of his act. As the Department of Justice report points out, there appear to be many valid arguments why this rule should be abolished altogether. First, the rule is difficult to apply. Many juvenile judges ignore it altogether while others differ in the degree of proof that is required. Second, background information which is not properly before the judge until after a finding of delinquency is made is sometimes reviewed at the adjudication stage for the purpose of making a determination required by the rules. Third, the similarity in wording between Section 13 of the Criminal Code and the operational test for insanity has apparently caused some confusion. Four, the rule was formulated at a time when there were no juvenile courts. Five, it is important to note also that the presumption weakens with the advance of the child's years toward 14. Its principal value is in connection with proceedings against offenders who are very young. A proposal to raise the minimum age of criminal responsibility would further diminish the need for this particular rule.

Therefore, in summary, although the hon. member is moving in the right direction by his proposal to increase the ages for this rule, in view of the foregoing arguments perhaps it would be preferable to eliminate Section 13 completely. Personally I am especially keen on amendments of this type because if passed there would be fewer convictions of juveniles. As one who is intensely interested in the aftermath of a conviction I believe an amendment of this nature should be passed. On many occasions I have been apprised of the injurious consequences of a criminal record. Not only does it scar the soul for years, not only is it an insidious social stigma, but it has fearful economic consequences. People with criminal records in many cases cannot enter the public service; they cannot enter the armed forces; they cannot be bonded; they have difficulty in obtaining various types of licences and above all they have difficulty in securing employment. If these proposed amendments in any way decrease the number of young offenders suffering a conviction, then for that reason alone I submit they are worth while.

• (5:20 p.m.)

Now, turning to the third amendment which in essence says there should be no imprisonment in a penitentiary for persons under 16 years of age, I wholeheartedly approve of the intention of this particular reform. I have seen prisons, such as St. Vincent de Paul and Kingston. Certainly, no boy under 16 years of age should be incarcerated in these institutions. The penitentiaries have hardened and twisted prisoners. If a boy were exposed to prisoners of this type he could suffer irreparable harm. If we are really interested in rehabilitating the young offender, surely he should not be placed among professional criminals who are only too eager to teach an impressionable young offender the sophisticated art of their trade.

The question is whether this amendment, although well meaning, will carry out the intention of the hon. member who has moved it. Firstly, since under the Juvenile Delinquents Act all persons under the age of 16 years who are charged with an offence appear in the first instance before a juvenile court, clause 3 of Bill C-27 would be applicable only in those cases in which the juvenile had been transferred to an adult court in accordance with section 9 of the Juvenile Delinquents Act. That section may be applied where the child apparently or actually is over the age of 14 years, where the offence is an indictable one, and where the juvenile court considers that the good of the child and the interest of the community require referral to the adult court. If this amendment were passed a person under the age of 16 would upon conviction, for example for murder, be sent to an industrial school in the province. There, he could be confined only until he reached age 21 at which juncture he would be returned to society.

A further consideration is that clause 3 deals only with those offenders who would otherwise be sentenced to imprisonment in a penitentiary. The clause does not apply to a person under the age of 16 years who receives a sentence in an adult court for less than two years. Such persons, unaffected by the proposed legislation, accordingly would be required to serve their sentence in a provincial jail. Such a result would appear not to be equitable since the more serious offence would result in confinement to an industrial school while the less serious offence would result in confinement in jail.

It should not be forgotten that there are now special provisions in the Penitentiaries Act dealing with those who have been sentenced or committed to penitentiary who are under age 16. By subsection (1) of section 21 of the Penitentiaries Act they cannot, except by special direction of the Commissioner of Penitentiaries, be confined in association with persons over age 21. Further, by subsection