SCOTTISH INDEPENDENCE REFERENDUM BILL

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Note in support of spoken evidence given to Referendum (Scotland) Bill Committee meeting 9th May, 2013.

Willie Sullivan as the Director, Field Operations was the ‘Responsible Person’ on the designated Yes campaign ‘Yes To Fairer Votes’ during the 2011 Alternative Vote Referendum 2011 conducted under PPERA. He is now the Director Scotland of the Electoral Reform Society.

Learning from AV Referendum and Scottish Independence Referendum Bill

1 Campaign Period and Controlled Referendum Period

The period of less than a year from proposal of a referendum in the UK coalition agreement in May 2010 to holding a referendum in May 2011 was far too short for public awareness to be raised to the necessary level for a proper, in depth and informed debate to be had. This is particularly true for a second order issue such as Electoral Reform.

Due to ‘parliamentary delaying tactics’ in Westminster the AV referendum Bill was not passed until 17th February 2011. This meant that campaigns may have taken significant risk in committing expenditure i.e. to print freepost etc without knowing if they would be designated or not

It is a positive that this referendum will have had a longer lead in and awareness raising period and that completion of the referendum bill and designation of campaigns and permitted participants should happen long before the referendum period.

2. Campaign Finance and Expenditure

Expenditure in the AV referendum, including all parties and permitted participants for the Yes campaigns was approx. £2.3 million and for the No campaign approx. £3.5 million. This expenditure was well below the limits set by PPERA but reflects the ability of the subsequent campaigns to raise funding. This of course reflects the relative advantage for a campaign that defends the status quo and therefore the sets of interests that have benefitted from existing conditions. The No campaign was largely funded by very wealthy individuals such as Hedge Fund Managers and the Yes campaign was funded through NGOs and trusts of longstanding campaigns for change.

The lower limits proposed within the current bill and the more equal fund raising position of the campaigns mean the potential of wealthy interests being able to influence the referendum outcome are mitigated. However as there is no need to report expenditure made prior to the referendum period
consideration should be given to ensuring this period is as long as practicably possible.

2.2 Public Funding

PPERA allows public funding up to £380k each for campaign administration. This was nowhere nearly fully utilised during the AV referendum because of the prohibition of its expenditure on actual campaigning. Such public funding combined with lower spending limits may in future be useful in ‘levelling out’ the funding advantage of ‘anti change’ positions.

**Therefore the failure to allow any funding of this type in this referendum sets an unwelcome precedent.**

2.1 Reporting of Donations

During the AV campaigns the question of who was funding who and how much was highly contested and became a campaign issue/tactic. There was no legal requirement to publish donations until well after the election. The No campaign made a show of publishing campaign donations but it became apparent after the referendum that they had selectively published donations.

**This seems to be addressed by the requirement to publish donations during the referendum period**

3. Informing the Citizens

It is often thought that a ‘laissez faire’ attitude to citizen information is enough in referendum and election campaigns. That is leave it up to the parties and campaigns to inform the voters. This raises a number of issues.

a) The electoral incentive of campaigns to exaggerate, mislead and misinform voters. There is even a disincentive for campaign to challenge their opponents claims because a ‘fight’ over a damaging claim only serves to highlight that claim.

b) Highly sophisticated segmentation and targeting of the population by political campaigns. So relying on campaigns to message for example people who have never voted before is naïve. They will target ‘likely to vote swing voters’

c) The declining resources of the print media and broadcast media having an impact on their ability to fully scrutinise the debate.

d) The failure of this approach up to now. Representative democracy if not facing crisis is facing a huge loss of legitimacy. Survey after survey blames political parties. They are untrusted.
The All Wales Convention set up in 2007 as a precursor to the 2011 devolution referendum was a partially response to these sorts of concerns and was charged with travelling the country raising awareness of the referendum issues. (Richard Wyn Jones might say more)

### 3.1 A Proposal

Unlike the PPERA referendum there is no public money given to campaigns. The Scottish Parliament should consider giving money to a third party agent or coalition of agents to facilitate local community led discussions across Scotland. Facilitated by trained ethical volunteers in deliberative democracy (of which there is a growing network across Scotland) to allow communities concerns and question to be raised that could then be addressed by the campaigns.

This would allow citizens and communities to help frame the coming debate instead of allowing small groups of elites to frame the discussion and expect citizens to engage on terms already defined. This would set Scotland up as a world leader in democratic innovation without any risk to the referendum.

**W. Sullivan**

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