

The House of Lords amendment requiring that 40 per cent of people take part in the AV referendum is just the latest blow to the government's strategy of enacting constitutional change with no consensus and no evidence-base

<http://blogs.lse.ac.uk/politicsandpolicy/2011/02/08/av-bill-house-of-lords-amendment/?pfstyle=wp>

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The latest fruit of the stiff resistance to the Parliamentary Voting System and Constituencies Bill by Labour Peers, is a [successful amendment](#) that makes the introduction of the Alternative Vote non-binding if fewer than two fifths of UK voters take part in the referendum. [Dale Campbell-Savours](#) explains why government intransigence has brought about a real prospect of wrecking the hopes for even the smallest voting system change.

I argued [two weeks ago](#) on this blog that unless ‘it accepts the need to maximize agreement around constitutional changes, the government now runs a real risk of losing its own AV referendum’. Last night that prospect drew sharply nearer as the House of Lords voted by a majority of one to change the legislation for the AV referendum in a small but critical respect. Moved by Lord Jeff Rooker, a long-time pillar of the [Labour Campaign for Electoral Reform](#), it says simply: ‘If less than 40% of the electorate vote in the referendum, the result shall not be binding’.

The amendment drew support from Labour and cross-bench peers who have been outraged that the government has failed to undertake any form of consultation or evidence gathering on the introduction of an alternative voting system. Eleven Tory Peers also backed it. Both Liberal Democrat and Tory MPs and Peers have been savagely whipped into line to vote down even the most consensual amendments asking that the choices before the country be systematically reviewed before constitutional changes are enacted.

Even on the consideration of the choice between the Alternative Vote and the simpler and fairer [Supplementary Vote](#) option favoured by LSE professor [Patrick Dunleavy](#) and moved several times as an amendment in debates in the Commons (by Conservative MPs) and in the Lords (by myself), the Government’s stance has been that no consideration of changes could even be entertained. What was in the coalition agreement must be treated as written in stone, completely unalterable in even the smallest way.

Last night Liberal Democrat Peers were in despair because they could rally very few Tory or Cross-Bench Peers into the lobbies against the Rooker amendment. Some are now saying after the vote that the referendum is now lost. Their party’s intransigence on the choice of system, on moving to legislation without any attempt to build a consensus, and on accepting the linkage between the referendum and the Tory demand for fanatically equalized constituencies has brought their strategy to ruin.

Even if the government goes to the Commons and tries to reverse the Rooker amendment, there is a strong likelihood that more than the required 82 Tory MPs will abstain, so that the amendment sticks. Conceivably also it would only require 41 Tory MPs to vote with Labour and other opposition parties for the amendment to stay enshrined in the final law. After all, it is a reasonable requirement that constitutional

changes clearly have significant popular support before they are enacted to suit the temporary convenience of the government of the day, a stipulation that I argued in [my last blog](#) the coalition leaders have wilfully ignored.

What happens if less than 40 per cent of people take part in the AV referendum, as seems highly likely, because some believe it is possible that only the Yes voters will now participate? There will be a dominant majority for change. But the law will not be binding, and so it would have to come back to Parliament for reconsideration.

Tories who hope that this outcome will kick electoral reform into the long grass are misguided, however. The future of the coalition government will demand that what has been botched and mangled so far will have to be done again, this time with a genuine effort to build consensus.

Even with the clock approaching midnight and the wreckage of the coalition's strategy, it is not too late for the government to return to the Lords and to offer meaningful concessions that will ease the passage of the Bill and begin to recreate a little consensus where currently there is none. My personal suggestions would be that, if the Government are so committed to an AV system:

- on the referendum system the government should concede a shift to the [Supplementary Vote](#), a system that already works well to all elect our mayors in England, including the London mayor, and which voters clearly understand and accept already. This will dramatically reduce the number of Tory and Labour opponents of AV, since it guarantees that only one of the top two candidates on first preference votes can be elected as MP.
- on the constituency reductions, the government needs to come into line with [the vast majority of informed opinion](#) on this blog and elsewhere, and the views of impartial experts like [Professor Ron Johnston](#). They agree that constituency populations should be equalized, but only to within a legal requirement of plus or minus 10 per cent of the average size. This extra flexibility will remove 90 per cent of objections to the new constituency definition process included in the Bill.

The ball is now clearly back in the government's court. Is it too much to hope for that ministers will think again, before bulldozing on to the potential destruction of the coalition?