

**There will be no early second referendum on Independence.**

**Why building a consensus matters if Scotland is to be an independent state.**

On the whole, a simple majority (50% + 1 vote) works for democracy including referendums. It has the great merit that all voters understand and usually accept the result.

One exception is the constitutional referendum where some countries and states require a supermajority sometimes as low as 55% more often 60% or even 67% majority before the result is valid and the change adopted.

The supermajority is designed to protect the constitution from sudden popular whims and scheming leaders and to demonstrate the proposed reform has achieved some degree of consensus before adoption.

[Unlike the UK, these countries have codified constitutions which make obvious what counts as constitutional. But even in the UK, recognising the constitutional nature of Scottish independence is not difficult when compared with the proposed EU referendum.]

A supermajority would have prevented the creation of the Welsh Assembly in 1997 when only 50.3% voted for it. It was not challenged because even that low figure represented a sea change in opinion from the big No vote in the earlier devolution referendum in 1979.

In contrast, the referendum in 2011 gave the same Assembly direct legislative power with a consensus of 64%.

If Independence had scraped home in 2014 with a narrow win say 52%, the Scottish Government would have opened negotiations with HMG on the basis of the *Edinburgh Agreement* without the consensus that backed the referendums on the Scottish Parliament in 1997 (75%) or the Good Friday agreement in 1998 (73%) or routinely supports independence in the referendums held around the world since 1945 (usually well upwards of 70%).

By these comparisons, independence failed rather badly. Their campaign was designed to win a simple majority referendum not build a consensus for independence. Despite two years and all the resources of the Scottish Government to help produce the White paper its 680 pages lacked answers in

key areas. In what is the world's longest referendum campaign, independence gained a tranche of new enthusiastic support but no great new consensus.

A supermajority would have forced a different approach to the electorate dealing with arguments not avoiding them. The *'hope V fear'* strategy with its emphasis on emotion took them in substantially the wrong direction for consensus building. It suited the temperament of Alex Salmond whose hallmark is gliding brilliantly over detail and induced in some supporters a revivalist fervour that swept all risks aside but it intimidated others and failed to engage let alone convince many of the practical utility of independence.

The patent lack of consensus would have given the Scottish Government a weak hand in negotiations despite the offer to involve others in the negotiations. As these progressed more and more difficulties quite apart from the oil price might have become apparent. Public opinion would have started to regret its narrow decision in favour and the demand for another second referendum *ratifying the deal* would have arisen.

The Scottish Government would have quickly found a nation lacking consensus does not easily make a new state. This is the lesson that young SNP enthusiasts need to understand.

A supermajority is intended to forestall these kinds of difficulties.

A supermajority is transparent to every voter. With a 55% supermajority, the 1979 Scottish devolution referendum would have failed as only 51.6% voted in favour but all voters would have known why it failed.

Instead it failed in the most secretive way possible. A deliberately un-transparent rule required 40% of *registered* voters to vote in favour. In effect, it rigged the result by making all non-voters into No voters *without their knowledge*. It left a legacy of distrust in Scotland of anything but a simple majority but is it wise to persist with that legacy when the issue is so important?

But in the search for constitutional stability supermajority thresholds can go too high (67% or higher) making all but the most high profile reforms impossible to achieve and so disengages the voter as in Italy, in the opposite experience of Scotland's referendum.

A more practical supermajority of 60% was used in the referendum on electoral reform held in British Columbia in 2005. The result 57.7% approval fell just short of the 60% supermajority so the reform was not adopted.

On the one hand at 60% the winning side achieves half as many votes again as the defeated side. It seems too big a democratic hurdle put that way. But looked at another way, it means three out of five voters have supported the change showing a consensus emerging. Perhaps Canada has it right at a 60% supermajority.

And it finds supportive echoes in the prominent independence campaigner, Pat Kane's recent call for a "60+" campaign and the Yes campaign's target of 65% supporting independence. Jim Sillars and Gordon Wilson have also suggested 60%. While the leader Nicola Sturgeon has said only they need a 'clear' majority before a second referendum is called.

While a low supermajority of 55% provides only a glimmer of consensus, it moves the result out of debatable territory as to the intention of the electorate.

The supermajority would help dismiss the '*neverendum*' talk by prioritizing consensus building over more of the same. And it can hardly be resisted by those seeking the change. After this result, wiser heads now see the need for consensus and reaching out to those who voted NO.

There is one last argument that will prove decisive. The rest of Britain could not vote in this referendum yet watched Britain taken to the brink of breakup. They will rightly insist next time that there should be *a consensus among Scots* for such radical change. Such a request will be politically hard to resist from those who have no vote but do have an interest especially if they are pressed to grant an early referendum.

For this reason alone, I believe we have seen the first and last referendum on Independence decided by a simple majority. Only the size of the supermajority is yet to be decided.

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