



# CANADA – UNITED KINGDOM COUNCIL

21 June 2018 – Map Room, Foreign and Commonwealth Office

## Launch of 2017 UK-Canada Colloquium Report on Dilemmas of Democracy: Challenges to the International Order

### Speakers:-

Sir Alan Duncan KCMG, Minister of State, Foreign and Commonwealth Office

Sarah Fountain Barrow, Deputy Canadian High Commissioner to the United Kingdom

Anthony Cary CMG, Hon President, Canada – UK Council

Jill Rutter, Programme Director, Institute for Government

The Right Hon. The Baroness Jay, House of Lords

Professor Vernon Bogdanor, Institute of Contemporary British History, King's College, London

The event, to launch the Report of the colloquium, was well attended by representatives of academia, business and civil society, and sparked a lively debate on such questions as the place of referendums in representative democracies, Brexit, the role of social media, and protection of citizens' rights. Richard Davies, the rapporteur, was warmly thanked for his thorough and thoughtful account of the 2017 Colloquium. The Report made recommendations rooted in a determination to uphold common values including *"liberty under the law...government for a fixed period following elections untainted by coercion; an independent judiciary, media and academia; an impartial civil service; an opposition free to oppose without sanction; lawful civilian control over the security, armed and police services; and checks and balances on government that are assiduously protected."*

The Minister opened the event by thanking the Canada–UK Council for the role it played in strengthening links between two nations with such strong ties of blood and history, exemplified in common efforts in such contexts as NATO and G7. It was typical, for example, that Canada had been so quick to support the UK in condemning the nerve agent attack in Salisbury. The British Government was determined that Canada and the UK should work even more closely together. The Public Policy Forum created by our two Prime Ministers last autumn was about to hold its first meetings, and he hoped that it would yield practical results. Several other bilateral initiatives were planned over the coming months.

Canada's Deputy High Commissioner Sarah Fountain Barrow also praised the work of the Canada–UK Council. The challenges facing our two societies had intensified in recent times. New technologies and social media created many new opportunities, but did not yet operate within adequate





frameworks of control. She too referred to the importance of the new Public Policy Forum. It was encouraging that Canada and the UK Council were determined to work so closely together on new global challenges. She thanked all those who had participated in the colloquium last November, noting in particular the presence of Karina Gould, the Canadian Cabinet Minister responsible for democratic institutions. She also thanked Massey College and the Munk School of Global Affairs and Public Policy for their continuing support for CUKC. Canada looked forward to hosting the 2018 colloquium on Artificial Intelligence in Toronto in a few months' time.

Introducing the panel, Anthony Cary said that he had welcomed the subject Dilemmas of Democracy because of the opportunity it provided to address two problems in the United Kingdom in particular: the growing tensions between representative and plebiscitary democracy, and the difficulties of managing devolution in the UK without a federal framework. Both issues had grown in salience since the colloquium. As the Report said, there had been a conscious effort to prevent the colloquium descending into a self-indulgent litany of concerns about Brexit and Trump. He had probably himself been the greatest sinner in this respect, because – for him – Brexit encapsulated exactly the tension he had wanted to highlight:

- The Prime Minister seemed to see it as her democratic duty, in the face of the very close outcome of a consultative referendum, to surrender her own judgement to the so-called 'Will of the People' - which she was, furthermore, choosing to interpret in the most uncompromising way possible. Some of the current anger and bitterness in British politics – with attacks on judges as 'enemies of the people'; on peers as 'traitors in ermine', and so on – could be ascribed to rabble-rousing. But some of it reflected genuine confusion about the role of our institutions of Government in the face of 'direct democracy'. MPs were cowed, and Twitter was a cacophony of assertions that it was undemocratic – even treasonous – to challenge Brexit regardless of the damage it might do the country, and regardless of shifts in public opinion since 2016.
- Similarly with devolution. The UK had introduced it in a haphazard way without an overarching framework. Brexit was creating pressures in this context that might prove very hard to control.

On both axes, Canada had relevant experience and useful lessons to impart. The colloquium had been excellently timed.

The panel discussion brought out some of the relevant recommendations of the colloquium:

## REFERENDUMS

No one proposed to prohibit national referendums (though such bans had proved a valuable safeguard for some continental European countries after their experience of dictatorships in the C20th). The representative democracies that we had inherited in UK and Canada depended, to some





extent, on a deferential society that no longer existed. People now demanded a direct say in their own governance beyond the ability to ‘throw the bums out’ every few years, if they so wished.

There was general support, however, for the recommendation that we needed stronger conventions to govern the conduct of referendums and the import of their conclusions. The framing of questions also needed to be considered in more depth after the experience of 2016. “Leaving the EU” covered a range of mutually exclusive options for the UK’s future relationship with Europe, and it was now clear that there was no majority for any of them.

Canada’s Clarity Act was one model worth examining. Some panellists favoured the idea of a ‘supermajority’ requirement for constitutional change.

Concern was expressed that referendums handed direct power to a public that was often uninformed and dangerously vulnerable to manipulation, especially through fake news and social media operating without adequate controls over ‘dark money’, data-harvesting and targeted advertising. Vernon Bogdanor cautioned that politics had always been a dirty game. It was historically inaccurate to imagine that the ignorance and prejudice evident in the current UK debate was a descent from some past Socratic ideal. There was nevertheless support for the recommendation of a joint cyber alliance between Britain and Canada, and stronger obligations on the big technology companies to accept responsibilities as publishers as well as platforms. These companies also needed to contribute more fairly as taxpayers, despite their protean ability to escape effective jurisdiction.

The third strand of discussion on referendums concerned education – both technical/vocational, and in relation to the issues raised by particular questions put to the vote. Canada had experimented with Citizens’ Reference Panels, enabling representative groups of citizens (selected like juries) to meet several times over a period of weeks or months to learn about contentious public issues, discuss them and agree recommendations for addressing them. Such recommendations could help to shape subsequent parliamentary debate. Something of this sort might be introduced in the run-up to future referendums.

There was concern about a lack of civic education in the UK. We are the only European country that does not include knowledge of our democratic institutions – or of the EU – in its national curriculum. The UK asks more of people sitting citizenship tests than it does of those born British. This needed to change.

## DEVOLUTION

There was support for the recommendation in the Report to exchange expertise between the UK and Canada on the management of devolved powers and the institutional mechanisms that may be required to resolve problems in contested areas of policy. This will be especially important in the distribution of powers repatriated to the UK from Brussels following Brexit. This problem was not yet being addressed in a systematic way. Short-term expedients were being deployed without consideration of their long term implications.





## CITIZENS' RIGHTS

The Canadian Charter of Rights and Freedoms was not just uncontested, but now represented an important basis of national identity and a source of community. In the UK, by contrast, the EU Charter of Fundamental Rights (though, ironically, it owed a great deal to UK jurists) was widely contested as a foreign constraint on national sovereignty. Yet Jill Rutter observed that while EU law was being imported wholesale onto the UK statute book, the Charter was being excluded. The UK Human Rights Act would continue to operate under the umbrella of European human rights law. The panel supported the proposal for a Bill of Rights for the UK, enshrining basic rights into British law and constraining the sovereignty of Parliament.

## OTHER INSTITUTIONS

Baroness Jay, in particular, stressed the continuing potential of the Commonwealth as a framework for UK-Canadian collaboration and common action.

## HOUSE OF LORDS

In both Canada and UK the role and functioning of Second Chambers had been contested for more than a century. The colloquium had accepted the value of Second Chambers, especially as forums for 'sober second thought'. There had been recent innovations in the Canadian Senate that might well carry lessons for the UK, and there was a case for proportionate regional representation in the make-up of the House of Lords – but given the immense challenges of Brexit in other contexts, this should not be a legislative priority. It would be enough if progress could be made in reducing the number of peers (as recommended in the Burns Report), cutting back on flummery, and ending the abuse of Prime Ministerial patronage.

## PUBLIC POLICY FORUM

The new Public Policy Forum was widely welcomed. According to the InCiSE Index, the Canadian and UK Civil Services were among the most effective in the world. There was no doubt much that they could learn from one another.

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