

# *Opportunity for coordinated electoral reform*

*Denis Mollison, March 2018 : This paper aims to set the case for changing the electoral system for the Scottish Parliament in a wider context.*

A window of opportunity has opened up, in which it is possible we could greatly advance electoral reform, replacing the present confusion of 3 different systems with one fair voting system - STV - for all elections within Wales and Scotland. However, this is only likely to happen if there is sufficient support for change. Also, at present, the details of what is being suggested vary considerably between the two countries. Discussions between those involved could improve the quality of reforms and, more importantly, make it more likely they will actually happen.

Recent bills have devolved to Scotland and Wales full responsibility for their internal elections, at both council and parliament/assembly level. As the Scottish Government's *Programme for Government 2016/17* put it: 'Control over both sets of elections opens up new possibilities for democratic renewal and putting the voter first.'

A number of initiatives - consultations, reports and bills - have started in both countries (see Appendix A). In Wales, the adoption of the Single Transferable Vote (STV) is being considered for both council and assembly elections, along with votes at 16 and various issues concerning election procedures. In Scotland, similar issues concerning electoral procedures are under consideration, along with refinements to the STV council electoral system building on experience since it was introduced in 2007. What is missing, oddly, from the Scottish consultation is any mention of the election system for the Parliament.

These initiatives open up a vision in which all three devolved nations share a common approach to 'democratic renewal and putting the voter first'. [Northern Ireland already uses STV for both council and assembly elections.] Achieving that vision requires two things. First, a mutually supportive attitude across parties to make full use of the opportunity: as the Welsh minister, Alun Davies, put it: 'when we look at how we reform and deepen our democracy, I believe that we have to be bold and radical, and not conservative, and look and embrace change'.

Second, better coordination is needed between the various initiatives. It is already clear that the general approaches are quite similar, but that there are many specific issues where rather different solutions are being proposed (see Appendix B). The time is thus ripe for collaborative discussion among the devolved nations, so as to share ideas on the best solutions to their quite similar situations; such solutions could also influence future reform in England and at UK level.

Collaborative discussions now would also make it more likely that this unique opportunity to set standards of best practice in electoral reform is not missed.

## **The case for STV over AMS**

In recent years several commissions have considered and compared STV with AMS, in all cases coming down more or less emphatically in favour of STV. A notable example was the British Columbia Citizens Assembly in 2004. In the same year the Richard Commission (2004), considering the Welsh Assembly, gave three main reasons for preferring STV to AMS:

- all Members would have equal status and share the same relationship with constituents;
- 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;
- there are opportunities for greater representation of minority interests.

To these could be added the considerable advantage of having the same system for parliament/assembly elections as for council elections; Northern Ireland already uses STV for both, and I do not know of anyone arguing that AMS is suitable for council elections.

The one major reason in favour of STV that Richard omits is the position from the voter's viewpoint. With STV there is minimal incentive to vote tactically, and in particular independent and minority candidates do not get crowded out because of fear that one's vote will be wasted. The great majority of voters will see their first preference candidate elected.

In contrast, AMS suffers from various tactical problems, and has a basic structure that most voters do not understand. Thus most voters view the constituencies as the important contests, despite the fact that the system is designed with the intention that constituency results should not influence the distribution of seats between parties. Normally if a constituency changes hands, with the list votes remaining the same, the result is just that list candidates swap places with constituency candidates - the party totals remain the same.

The only exception to this is when a constituency outcome could result in an "overhang", that is where a party wins more constituencies than its list vote justifies: there was only one overhang in 2016, in Mid Scotland and Fife. To give one example in detail: in 2016 the seat of Edinburgh Central was hotly contested, with Ruth Davidson (Con) narrowly defeating the SNP candidate. This result made no difference to the fortunes of the Conservatives, nor those of Ruth Davidson: if she had failed to win this constituency she would have been returned as a list MSP. However, because winning the seat would have given the SNP an "overhang" in the Lothian region, they did not get a list seat in compensation; and it was the Green party's second candidate, as being next on the list, that was the beneficiary, not the Conservatives. Also in Lothian, the Labour party were in close competition in 3 seats of which they won one; but whatever combination of those 3 they had won they would have ended up with 3 seats overall in the region: the difference would have been that all the seats gained would have been at the expense of the senior politicians (Kezia Dugdale, Neil Findlay and Sarah Boyack) who headed their list.

## **Designing an STV system for the Scottish Parliament**

Given the general public's liking for wards and constituencies respecting local ties, the obvious way to draw boundaries for an STV system for the Scottish Parliament is to respect council boundaries. This is one of the two options for Wales put forward by the McAllister Report.

Many councils would have an entitlement of 3-7 MSPs, and thus could form individual multi-member constituencies. Smaller councils could be grouped together (e.g., perhaps, Midlothian and East Lothian, or Stirling and Clackmannanshire, in each case probably with 4 MSPs); while the few largest councils could be divided into 2 or 3 constituencies each. As in the Islands Bill, special allowance could be made for isolated and sparse areas; in particular, given the special circumstances of the Western Isles, Orkney and Shetland, and that each at present have effectively 1 7/8ths MSPs, it would seem reasonable to allow them 2 MSPs each, thus avoiding (highly disproportional) single-member constituencies.

Similar considerations as to flexibility in seat numbers and parity would apply to parliamentary constituencies as I have suggested elsewhere ('Community-centred democracy: fine-tuning the STV Council election system') for councils. However, because overall proportionality is particularly important on the larger scale of a Parliament, it would probably be appropriate to have 4-7 member seats for densely populated areas, reserving 3-5 (and exceptionally 2) for rural and isolated areas.

A scheme on these lines, using the same general approach of giving priority to fitting natural communities, would result in a joined-up system, in which community council areas or similar form the basis for council wards, and council areas the basis for parliamentary constituencies.

## Appendix A: Recent/current initiatives

### Scotland: Consultation on Electoral Reform (2017-18)

A Scottish Government consultation, announced in December 2017, closes 29 March 2018:

<https://consult.gov.scot/elections/electoral-reform/>

The consultation document covers a wide range of topics, from how often elections should be held to gender balance. It includes proposals to improve the STV system for councils by tackling the ballot-order problem and by allowing 2 or 5 member wards. It does not mention the option of changing the electoral system for the Scottish Parliament, although further consideration of this ('after two more elections') was called for by the Arbuthnott Report of 2005.

### Scotland: Islands Bill, 2017-18

A Scottish Government Bill, introduced by the Cabinet Secretary for Rural Economy and Connectivity on 9 June 2017:

<http://www.parliament.scot/parliamentarybusiness/Bills/105168.aspx>

Its electoral reform component proposes allowing 2 or even 1 member wards in island areas.

### Wales: *A Parliament that Works for Wales* (December 2017)

A report by the Expert Panel on Assembly Electoral Reform, set up by the Elin Jones AM, the Llywydd (Presiding Officer) of the Assembly, and chaired by Prof. Laura McAllister of Cardiff University: [http://www.assembly.wales/en/abthome/about\\_us-commission-assembly-administration/panel-elec-reform/Pages/Assembly-Electoral-Reform.aspx](http://www.assembly.wales/en/abthome/about_us-commission-assembly-administration/panel-elec-reform/Pages/Assembly-Electoral-Reform.aspx)

The remit of the Panel was to advise on:

- the number of Members the Assembly needs – it recommends an increase from 60 to 80-90;
- the most suitable electoral system – it recommends STV provided this can be done in a way that promotes gender balance; and
- the minimum voting age for Assembly elections – it recommends reducing this to 16.

The Report has 255 pages, and makes many detailed recommendations. On 7 February 2018 the Welsh Assembly voted to put the McAllister Report proposals to a public consultation, which will close on 6 April.

*Note* STV for the Welsh Assembly, and increasing its size to 80, were previously recommended by the Richard Commission (2004).

### Wales: two consultations on council elections, Jan-Apr and Jul-Oct 2017

There were two Welsh Government consultations on local government reform in 2017, both introduced by the Cabinet Secretary for Finance and Local Government, Mark Drakeford AM. The first of these was Reforming local government: Resilient and renewed:

<https://consultations.gov.wales/consultations/reforming-local-government-resilient-and-renewed>

This consulted on a wide range of electoral arrangement issues, including a proposal to use STV for council elections, but suggested this might be an option for each council to decide for itself. Responses preferred STV to FPTP by a fairly narrow majority, but were overwhelmingly (33-2) against the idea of making it optional.

The second consultation was 'Electoral Reform in Local Government in Wales':

<https://consultations.gov.wales/consultations/electoral-reform-local-government-wales>

This only offered that STV should be an option for each council to decide, thus flagrantly ignoring the responses to the first consultation.

*Note* STV for Welsh council elections was also recommended by the Sunderland Commission (2002).

## **Commission on Parliamentary Reform (2016-17)**

This Commission, chaired by John McCormick, was focused on the development of the Scottish Parliament and ‘how well placed it is to deal effectively with its enhanced policy responsibilities’: <https://parliamentaryreform.scot/>

However, a number of its consultees commented on the size of the parliament and its voting system, and the report suggest that these are issues that may need to be considered.

## **Law Commission project on Electoral Law (2016)**

<https://www.lawcom.gov.uk/project/electoral-law/>

There has been a recent for the reform of electoral law from the Law Commissions of Scotland, England, Wales and Northern Ireland – electoral law in the UK has grown to be complex, voluminous and fragmented.

## **Northern Ireland**

Northern Ireland uses STV for European, Assembly and Council elections. Most recently (2017), the size of its Assembly was reduced from 108 to 90, by reducing the number of members for each of its 18 constituencies from 6 to 5.

## **Appendix B: Issues**

The McAllister Report (referred to as ‘Wales’ below) and Consultation on Electoral Reform (‘Scotland’) vary considerably in the issues they consider significant, and where they do consider the same issue often come up with rather different proposals. This suggests strongly that discussions between those involved in the two processes could lead to improvements in both.

**Districting** As to number of seats in a ward/constituency, Wales proposes 4-5 or 4-6; favours a minimum of 4, thinks variability in number a bad thing. Scotland uses 3-4, proposes increasing variability, perhaps allowing 2 or 5. There is also the choice between giving priority to natural communities or to parity in drawing up boundaries; this is not discussed, but Wales implicitly comes down in favour of the former, while practice in Scotland has so far followed the latter.

The relation between electoral districts at the two different levels is not discussed in either Wales or Scotland. There would seem to be significant advantages for both voters and representatives in matching the two, by basing assembly/parliament constituencies on council areas (this is presented as a second-best option in Wales, because of the perceived disadvantage of variability in seat numbers).

**Remote/rural/deprived areas** Wales suggests that remote/rural/deprived areas might be allowed greater representation; Scotland proposes allowing 1 or 2 member wards in island areas (Islands Bill).

**Order of names on ballot paper** Recognised as a major issue in Scotland; not mentioned in Wales.

**Gender balance** Recognised as a major issue in Wales; mentioned in Scotland, but with no specific proposed action, though gender balance is significantly worse there (35% in Scottish Parliament, 29% in Scottish councils, as against 45% in Welsh Assembly.).

**By-election rules** Wales proposes using ‘countback’ from previous general election results. This would be a major difference from all other STV implementations in the UK (or in Ireland), and the disadvantages do not seem to have been properly considered.

**Electronic counting and STV rules** E-counting is already used in Scotland, and is recommended for Wales. Wales discusses some options for the precise STV rules, including the WIG rules used in Scotland. However, now that e-counting is well-established it would be possible to use the conceptually simpler Meek STV rules, whose advantages include getting rid of the anomaly that candidates can get elected without reaching the quota.

It would also be possible to allow voters to give equal preference to candidates. This would be a welcome addition to voter choice, and could reduce spoiled ballots, especially where voters wish to express equal preference for candidates of the same party.

**Electronic voting** This option is considered in both countries. Among its advantages, it would make it easier to deal with the ballot order problem.

**Other issues** Both the McAllister Report and the consultation in Scotland consider a wide range of issues not directly related to the voting system. These include: votes at 16 (already implemented in Scotland), improvements to voter registration, and providing electoral information online, including candidate statements.