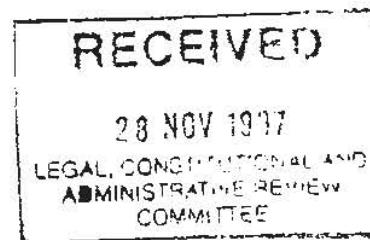


The Australian Family Association  
 Townsville Branch,  
 PO Box 70  
 Townsville  
 Queensland, 4810.



The Research Director,  
 Legal, Constitutional and Administrative Review Committee,  
 Parliament House,  
 Brisbane,  
 Qld 4000.

Sir,

On behalf of the Australian Family Association (Townsville Branch), I wish to make a few comments about the proposed bill of rights for Queensland.

1. For nearly 200 years there has been constant controversy over the validity of asserted Natural Human Rights coming right down to the basic difficulty of what is and what is not a Natural Human Right. Natural Rights are a series philosophical statements regarding the nature of man. Bentham - a major English philosopher - in his book Anarchical Fallacies published in 1795 characterised natural rights as "rhetorical nonsense - nonsense upon stilts". He contended that one can speak meaningfully of legal rights but not of "natural" rights.

2. Another aspect of human rights is that we have those rights as a natural consequence of living in a democracy. The word democracy comes from the Greek, demos, "the people", and kratos, "rule", and since the classical Greeks invented the word naturally we look to them for a definition. Aristotle (384-322 BC) in his book Politics defined democracy as follows:

A democracy is a state where the freemen and the poor, being in the majority, are invested with the power of the state..... The most pure democracy is that which is so called principally from that equality which prevails in it; for this is what the law in that state directs; that the poor should be in no greater subjection than that the rich, nor that the supreme power be lodged in either of these, but that both shall share it. For if liberty and equality, as some persons suppose, are chiefly to be found in a democracy, it must be so by every department of government alike being open to all; but as the people are the majority, and what they vote is law, it follows that such a state must be a democracy.

In your issues paper No.3, under 3.1 you have stated that common law does not provide voting rights. May I suggest to you that common law cannot survive in a non-democratic state. A typical example here is Singapore where common law has been completely

abused. Common law is a very delicate flower, it depends jointly on the independence of the judiciary, and on the total integrity of that judiciary. Voting rights, as indicated by Aristotle, are derived directly from the normal structure of the democratic state. All the Communist states have had voting rights, but the voting rights meant nothing because of the lack of democracy, the candidates being chosen by the ruling party. In a democracy, which has common law as its major legal foundation a statement on voting rights would be totally superfluous. As regard to your statement on privacy rights. If I want privacy I go to a lonely place.

3. The leading statement in 6.1 Arguments for a bill of rights is as follows:

Democracy is not simply the rule of the majority through their representatives in Parliament, but is also about effectively balancing the will of the majority with the rights of individuals and the interests of minorities .

This of course contradicts Aristotle's definition of a democracy where the power of the state is vested in the majority. It is in fact Anarchism or at least Political Pluralism, since the latter admits of the state having certain functions but for the rest the state governs itself through agreements in relation to "the rights of individuals and the interests of minorities". In other words here we have divided rights, whereas I had always been led to believe that human rights = natural rights = universal rights. In other words those rights which are human belong to everybody. There are of course administrative rights, for example: men have the exclusive right to use public urinals. Such a right does not conflict the rights of females whose plumbing arrangements rule out the use of a urinal. However the conferment of specific rights to special interest groups is irrational on two counts (i) it admits of the fiction that special groups have special rights (see above), and (ii) it inevitably leads to conflict. The solution here is to achieve any acknowledged equality through administrative procedures.

As I have suggested above, the whole concept of human rights is a very elastic and contentious topic. On behalf of the Australian Family Association (Townsville Branch) I wish to say that we regard all Bills of Rights with great suspicion, especially since we have a democracy, common law and the rule of law. It is true that the latter takes a bit of a battering now and then, but in the main it is adhered to, and that is all we need. We believe for the reasons given above that the last thing the State needs is a Bill of Rights.

Yours sincerely,

Edward McEvoy-Bowe (Branch President)