EVIDENCE SUBMITTED TO THE POLITICAL AND CONSTITUTIONAL REFORM SELECT COMMITTEE

Prepared by The Constitution Society for the APPG on the Constitution

September 2010
The following summary has been prepared to assist the APPG on the Constitution. The salient points highlighted are those which the Constitution Society believes to be the most relevant. It does not purport to be an exhaustive list. The full evidence is available to view here: http://www.parliament.uk/documents/commons-committees/political-and-constitutional-reform/voting-parliament-reform/PVSCB-Memoranda-070910.pdf
Lewis Baston, Democratic Audit

- The 2 provisions of the Voting Systems and Constituencies Bill (i.e. AV referendum and constituency boundaries) are constitutionally separate. The arguments relating to each proposal are entirely different.
- The interests of maximising participation in the referendum are best served by a combined election day. This will also reduce administrative costs.
- A more democratic process of deciding the question for the referendum, such as the Citizens’ Assembly system developed in Canada, would be preferable to the pre-selection of two options but the provision of a referendum is nonetheless positive.

Professor Robert Hazell and Mark Chalmers, The Constitution Unit, University College London

Combining the referendum date with local and regional elections:

Advantages:
- Reduced administration costs
- Increased voter turnout
  - There is evidence for this internationally (e.g. from New Zealand)

Potential disadvantages:
- Differential turnout: This is not a concern. There is differential turnout in all elections. It is important that there is equal opportunity to vote, whether people decide to or not.
- One issue overshadowing the other: the elections could potentially overshadow the referendum. This highlights the need for public education about referendum issues.

Voter education:
- The Electoral Commission has an important function in educating voters about referendum issues. They must be given adequate resources to do this. (Importance seen from comparison of Canadian and New Zealand experience).
- Lack of public awareness tends to favour the status quo.

New Economics Foundation (nef)

Criteria for judging electoral systems:
1. **Equality**: offering all voters equal electoral power.
2. **Proportionality**: ensuring that the value of all votes is equal.
3. **Responsiveness**: Citizens should have access to a responsive representative.
4. **Independence**: Representatives should have an appropriate degree of independence from the party hierarchy.
5. **Transparency**: The electoral system should provide a signal of voters’ preferences, without distortions such as tactical voting.

Problems with FPTP:
- Voters in marginal seats have more electoral power than those in safe seats.
- It encourages tactical voting.
- It is disproportionate, leading to overrepresentation of larger parties and under representation of smaller parties.

Advantages of AV over FPTP:
- All voters given the opportunity to show their political preference via their first vote, without sacrificing their political power.
- It will reduce the number of safe seats.

Continued problems under AV:
- No change to responsiveness, independence or proportionality, and not sufficient progress towards equality.

Referendum procedure:
- The question should be decided by citizens. E.g. in a citizens’ jury.

http://www.re-constitution.org.uk
Denis MacShane MP
- Proposal for AV already defeated in Britain (Labour 1929-31).
- Churchill argued against it because the least popular candidate can overtake the most popular, as a result of transfer votes.
- There is no perfect electoral system. AV generates stability of Sweden and instability of Israel.
- Benefit of FPTP is regular alternation of power (Britain since 1945 has seen Labour rule 30 out of 65 years).

Dr Graeme Orr and Prof K D Ewing

**Explanation of AV:**
- Under AV, voters rank candidates. If no candidate gains 50% of votes in first count then the least popular is eliminated and their subsequent preferences distributed, until one candidate gains a majority. AV is therefore majoritarian.
- Closely associated with Australia, used for national elections there since 1919 & now in six out of eight State and Territory lower houses.
- Developed in 19th century as variant of STV. First recommended in UK by a Royal Commission on Electoral Reform in 1910, included in (Labour) government bill 1930.
- Same logic as second ballot systems, but cheaper to administer.
- AV will maintain the dominance in the UK of the three major parties, though will probably improve representation of Liberal Democrats.

**Main benefits of AV over FPTP:**
- More electoral choice. Less sentiment of wasted votes from minor party supporters. Less simple tactical voting. Potential improved turnout as voters feel votes are more salient.
- Improved sense of legitimacy of outcomes (though arguably elects the least disfavoured, rather than the most favoured).

**Types of AV** (how many preferences are electors required to express):

1. **Minimum of one preference - optional-preferential voting (OPV)**
   - gives voters maximum choice, no need to rank candidates about whom they are indifferent
   - suits the UK's system of voluntary voting
   - used in lower house elections in New South Wales and Queensland
   **Problems:**
   - makes results less majoritarian – can result basically in FPTP if most voters only express 1 preference.

2. **Full set of preferences (rank all candidates)**
   - Australian national elections and three states
   - ensures winner has 50% of all votes
   - forces voters (especially those that support minor parties) to choose between major parties
   - better suits Australia’s compulsory voting system
   **Problems:**
   - gives more power to parties as voters are more likely to follow their suggestions for vote distribution
   - increases number of wasted ballots (causes more mistakes)

3. **Two preferences (‘supplementary’/ ‘contingent’ vote)**
   **Problems:**
   - doesn’t prevent tactical voting
   - doesn’t ensure winning candidate has 50% support
   - doesn’t improve voter choice

http://www.re-constitution.org.uk
Impacts of AV (taken from the Australian case)

a) On electors

Wasted votes (informality):

- Greater choice means greater complexity, which means more wasted votes.
- FPTP has very low levels of informal votes.
- Informality hits hardest constituencies with lower levels of education/higher levels of non-English speakers.
- Informality will initially be worse in the UK, as the new system is introduced.

- Informality not to be over-exaggerated. It is a regulatory problem (needs education and good ballot design), not a fault of AV. OPV also reduces informality.

b) On parties

- Changes campaign culture. Marginal seats become determined by preference flows. The party machines become more powerful as preferences become the subject of intra-party deal-making.
- New power of parties articulated in ‘how-to-vote’ material = impressions of ballot papers ranked as the party suggests, distributed to electors outside polling stations.

Issues with referendum law

- The question should ask voters to rank FPTP, AV and PR. As is, it is likely that FPTP supporters will unite with PR supports in order to defeat the ‘compromise’ option of AV.

- Policing campaign funding limits. Official campaigns have £5m limit. Tories also have £5m, Labour and Lib Dems have £4m. Third parties can spend £500 000. Unlike elections, this expense does not exclude general information about the referendum, or newspaper/periodical articles. Thus newspapers can only spend £500 000 providing information/advocating a position, and they must follow a registration procedure first in order to become a permitted participant, otherwise they can only spend £10 000.

Richard Pond

- Referendum on AV is welcome, though should offer voters a wider choice (e.g. NZ gave choice of 5 systems in 1992 referendum), or give voters the choice of a system chosen by a citizens’ assembly (e.g. British Columbia)

- Richard Pond supports system of AV+ (keeps single-member constituencies while giving more proportional results than FPTP or AV)
  - If AV introduced 2011, there should be a second referendum within 10 years, offering the choice to switch to AV+.
  - AV+ should use open lists and be regionally based. Northern Ireland could elect using STV instead, as in elections to the European Parliament.

Further electoral reform

- If AV is introduced, FPTP should also be replaced:
  - By AV and STV in local government elections
  - By AV in Mayoral elections
  - By AV+ in the Scottish Parliament, Welsh Assembly & London Assembly

http://www.re-constitution.org.uk
Dr Michael Pinto-Duschinsky

Referendum issues:

- May 2011 is too early to permit proper debate. It will advantage the pro-reform camp because they are already better mobilized than the pro-status quo groups.
- Holding a constitutional referendum on same day as regular election is against democratic principle.
- Matters of constitutional change should require more than a simple majority.

- Problems with PPERA 2000:
  - Spending limit of third parties (£500 000) has not been increased to reflect inflation.
  - The Electoral Commission is not able to determine which groups are separate and which are branches of the same organisation (and therefore who should be allocated the £500 000 spending limit).
  - Allocating the ‘official’ campaign groups (and associated funding limits) is complicated and the Electoral Commission should be advised on how to do this.
  - Need clarification of length of period during which expenditure is counted, and what expenditure counts for permanent bodies e.g. Electoral Reform Society.
  - Reporting procedure needs to change as spending violations could become apparent only after the referendum.

- Problems with the neutrality the Electoral Commission:
  - First chair, Sam Younger, then became the chief official of The Electoral Reform Society.
  - The current chair previously campaigned in favour of reform.

Arguments against AV:

- Electoral reform is not a logical reaction to the public outcry at the expenses scandal (as it is being sold to be).
- Removing FPTP would weaken voters as they would lose the power to remove an unpopular government.
- AV would be a step towards PR.
- The Liberal Democrats would always hold the balance of power.
- AV would aid extremist political parties.
- AV (& the subsequent move to PR) would encourage ‘cartel’ politics - the position of a politician within their own party would be more important than their relationship with the voters.
- That MPs have 50% support under AV is an illusion. Preferences are not the same as ‘support’.
- AV is not common for lower house elections (only Australia, Papua New Guinea and Fiji). There is little understanding of its implications for the UK party system.
- AV could seriously damage the Labour party if the Conservatives and Lib Dems decided to fight the election as a coalition.
Britain is now a multi-party system and continuing with FPTP will only reduce further the number of MPs with local majority support. Change in the system could begin to rebuild parliamentary legitimacy.

- 1955 – Most MPs had majority local support and in most constituencies there were only Labour and Tory candidates.
- 2010 – Few MPs win majority support. Usually parties other than the Tories and Labour have more than 20% of the vote.

There has been a consistent trend for growing support of ‘other’ parties. Nothing suggests that this will be reversed therefore we should change the electoral system to reflect it. The likely outcome of this development is a multi-party competition situation where virtually no MP has majority support.

What is AV:

AV:

1. elects a single office holder
2. in an instant run-off fashion
3. by counting multiple preferences.

The referendum question does not specify enough the type of AV under discussion (i.e. the number of obligatory preferences).

Voters should be given the chance to choose which system of AV they would prefer.

The numerical ranking of candidates makes it incompatible with most existing British voting systems and creates problems with holding Westminster elections on the same day as other elections. Planning would be necessary to avoid confusion when a voter is confronted with more than one electoral system.

Possible implications for other voting systems of adopting AV for Westminster:

1. Greater likelihood of STV being adopted in the Lords.
2. More likely adoption of STV for local elections in England and Wales
3. Likely adoption of numerical preference systems for English (including London) mayoral elections.

Lord Lipsey

AV+ is not practical while also reducing the number of MPs as it would require a further reduction in the number of constituency MPs to create spaces for list members.

Advantages of AV:

- 50% support for MPs improves legitimacy
- Greater voter choice
- It is a consensus option for those in favour of greater reform and those who wish to maintain the status quo.

David A. G. Nowell

If voters do not have to express all preferences then winning candidates under AV will not necessarily receive 50% of the vote.