**Scotland’s constitutional future**

**A submission from the de Borda Institute**

**Introduction**

On page 17, you ask, “What are your views on the question or questions to be asked in a referendum?” Your own views suggest, “The UK Government’s view is that there should be a single, straightforward question,” (p 17) but, in the present scenario where there are (at least) three options ‘on the table’, that is an oxymoron.

Complex topics cannot be best dealt with if the question asked is based on an Orwellian dichotomy. They can, however, be considered in a more sophisticated format, and this submission will concentrate on just this theme.

**Precedents**

The British Government has been here before. In 1948, it suggested that the people of Nova Scotia should have a two-option question. Many of them, however, disagreed because they wanted a third option. As a result, a three-option ballot was held under the two-round system, (trs). The consequent level of participation was high: an 88% turnout was achieved in both rounds, with figures of 14%, 41% and 45% in the first round, and 48% and 52% in the second. To all concerned, it is probably correct to say that the said methodology was considered to be both “fair” and “decisive”.

Other countries have also held one or more multi-option ballots, usually under one or other form of trs. They include New Zealand (her first was actually in 1894), Chile (1925), Finland (1931), Uruguay (1958), Singapore (1962), Puerto Rico (1967), Australia (1977), Benin (1990), and Switzerland (many times). One noteworthy case was again in New Zealand in 1992, where on the basis of submissions from the public, a Royal Commission drew up a first round ballot of five options, prior to a second round between the winner of round one and the *status quo*.

**Scotland**

For reasons unstated, your paper does not consider preference voting. You accept that there is the possibility of two questions, but you then react somewhat irrationally by suggesting, “If these two questions were asked together, there would be four possible outcomes, and potentially four different campaigns,” (p. 19). This would not be the case if a three-option preference vote were to be held. Granted, there would be more than three ways of voting,[[1]](#footnote-1) but there would almost certainly be only three campaigns.

The outcome of such a preferential vote would be no less “decisive” than that of a two-option ballot. The chances of such an outcome being “fair”, however, are greatly increased.

You make reference to last year’s referendum on the UK’s electoral system, the outcome of which was indeed “decisive”. Many, however – not least any supporters of a proportional system, as well as many New Zealanders – would question the fairness of such a binary vote in what was so obviously a multi-option debate. To ask a carnivore if they would like beef or lamb may be fair enough; for the vegetarian, however, such a *closed* question would be little short of a disenfranchisement.

In your defence, you say, the two questions posed in the Scottish Government’s 2010 consultation on a draft Referendum Bill are “two entirely separate constitutional issues,” (p. 19). Not everyone would agree. More to the point, however, is the fact that the two options suggested for the referendum – independence and ‘devo-max’ – are indeed related.

**Conclusion**

British Governments of both persuasions have always been reluctant to discuss multi-option voting. For other peoples, Westminster sometimes legislates for one or other of the more sophisticated voting systems. On decision-making, there is the case of Nova Scotia mentioned above; on electoral systems, London insisted that the Irish (1920), the Germans (1949) and the Guyanese (1962) should all have a form of pr. For the UK electorate, however, governments invariably revert to a single-preference system: majority voting in decision-making and first-past-the-post in elections. Even in those post-conflict jurisdictions where a form of power-sharing is essential, as in Northern Ireland, the government still insists that any referendum has to be a two-option poll. The only mitigation lies in the fact that this blind spot also applies to many in both the media and academia.

If you were to consider multi-option referendums,[[2]](#footnote-2) and especially one that was preferential,[[3]](#footnote-3) much of the suspicion that many people have – North and South of the border, many people believe that governments in both Holyrood and Westminster are trying to adjust (the timing and) the wording to suit their own purposes – would be dissipated.

The better methodology, then, would be to allow an independent, dedicated commission (not the Electoral Commission) to listen to public submissions and, on this basis, draw up a balanced list of probably three or four (but definitely not more than six) options; and then to let the people cast their preferences, as and how they wish.

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26.1.2012

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1. In a three-option referendum, there would be six different ways of voting; in the current Scottish scenario, however, there would probably be only four single-peaked rankings. [↑](#footnote-ref-1)
2. It is worth recalling that in earlier times, the snp was in favour of a more pluralist procedure: “Only a multi-option referendum allows the people – and not Westminster – to answer the ‘Scottish question’.” *A Multi-Option Referendum – let the People Decide*, May 1992, p. 1. [↑](#footnote-ref-2)
3. The methodology most likely to lead to an accurate outcome is, we would suggest, the Modified Borda Count (mbc). [↑](#footnote-ref-3)