purchase of goods and services. It also has to be appreciated that the protection granted by clause 9 is not with respect to damages that year 2000 crashes may produce; it is limited strictly to matters that flow from the making of a year 2000 disclosure statement.

Part 2 makes it clear that to be a disclosure statement, the document must include words to that effect and further that it is set out clearly in the document that a person may be protected under this Bill or a corresponding law from liability for the statement in certain circumstances. Usefully, the Bill actually sets out a form of words that can be used to satisfy those requirements. In addition, the time limit for this protection is limited

to 1 July 2001. I appreciate that this is a difficult area and that there is the scope for the rights of people to be limited by this provision and, indeed, that is partially the reason why it is being enacted. Nevertheless, one has to balance the public good that will flow from public disclosure with the risk that a very small proportion of the information disclosed may inadvertently cause some harm.

The one area that I am a concerned about is the retrospective nature of the Bill. The Bill will operate as from 27 February—the day on which the Commonwealth legislation commenced. The Scrutiny of Legislation Committee has sought information on the likely extent of any liability that would otherwise arise from 27 February. The committee has also sought information as to whether Queensland's intention to enact Y2K legislation was widely publicised and, if so, from what date it was indicated the legislation would take effect. Those are both important issues and the points made by the committee in the Alert Digest in that regard have significant weight.

I think that the retrospectivity element of the Bill will have limited effect. However, whenever Parliament changes the ground rules for litigation after the event, that always sends a very poor message out to the community. It would have been preferable had this Bill been effective only prospectively, and I hope that the retrospective nature of the legislation does not have a negative impact on the way in which it is viewed by the business community.

Before concluding I would like to raise a few issues about Y2K issues that I came across when reading the Queensland Government Y2K Internet site. I refer the Minister to the minutes of the meeting of the Agency Reference Group on 11 February. The Agency Reference Group is essentially made up of State public servants. The chair of the reference group is stated to be Arnold Daus and he is referred to as "AD" in the minutes. The first item I want to raise is under the heading "Attraction and Retention of Y2K Staff". The following comments are made—

"Concern was raised over the attraction and retention of Y2K staff. The group was advised that the Office of the Public Service (OPS) was preparing a general recruitment policy for IT &T. This policy would be available May/June 1999. In order to have OPS specifically address Y2K staffing issues a business case letter from the group together with sign off from all CEOs would be required. AD advised the group that this Department's DG is unlikely to support the proposal. Also, there appears to be insufficient time remaining this year to resolve the matter. No further action on this item."

I ask the Minister: what is the current status of recruitment of year 2000 staff? This item would seem to indicate that in February at least the matter was of great concern, but the matter was too hard to solve and had been relegated to the

bureaucratic wastepaper bin. Clearly if that is the case it is totally unsatisfactory, and I seek clarification on the status of this item. Specifically I want to know whether the director-general of the Minister's department was in fact not supportive of a comprehensive solution to recruitment of the type outlined and, if that is an accurate statement, what was the case?

The next issue is under the heading of "Management Reporting and Funding". In this paragraph the following information is set out—

"AD advised that the current agency reporting requirements for the monthly Cabinet Submission are being updated. The next monthly reporting cycle will require the identification of life critical and business critical issues. Guidelines will be issued to explain the changed reporting requirements.

Concerns were raised regarding the timing of the reporting arrangements. Representatives from DNR and Police questioned why business critical systems are not included in the Cabinet Submission.

The outcomes of the mid year review were discussed. Representatives from Emergency Services indicated that they have been unsuccessful in securing additional funding from Treasury. The general feeling was that little, if any, additional funding would be made available from Treasury as a result of the mid year review."

For a Government that has played up the importance of the Y2K problem, from the reading of those minutes, which are freely available, it would appear that there is no extra money to meet the needs of key departments such as Emergency Services to actually deal with the problem effectively. Everyone who has been in Government knows that mid-year reviews are rarely happy events for supplicant departments that are seeking more money from Treasury. Governments may come and go, but Treasury's use of the word "no" never seems to diminish. However, the Y2K problem is unique. It is a problem soon to be upon us. It is problem with a clearly identifiable time frame and with implications for our society that are immense.

Under this Government it would seem that there are departments—and again I seek ministerial clarification on this point—with real funding shortfall problems because they cannot get any extra funds to deal with this issue before 1 January next year, which is a matter of grave concern. I seek some comments from the Minister on this matter. I am sure that his heart is in the right spot, but obviously there are serious problems within the bureaucracy and funding is becoming a real problem. I seek some assurances from the Minister that departments will receive appropriate funding to avoid massive problems and that urgent steps either have been

taken or are being taken to prevent serious problems after 1 January next year.

In conclusion, I support the Bill and welcome this as another constructive and positive step in Commonwealth/State relations in general and in assisting business in dealing effectively with year 2000 issues in particular. I commend the Minister for his industry in relation to this issue.
