

at a time when society had much to gain from the Industrial Revolution and the exploitation of world trade.

Social changes flowing from this technological and economic development brought about corresponding developments in the evolution of law and the administration of justice. The Act of Settlement in 1701 ensured complete independence for judges. Appeals and judicial reviews became more common. Writs of *Certiorari* and *Mandamus* were used more frequently and their application extended to the King's officers and high officials.

The concept of the supremacy of Parliament became still more firmly entrenched and extended so that when Parliament delegated its powers to an agency it was held that Parliament had the duty as well as the right to oversee the manner in which the agency exercised those powers.

In 1690 John Locke had advocated the separation of the legislative and the executive. If both powers, he argued, are in the same hands, the rulers will exempt themselves from the law and come to have "a distinct interest from the rest of society," but if the legislators themselves are to be subject to the laws they will "take care that they may make them for the public good".

Before the present cabinet system, in which the executive is a committee of the legislature, was fully adopted, Montesquieu, writing in 1748, in his book entitled *Esprit des Loix*, expanded the thinking of Aristotle and Locke into the theory of separation of powers as applied to delegated legislation. To use his own words, he was seeking for a constitutional framework for "political liberty" and for "a tranquility of mind arising from the opinion that each person has of his own safety".

He framed his theory in these words:

Miserable indeed would be the case were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers—that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals.

Louis J. Jaffe states, and I quote again:

Montesquieu's great point was that if the total power of government is divided among autonomous organs, one will act as a check upon the other and in the check liberty can survive.

The twentieth century has brought two world wars, the space age and the post-indus-

[Hon. Mr. Carter.]

trial age. These have produced still further changes in social concepts, values and goals which in turn require changes in some of our legal processes and the machinery for the administration of justice.

Our idea of democratic government has expanded to the point where we are now thinking in terms of mechanisms that will permit the citizens themselves to have a direct voice in forming the laws and regulations by which they will be affected.

We have become more conscious of the dignity of man and because of that we have developed new social goals in the fields of employment, housing, income maintenance, health and medical services, manpower development, environmental control and technological development. As a result, the responsibilities of the federal Government have been tremendously increased, necessitating new legislation, and modernization of old legislation and of machinery for its implementation.

As we look into the future we can see still greater problems in connection with multinational corporations, conservation of resources, preservation of national sovereignty and political independence, and alleviation of regional disparities. Society will become more and more complex with every year and perhaps with every month that passes. At the same time, the speed and pressure of government administration will constantly increase. However, through it all, two goals must remain paramount. They are the supremacy of Parliament and the preservation of individual rights and liberties.

The supremacy of Parliament, however, has already been called into question by a recent decision of the Supreme Court of Canada in the now famous *Drybones* case. The *Globe and Mail* of March 14, carried an article by Sydney R. Peck, Associate Professor of Osgoode Hall Law School of York University, entitled "The Supreme Court's New Supremacy". The first and second paragraphs of this article read as follows:

What has now become known as the *Drybones* decision made by the Supreme Court of Canada in November, may prove to be one of the most important in the court's ninety-five year history. That decision establishes that the Canadian Bill of Rights does away with Parliamentary supremacy at the federal level. It is now open to the court to hold that an act which Parliament is clearly empowered to pass by the British North America