international instruments to which Australia is a party.

- Many of the rights and freedoms ordinarily contained in a Bill of Rights relate to matters which are exclusively a State responsibility.

The issues paper is not a report. It is intended only to inform readers generally and to identify particular issues on which submissions are being sought. A broad range of rights and freedoms for possible inclusion in any Bill of Rights is canvassed, from civil and political rights such as the right to life and its related issues including euthanasia, abortion and the death penalty, through to economic, social and cultural rights such as a right to work, to share in the resources of the State and marriage rights. The paper asks whether there are other rights than those included in its extensive list, which should be considered for inclusion in a Bill of Rights.

One of the earliest questions posited in the issues paper is whether the existing system in Queensland, based on common law protection of individual rights and freedoms, is in any case or situation inadequate to protect fundamental rights. The question whether any Bill of Rights should be enforceable, or whether it should be an unenforceable declaration of rights, is also posed. There is some discussion as well of possible changes in the role of the judiciary which might ensue if a Bill of Rights were to be introduced.

The paper has a very broad scope, giving in 250-odd pages a philosophical and historical background to human rights issues, concentrating in background matters naturally enough on Queensland, although a brief history of attempts by the Commonwealth and Victoria to give legal recognition to individual rights and freedoms is also included.

Examples of particular questions asked about possible rights are:

- If Queensland were to introduce a right to life, liberty and security of person, should the right to life allow for the possible reintroduction of the death penalty?
- Should any such right to life be worded in absolute terms, with express allowable exceptions for self-defence as in the European Convention, or should it be worded in terms of prohibiting the "arbitrary" deprivation of life?
- Should the prohibition of discrimination, if introduced, be subject to an exception for affirmative action programs designed to remedy social inequalities?
- Should the right to marry be given specific recognition? If so, should such recognition be limited to the right to marry a person of the opposite sex?
- Is the recognition of employment rights appropriate in a possible Bill of Rights, or is implementation and enforcement of such rights best left to the political process?

The review will culminate in the preparation of a report, which is expected to be presented to various officials in the first half of 1993. If you are interested in obtaining a copy of the issues paper, EARC can be contacted at:

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Paper on parliamentary scrutiny of delegated legislation

In May 1992, the "Papers on Parliament" series published by the Department of the Senate featured a paper entitled *Parliamentary Scrutiny of Quasi-legislation.* The author of the paper was Stephen Argument, the secretary to the Senate Standing Committee for the Scrutiny of Bills. The summary therein of the problems posed by the proliferation of quasi-legislative instruments both for parliamentary scrutiny generally and for role of the Scrutiny of Bills Committee is worth citing in full:

> "Parliamentary scrutiny is by no means a cure-all for the problems caused by quasi-legislative instruments. In some respects, increased parliamentary scrutiny is a two-edged sword. While many types of instruments clearly should receive greater scrutiny by the Parliament, the proliferation of such instruments lessens the Parliament's capacity to deal with them properly. In addition, Parliament has, to date, demonstrated an inability to come to grips with such instruments. The Senate Standing Committee for the Scrutiny of Bills continues to draw attention to provisions which, in its view, derogate from the primacy of the Commonwealth

Parliament as the supreme law-maker. Those concerns have not always been taken up by the Senate.

"The Committee will no doubt continue to draw the Senate's attention to these types of provisions. If the growth and use of quasi-legislative instruments is to be controlled it is incumbent on the Parliament to pay attention to the Committee's comments, to share its concerns and to act on its recommendations. However, from a practical standpoint, the capacity of the Parliament to adequately deal with an increased volume of legislative and quasi-legislative instruments must also be addressed."

The author goes on to look at possible improvements in this area, noting the importance of the Administrative Review Council's project on rule making. He states that:

"The project is significant for two reasons. First it serves to focus some much-needed attention on this area, which can only serve to heighten the awareness of what is going on. Second, the Administrative Review Council has asked all Commonwealth departments and agencies to identify their current practices in relation to instruments. Departments and agencies have been asked to supply details of the types, numbers and nomenclature of the instruments which they make as well as details of if and where they are published and how the general public can obtain copies.

"If the various departments co-operate with the inquiry, it should, at the very least, result in a comprehensive stocktake of quasi-legislative law-making in the Commonwealth."

Developments and other areas of potential change noted by Mr Argument include the greater centralisation of legislative drafting in the Office of Legislative Drafting within the Attorney-General's Department, provision for greater consultation prior to the making of quasi-legislation with parties likely to be affected by same (though he argues that consultation itself will not redress the problem of lack of accountability to the Parliament), and provision for more comprehensive publication of quasi-legislation. Each of these matters is covered in the final report of the Administrative Review Council's project, entitled *Rule Making by Commonwealth Agencies,* which was summarised in the previous issue of *Admin Review* and which is available through the AGPS.

Mr Argument's paper and others in the "Papers on Parliament" series are available from the Department of the Senate, Parliament House, Canberra.

Review of the Electoral and Administrative Review Act (Qld)

The (Queensland) Parliamentary Committee for Electoral and Administrative Review (the Committee), produced its report *Review of the Electoral and Administrative Review Act* on 9 July 1992. In the report the winding-up of both the Electoral and Administrative Review Commission (EARC) and the Committee by mid-1993 was foreshadowed, with the task set them by the Fitzgerald Report of 1989, of investigating and reporting to the Queensland Parliament on a range of electoral and administrative review projects, to be completed by then.

Among the reforms noted by the Committee as having been or proposed to be introduced as a result of that work were the:

- establishment of an ongoing, independent Electoral Commission of Queensland under the *Electoral Act 1992* to undertake future electoral redistributions;
- statutory embodiment of the right of citizens to peaceful protest under the *Peaceful Assembly Act 1992;*
- guaranteeing under the *Judicial Review Act 1991* the right of citizens to demand written reasons for administrative decisions affecting them; and
- establishment of the independent office of Information Commissioner to hear and determine appeals on citizens' access to government information.

In the report the Committee recommended the establishment of a Queensland Administrative Review Council (ARC) along the lines of the Commonwealth ARC which has been in operation since 1975. The Committee stated that the Commonwealth ARC was successful at a number of levels:

"Its reports present a comprehensive body of published research in the area