SMOKE, NAILS AND BALLS

The Liberal Democrats' latest policies on smoking and the economy suggest the party has lost touch with any coherent principles, says Simon Titley

At first glance, there appears to be no connection between sado-masochists hammering nails through their genitals and the economic policies of Vincent Cable MP. Yet, in a strange way, these two diverse phenomena illustrate a fundamental problem facing the Liberal Democrats.

You may recall 'Operation Spanner', a police investigation into sado-masochistic encounters involving a group of gay men. To put it bluntly, these men liked nothing better than to hammer nails through each other's penises. These activities were consensual and were conducted in private for no purpose other than the achievement of sexual gratification.

Even so, several of the men were charged with a series of offences, including assault and wounding and, in 1990, three were sentenced to prison terms. In 1997, the case reached the European Court of Human Rights, where the men argued that government interference in someone's private life was not justified, but the court upheld the UK government's view.

You may find such a sexual practice revolting. That is not the point. As a Liberal, you must accept that what consenting adults choose to do to their own bodies is their own business.

In another context, in a debate on the Crime and Disorder Bill in the House of Lords on 22 July 1998, Conrad Russell set out an admirable explanation of the Liberal principles for deciding whether the criminal law was a proper instrument for discrimination.

"…the criminal law is designed to protect us against injuries inflicted upon us by others. I accept the legal maxim volenti non fit injuria (to a willing person there is no injury done), but it is not the purpose of the criminal law simply to say, 'I'm going to prohibit it because I dislike it'. It is not even the purpose of the criminal law to say, 'I prohibit it because I disapprove of it'… As soon as one says, 'I'm going to ban it because I think it is wrong', one is on a very slippery slope. The only valid ground for banning things is because they inflict harm on other people who do not wish it done to them."

So what on earth possessed the Liberal Democrats to vote for the anti-smoking motion at their spring conference in Southport?

To begin with, the motion ('Smoking in Public Places') stated as fact things about which medical experts disagree or are unsure. There is no doubt that smoking increases the risk of serious disease. The notion of 'passive' or 'second-hand' smoking, on the other hand, is based on dubious epidemiology and there is as yet no definitive evidence that it is a cause of disease.

The motion (correctly) states that, "The test of whether society is justified in restricting the liberty of the individual is whether that individual's actions cause significant harm to others." Despite the lack of incontrovertible evidence, the motion then baldly asserts, "In the case of the effects of second-hand smoke, the associated risks to health and damage to air quality are such that this test is clearly met."

The conference would have been on safer ground if it had simply stated that many non-smokers find smoke annoying. I am a non-smoker and have never been a smoker, and I find other people's smoke unpleasant, especially in restaurants. But there is a simple liberal solution, mutual tolerance.

Increasing numbers of restaurants and pubs have set up smoking and non-smoking areas. Many have become completely non-smoking. They have done so not because of any law or regulation, but simply because they have responded to customers' wishes. In short, it's good for business. Likewise, many workplaces can (and do) deal with the problem of unwanted smoke by setting aside special rooms for smokers.

But, just as most restaurants consider the control of smoke good for business, there are many back street one-room pubs where the majority of customers are smokers and there is no practical way of creating separate zones. Why legislate here when the only effect would be to drive such locals out of business?

By and large, the problem of smoking in public places and workplaces can be dealt with by a combination of commonsense tolerance and air conditioning. But no, the Liberal Democrats now insist on "legislation to make all enclosed public places smoke-free" and "legislation to make all workplaces smoke-free." The motion does not say how this will be enforced or how much it would cost to enforce.

This anti-smoking motion is disturbing for a number of reasons, not just the assertion of opinion as fact, the display of regulatory incontinence and the plain intolerance. Worst of all, it is a thinly disguised attempt at social engineering. Nanny state telling us what is good for us. Has it ever occurred to the delegates who supported this motion that, however much they may disapprove, other people are making informed choices?

Thanks to the health information campaigns and the dire warnings printed on cigarette packets, there cannot be a sentient adult anywhere in the UK who is not fully aware of the risks attached to smoking. Yet the percentage of adults that choose to smoke, though it has fallen to about 25%, stubbornly refuses to fall any further. Unable to accept this unpalatable fact, and frustrated by the diminishing returns of anti-smoking propaganda, the party instead chooses to punish smokers by making their lives more difficult. Conference delegates revealed themselves not as Liberals but as self-righteous prigs.

This is not the only example of the party indulging in busybody initiatives. On other issues, such as obesity and parenting, the party has been only too willing to support more government interference in people's lives, at odds with a supposed fundamental belief in the empowerment of people. Not only that, the practical consequences of such policies would be to increase state bureaucracy and waste public money.

While one section of the party is pursuing old-fashioned technocratic prescriptive measures, however, another is proposing to turn the clock back even further to the nineteenth century.

For reasons best known to himself, Charles Kennedy decided last year to hand over control of the party's economic policy to a cabal of right-wing MPs. I shall not rehearse here what is wrong with the strategy and policies of Messrs Cable and Laws – Andrew Toye has done that admirably elsewhere in this issue. Previous editions have contained excellent critiques by Alistair Carmichael MP (Liberator 291), Conrad Russell and again Andrew Toye (both in Liberator 290).

The intrinsic faults of this Thatcherite economic policy are only part of the problem. The other is that these policies are being imposed by sleight of hand. The policy paper 'Setting Business Free', which took the party's economic policy off in a new and unwelcome direction, was ostensibly adopted by the September 2003 party conference. However, the motion on which delegates actually voted was relatively anodyne and did not accurately reflect the more controversial aspects of the policy paper.

Likewise, the new eurosceptic stance declared by Vincent Cable in his press release of 8 April was effectively imposed on the party through the device of an ex cathedra statement.

When the Liberal Party moved towards a social liberal position in the early part of the twentieth century, it did so through a process of considerable thought and debate, not to say controversy. Green and Hobhouse laid the philosophical foundations; Lloyd George, and later Keynes and Beveridge, developed the practical policies. Now, apparently, the Liberal Democrats are making equivalent fundamental policy changes on the flimsy basis of one MP's press release.

Such sleights of hand will prove counter-productive, since they will tend to reinforce hostile prejudices within the party rather than encourage a very necessary debate. The left of the party does need to reconsider many of its shibboleths. Demographic change will make the party's bottomless spending promises on pensions and healthcare unsustainable within the next ten or twenty years. The failure of state bureaucracies means the party must end its knee-jerk defence of the interests of public sector professionals.

Open debate is a prerequisite of such a reassessment, to test ideas and win consent from the party members who are expected to campaign on the basis of party policy. But to have such a debate requires party members to have a coherent sense of purpose that can come only from possessing a moral and philosophical core.

Far from having a basic understanding of Liberal values, however, the party works itself into a lather about other people's personal choices, while apparently content to let the Treasury team take diabolical liberties with the party's strategy and policy.

The fact that the anti-smoking motion was passed with blind enthusiasm, and that Vincent Cable's nutty economic policies can sail through with barely a whimper, suggests there is an ideological vacuum at the heart of the party. Ideology is not about 'purity' but is about having a coherent set of values.

Establishing these values will not happen spontaneously but requires leadership from the parliamentary party in general and the party leader in particular. Instead, Liberal Democrat MPs are dividing into two factions, a so-called 'left' that is defending a form of social democratic managerialism, and a 'right' that invokes the name of Gladstone to defend a form of Thatcherism.

I wonder, have any of them ever considered Liberalism? You must remember, it's the one ideology that somehow manages to combine individual freedom with social justice. It's internationalist. It's successful wherever it is put into practice. And I understand that it's quite popular.

Despite this, it is obvious that many Liberal Democrat MPs don't like Liberalism. My advice to them is, don't knock it till you've tried it.

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