



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 3 April 2001

ELECTRONIC TRANSACTIONS (QUEENSLAND) BILL

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (12.59 p.m.): I move—

That the bill be now read a second time.

In order to increase participation in electronic transactions it is necessary for government to provide the community with the certainty that electronic transactions can be conducted with the same confidence as other traditional business transactions. Consumers and businesses need to be assured that their use of network services is secure and reliable. They need to be confident that they will be able to verify information about transactions and transacting parties, such as origin, receipt and integrity of information and identification of parties dealt with. Consumers also need to be assured that they have control over the collection and use of personal information and that mechanisms to address their concerns are in place.

Electronic commerce is now critical to the delivery of all government and private sector services. This bill represents the first step in providing the legal infrastructure to facilitate the growth of electronic commerce in Queensland. The Electronic Transactions (Queensland) Bill aims to remove any existing legal impediments to the use of electronic transactions. The bill is designed to ensure that a transaction is not invalid simply because it was effected by means of an electronic form of communication. It is intended that the act will provide a framework at the state level which will:

facilitate the use of electronic transactions;

promote business and community confidence in the use of
electronic transactions; and

enable business and the community to use electronic communications in their dealings with government.

In October 1998, the Standing Committee of Attorneys-General agreed to enact model electronic commerce legislation based on the recommendations of the electronic commerce expert group report and relevant articles of the United Nations Commission on International Trade Law model law on electronic commerce. The bill removes legal impediments to electronic commerce based on the principles of media and technology neutrality.

Mr Speaker, I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

This means that the law does not discriminate between different forms of technology and it treats paper-based commerce and electronic commerce equally.

The Commonwealth's Electronic Transactions Act 1999 received royal assent on 10 December 1999 and commenced on 15 March 2001.

Victoria, New South Wales, South Australia and Tasmania and the Northern Territory have already passed the uniform state and territory Electronic Transactions Bill.

This bill is not identical to the Commonwealth act, but closely mirrors the substantive provisions of the commonwealth's Act.

When enacted by the states and territories the uniform bill will differ in two important aspects from the Commonwealth's act.

Firstly, the Commonwealth's act has a two stage implementation process which has not been adopted in the uniform bill.

Secondly, it will apply to contract law.

All contracts in Australia are based in the laws of the states and territories.

The bill establishes the general rule that, for the purposes of a law of Queensland, a transaction is not invalid because it took place wholly or partly by means of one or more electronic communications.

The bill also provides that a requirement or permission under a law of Queensland for a person to provide information in writing, to sign a document, to produce a document, to record information or to retain a document can be satisfied by electronic communication, subject to minimum criteria being satisfied.

Those criteria establish objective tests that are based on criteria of reliability and reasonableness.

The bill also makes clear that conduct of electronic transactions will require the prior consent of parties.

That consent may be inferred from conduct or given subject to certain conditions.

The bill also contains provisions for determining the time and place of dispatch and receipt, and the attribution, of electronic communications.

Electronic commerce is also a catalyst for many dramatic changes such as internal organisational functioning, as evidenced by the rapid proliferation of intranets.

It is also facilitating a change in how governments deliver services.

An impact of this bill will be the need for a review of Queensland legislation to ensure that it is consistent with the underlying policy principles contained in the bill.

I commend the bill to the House.
