

Electoral Reform Society Wales
Evidence to All Wales Convention

SUMMARY

- 1 Electoral Reform Society Wales will support any moves that will increase democratic participation and accountability. Regardless of whether a referendum is held and of what its outcome might be, we wholeheartedly welcome the All Wales Convention – engaging communities in constitutional debate and raising awareness of Wales’ political options are essential to strengthening democracy.
- 2 Our expertise is in voting systems and elections and how they impact on democracy.¹ This is just one part of the devolution settlement, but we believe a crucial one. We have therefore largely confined our comments to this area.
- 3 In response to question 2 of the Convention’s consultation paper, we commend the architects of the original devolution arrangements for introducing a proportional system (AMS) for Assembly elections. This has directly led to an Assembly:
 - a) that better reflects the people of Wales and provides a more authentic voice for Wales than would have been the case if FPTP had been used;
 - b) in which the size of each party’s representation more closely reflects the support they have in the country;
 - c) In which parties have needed to work more closely together.
- 4 However, devolution would have better served the people of Wales if a better voting system had been used. At present:

¹ For a brief summary table of different voting systems see appendix at the end of the Evidence. For further information see *Britain’s Experience of Voting Systems* (Electoral Reform Society: 2007), also available at www.electoral-reform.org.uk/downloads/experiencesofelectoralsystems.pdf; on Wales in particular see pages 9-12, 56-78.

- a) The two categories of members created by AMS have led to frictions, confusion and political bickering.
 - b) The party list section of AMS has unnecessarily given parties powers that belong to voters.
 - c) Under AMS, too many votes are 'wasted'.
- 5 The ERS recommends that a change to STV is the best available means for resolving these problems, as it would mean:
- a) The voters have a greater say in who is elected.
 - b) No politicians could be accused of being somehow less legitimate than others.
 - c) Constituency work – something voters see as an essential part of their AMs' work – would be more clearly the responsibility of all politicians.
 - d) Most importantly, there would be greater accountability.
- 6 The Society does not have a view on extent to which powers should be devolved, but the more power that is devolved, either under Part 3 or Part 4 of the 2006 Government of Wales Act, the greater will be the need for a change to STV.
- 7 Voting is the primary act of political participation. Reform of the voting system would create the conditions for wider engagement, greater accountability, and a stronger democracy. We argue that any reform of the National Assembly of Wales that does not include a better voting system would be incomplete.

EVIDENCE

1. Electoral Reform Society Wales

1.1. The Electoral Reform Society welcomes the opportunity afforded by the establishment of the All-Wales Convention to submit evidence on the status and process of devolution in Wales. We are grateful for the opportunity to illustrate how electoral arrangements promoting proportionality have been vital for the National Assembly of Wales's legitimacy and effectiveness. We are also grateful to be able to make the case for further reform, and to again make the case for an Assembly elected through the Single Transferable Vote (STV) system.

1.2. Founded in 1884, the Electoral Reform Society is the oldest organisation in the world concerned with electoral systems and procedures. We are a research and campaigning organisation, making the case for the use of Single Transferable Vote (STV) voting systems in elections in the UK and promoting measures to strengthen democracy. Alongside the Society's permanent staff, it has members and supporters from across the political spectrum.

1.3. The Society has produced authoritative analysis of elections and procedures at all levels of the UK polity, including Assembly and local elections in Wales, and it has provided evidence to both the Sunderland and Richard Commissions. The Society has an office in Wales.

1.4. Many of the Society's concerns lie outside the direct purview of the Convention, in that the Society has no view on the necessity (or not) of further devolution of powers to the National Assembly. However, the Society does recognise the democratic value of bringing decision-making closer to people and of greater transparency and accountability to the electorate. This paper responds to two consultation questions, questions 2 and 5 respectively.

2. Response to Consultation Questions under Heading 2:

- ***Can you give examples of where devolution has produced results that, in your opinion, better serve the people of Wales than would have been likely or possible before devolution?***
- ***Can you give examples of where devolution has not produced results that, in your opinion, better serve the people of Wales than would have been likely or possible before devolution?***

2.1. The original White Paper on devolution in Wales, *A Voice for Wales*, on which basis the 1997 Referendum was fought and won, carried this commitment: 'The electoral system will reflect the diversity of modern Wales and ensure fair representation for all areas and all parties.'²

2.2. The use of the Additional Member System has gone a long way towards fair representation:

- a) It has produced broadly proportional results, rewarding all parties for their support, whereas if Assembly membership were based on constituency results alone, the Assembly would have been dominated by a single party (in spite of it having less than a third of the votes in 2007);³
- b) It has given all major parties some representation in all regions of Wales;
- c) The Conservative membership of the Assembly, in particular, would be far lower than at present, and far lower than their percentage of the vote, owing to the fact that they have a consistent percentage of the vote spread fairly evenly across Wales.

² Welsh Office, *A Voice for Wales* (London; Stationery Office: 1997), para. 4.3

³ In the 2007 Assembly election Labour won 31.5% of the votes and gained 43% of the seats under the AMS system. Had the elections been conducted under FPTP the bias to Labour would have been further exaggerated: Labour would have won 60% of the seats (see Hywel Nelson *Welsh Assembly Election 3 May 2007: Report and Analysis* (Electoral Reform Society: 2007), p 15; Also available at www.electoral-reform.org.uk/downloads/Welsh%20Assembly%20report-5.pdf)

2.3. Devolution has therefore allowed a measure of proportionality in Welsh elections that was not hitherto available, making Welsh politics fairer and more representative and giving a far greater legitimacy to the Assembly than could have been possible under FPTP.

2.4. However, although a great improvement over FPTP, AMS has been far from a complete success. Its disadvantages, as noted by the Richard Commission, are:

- a) it creates two types of AM with overlapping responsibilities.
- b) the freedom of candidates to stand as constituency and regional members was 'seen as a weakness'⁴
- c) the closed party list reduces voter choice in favour of party control.
- d) regional members often have less contact with voters than constituency members
- e) there is evidence that the dual voting system causes confusion
- f) there is little incentive for parties to campaign in safe seats, since regional AMs represent the party rejected in the first ballot. This influences turnout and public interest.
- g) in the FPTP ballot for constituency seats, many votes are 'wasted', often contributing only to larger majorities giving no additional advantage to the party winning those votes.⁵

2.5. The Commission also asked the question 'what alternatives are there to the present system?'⁶ The Commission dismissed FPTP (or one of its variants such as the Supplementary Vote (SV) or Alternative Vote (AV)) as indefensible, as it would damage the representativeness and legitimacy of the Assembly, as well as accountability, scrutiny and debate.

⁴ This is the wording in the Report itself.

⁵ In the constituency ballots 78% of votes did not help to elect a candidate – i.e., they were 'wasted votes' either cast for a losing candidate or were surplus to the number of votes that the winner needed. In comparison, in the Scotland local elections conducted under STV, taking first preferences only, 74% of the voters have a councillor whom they elected; and this ignores all the all the second preferences from the remaining 26% which contributed to electing councillors (see Lewis Baston, Local Authority Elections in Scotland 3 May 2007: Report and Analysis (Electoral Reform Society) p 68; also available at www.electoral-reform.org.uk/downloads/Scottishlocalgovernmentreport.pdf).

⁶ Richard Commission Report (2004), p 225

2.6. It did, however, look positively at STV as an alternative to AMS, advocating between 4-6 member-constituencies to share Westminster boundaries by linking two or three constituencies. This would allow for proportionality within the system, which was the important step taken with the statutory demand for fairness achieved in the AMS system. It would also answer all of the criticisms of AMS outlined in paragraph (2.4).

2.7. The Commission summarised STV's advantages over AMS as threefold:

- a) all Members would have equal status and share the same relationship with constituents;
- b) the majority of votes would count and there would be no such thing as a wholly safe seat – giving all the parties an incentive to campaign in every constituency;
- c) there are opportunities for greater representation of minority interests.

2.8. The ERS concurs with the Richard Commission's analysis, and agrees that STV is the best alternative by far to AMS.

2.9. However, the ERS disagrees with the Richard Commission's assertion that 'if the Membership [of the Assembly] were to remain at sixty, this problem [of dual mandates for members] might not be sufficient in itself to justify a change of electoral system'⁷ on the grounds that:

- a) STV excels over AMS for all the reasons of voter choice, minority interest and others already mooted, and that the Welsh people deserve the best system, whether or not the Assembly has more members or not;
- b) the dual mandate exists, and will continue to be a problem, whether or not there are more members. While other factors of more powers or more members may exacerbate the problem further, the tensions are already there. They can be dealt with easily by a change of the voting system to STV, with the boundaries formed as advised by the Richard Commission.

⁷ Ibid, p 238

2.10. The GoWA 2006's ban on dual candidacy merely reflects the continuing inherent problems of AMS without resolving them (the ban was opposed by both ERS and the Electoral Commission, while the Arbuthnott Commission in Scotland, looking at the same problem, concluded that a ban would lessen democracy by restricting voter choice).

3. Response to Question 5: Retaining current arrangements or giving the Assembly power to legislate on all devolved areas of policy?

3.1. The extent to which legislative power is devolved to the Assembly is not a matter on which the Society has a view (although we believe that democracy in Wales would be better served if the people of Wales were given the power to choose voting systems for Welsh institutions). For us the question is whether the choice of option has any implications for electoral arrangements.

3.2. As noted above, we disagreed with the Richard Commission in that it made its recommendation of a change to STV conditional on an increase in the size of the Assembly (an increase they felt would be required if its powers were to be expanded). Whatever the powers and size of the Assembly, its democratic effectiveness would be enhanced by a move to STV.

3.3. We do, however, see a danger that the faults of AMS might be accentuated if the Assembly were to acquire greater powers. Casework has been an important part of politicians' work – it provides them with insights into constituents' problems, it can strengthen links with local communities and services well rendered can generate publicity and political support. It is not surprising that a system such as AMS, under which most casework demands go to constituency members (of whom the majority are Labour) rather than regional members, can lead to frictions. An increase in the powers of the Assembly may increase the scope and scale of casework undertaken by AMs and the problems thereby exacerbated.

3.4. Increased powers for the Assembly, whether acquired incrementally under Part 3 or in one step through a move to Part 4, must come with a recognition that greater powers bring greater responsibilities. A movement to STV would make sure that those responsibilities are shared equally in a transparent way between members, and that the Welsh people have a greater say in who bears the weight of those responsibilities – and indeed a greater power to kick out those who do not.

3.5. Many follow the Richard Commission in arguing that if devolution were to move to Part 4, the capacity of 60 members would be limited, and there would most likely be a need for an increase in members to 80. If this were to happen under AMS, the number of Regional List Members would surely increase, exacerbating further the tensions already outlined, and the problems of different mandates for different members.

3.6. The result of Assembly elections would be more proportional with more list members under AMS (assuming that the existing 40 constituencies are retained). However, as stated by the Richard Commission Report, 'on proportionality grounds alone, the choice between AMS and STV is not clear-cut'; rather, the other advantages outlined, over and beyond the advantages of proportionality that both systems share, are the reasons why STV excels over AMS.

3.7. The Society therefore concurs with the Richard Commission's assessment that:

'an increase [in Assembly Members] achieved by raising the regional Membership would be likely to exacerbate the problem – we do not think the AMS system could carry the weight of such an increase...if the number of Assembly Members is to increase we recommend that, on balance, the STV system is the best alternative to the present system'⁸

3.8. If the devolution settlement were to remain as it is at present, the case for a change in the electoral system remains compelling. The ERS concurs with

⁸ Richard Commission Report, p 239

the Richard Commission's analysis on why STV excels over the current system and is the only viable alternative. The Welsh people deserve a system that is the fairest, most transparent, and gives the voter the greatest possible say in who runs our national institution.

4. Conclusion

4.1. The 2006 GoWA concerns the democratic powers of the Assembly, and the different options therein. In considering the options presented by the Act, we cannot ignore the democratic process that gives the Assembly its legitimacy. The introduction of a modestly proportional voting system for Assembly elections in the original proposals has been one of the successes of devolution, and one on which Labour must be commended for democratic values before short-term party advantage

4.2. However, although AMS is greatly superior to the FPTP system, experience has shown that it has its defects. These have been noted by the Richard Commission which, like the Sunderland Commission which looked at local elections in Wales, recognised that the problems could be overcome through the use of STV.

4.3. If the Assembly is to further its original intent to be 'an Assembly which is democratic, effective, efficient and inclusive'⁹, then the voting system must form part of any discussion. If we want to create the conditions to further active participation, the prospect of higher turnouts, and an elected body in which all the members (and, indirectly, the parties) have an equal mandate, then STV must form part of that agenda. If the movement towards further powers is to also result in a mature, fair and substantive democratic politics in Wales, then STV must be a vital part of the framework of achieving this commendable objective.

⁹ National Assembly Advisory Group (NAAG), *National Assembly for Wales: A Consultation Paper* (April 1998), para. 1.3

Appendix

System	Description	UK Application
First Past the Post (FPTP)	FPTP voting takes place in single-member constituencies and the voter simply puts a cross in a box next to one candidate. The candidate with the most votes in the constituency wins.	Westminster Parliamentary elections and English and Welsh local government elections
List systems	Political parties produce lists of candidates for election in multi-member constituencies. Lists can be 'open' or 'closed'. Open lists mean that voters can indicate their preference for a candidate within a list, whereas with closed lists voters simply vote for the party as a whole.	"Closed" lists are used in the European Parliamentary elections in England, Scotland and Wales
Additional Member Systems (AMS), also known as Multi Member Proportional (MMP)	Electors cast two votes, one for a constituency representative under FPTP and one for a party list which allows a certain number of seats to be allocated proportionally.	Scottish Parliament elections, Welsh Assembly elections, London Assembly elections
Single Transferable Vote (STV)	Voters fill in a ballot paper marking 1,2,3 etc against the candidates in order of preference. Counting takes preferences into account and elects the most popular candidates to represent multi-member constituencies.	Northern Ireland Assembly elections, Local Government elections in Northern Ireland and Scotland.
Supplementary Vote (SV)	Voters mark a X against their first preference and another X against their second preference. The winning candidate must either get a majority of first preferences, or be	London and Local Mayoral Elections

	the leading candidate after second preferences have been counted.	
Alternative Vote (AV)	AV uses preferential voting like STV, so voters mark their ballot paper 1,2,3 etc. However AV is used when there is only a single position to elect.	Not currently used in UK public elections