

has just been sustained by the Manitoba court. I appreciate that this authority of the federal parliament looks out of place in relation to classic notions of federalism with two sovereignties separate and protected from one another. Clearly such a power or authority could be subject to abuse. But the fact that a constitutional power might be subject to abuse does not mean that it is less real for that, or that it will be abused, or that there must be some neat external check or limit found for that power.

The present position of the government and parliament of Canada as the sole authorities having standing in constitutional matters in relations with the British government and parliament is in many ways an anachronistic or unfederal or unitary character of our constitution. But it is, I repeat, the true position. And we should not be astounded by it. There are many similar "unfederal" or "unitary" aspects to our federal constitution. So many, in fact, that the great authority on federalism, Sir K. C. Wheare, described Canada's constitution as "quasi-federal".

Let me just list some of these unitary aspects written into our constitution back in 1867:

- the federal government appoints the Lieutenant-Governors of our provinces;
- these Lieutenant-Governors can on their own or under instruction from the federal government reserve any piece of provincial legislation or even disallow it;
- the federal government, with the so-called declaratory power, can declare any work under provincial jurisdiction to be for the general advantage of Canada and thus bring it under federal jurisdiction;
- the federal government can under the "peace, order and good government" clause impose its authority as necessary in case of an emergency;
- the federal government can, under the so-called spending power, raise and spend money for any object it sees fit, including, for example, education;
- the federal government alone appoints members of Canada's Senate which is the regionally distributed upper house.