

Features

**Even young progressives don't want to give unelected judges more power**

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Janet Albrechtsen says Labor's youthful elite has turned against a bill of rights, voting it down last weekend

HERE'S a message literally out of left field. Young Labor, a group brimming with idealistic, progressive young men and women, has given the thumbs down to a charter of rights. Weren't these the sort of people who should be natural supporters of a charter, with all its fine-sounding talk of protecting human rights?

It turns out that the Young Labor colts have cottoned on to the fact that a charter of rights is an irrational, emotional agenda that has serious consequences for Australia's democracy. The adults -- those senior Labor MPs in Canberra who are working towards a charter of rights -- will not be pleased. Even more devastating, the elders' case for a charter of rights is being undone by a progressive case against one.

That's right. In an interview with *Inquirer*, Sam Crosby, the 25-year-old outgoing president of Young Labor, described how the progressive case against a charter convinced 60 per cent of delegates from Young Labor to vote against a charter of rights for Australia, at their annual conference at the Australian National University in Canberra last Sunday. "Overwhelmingly it was the progressive case that convinced them against a charter," he says. "Ultimately they were concerned that a future conservative Liberal government would be able to get hold of a bill of rights and distort it with seemingly innocuous things."

Delegates were concerned by such things as the right to property. Just about all Australians would agree that they have a right to property. "So they might insert a right to property into a charter and then a conservative judge may decide that the anti-clear-felling laws and environmental laws of various state governments go against that right," Crosby says. "It could be decided) that perhaps development applications don't need to be heard by council because individuals have a right to property, and the right to do with their private property as they please." That's why progressives should be concerned by a charter, he says.

Delegates were also concerned by the right to life. Again, he says, just about every Australian would believe they have a right to life. "But a judge could interpret that to mean that it takes away a woman's right to abortion. People, for the first time, really started to think about the deeper consequences of what a bill of rights could mean."

Crosby points to the situation in Canada. "The right to free speech means that tobacco companies can advertise as freely as they like due to the interpretation of an unelected judge. And it means the judiciary is increasingly politicised to the point where Canadians are now, for the first time, calling on judges to be elected, because judges are called on to make political decisions." This was no airy-fairy, feel-good love-in, says Crosby. They debated the transfer of power to judges and the ramifications for parliamentary democracy. "A charter transfers power away from elected parliaments to unrepresentative judges who don't have to account to anyone, who are not elected and who are largely unscrutinised." He says that Labor's entire history "is a belief in legislatures, in forming governments, in representing people in government. We are not a party that believes in handing massive swaths of power to judges."

While many Young Labor members pointed to the Howard government's sedition laws as a reason why a bill of rights would be a good idea, most delegates did not believe a charter was the answer. Instead, says Crosby, delegates were concerned about asking today's generation to

agree on a set of rights and values that binds the generations to come. `` Look at the situation in the US, where 200 years ago the founding fathers thought it was a pretty good idea to entrench a right to bear arms. They had just come out of a war of independence with Britain, and I'm sure 200 years ago that was probably a good idea. But ... if the founding fathers were sitting down today in the 21st century, they probably wouldn't include a provision allowing armed militia. And that's ultimately what we would be deciding if we entrench rights today.

`` You won't be able to take out a right that's been set down in a charter because then you'll be accused of taking away someone's rights. It's a terribly emotive subject and it invokes an emotional response from people. But it needs to be seriously thought through."

The AYL conference illustrates what happens when there is an honest and probing debate of an otherwise emotion-laden issue. Crosby says that a lot of the delegates were convinced by the arguments on the day. `` Ultimately most of the delegates decided that there were just too many questions surrounding a bill of rights."

He says the message to Labor seniors is clear. `` The importance of AYL, the peak decision-making body for Labor's 9500 young members, resolving against a bill of rights is that it's the youngest people in the community, including the people that AYL represents, who are going to have to live with this for the longest.

`` They're the ones who are probably not going to have much of a say in how this ... is going to be drafted. But they're the ones that are going to be stuck with it for the next 50 or 100 years. Both sides to this debate need to be given equal credence on this issue of a charter. These arguments really do need to be heard."

Let's hope the adults are listening to young voices in Labor.