

*Young Offenders Act*

juvenile court as being star chamber procedures or black magic courtrooms. As I said, we welcome an end to those particular provisions of the Juvenile Delinquents Act. We welcome the recognition that young people are entitled to the same procedural safeguards as adults, since in many cases they are subject to very serious penalties if they are found guilty.

Having pointed out our support for these provisions in the proposed bill, and frankly, a number of other provisions in the bill, we do have serious concerns which we believe must be addressed. If there is one concern which is greater than all the rest, and which surely represents a flagrant violation of the principle of equality before the law, and which represents, in my view, a violation of the government's own charter of fundamental rights and freedoms, it is the government's failure to bite the bullet and impose a standard age, a standard maximum age right across this land to define what constitutes a young offender. The government has copped out on this important question and its excuses are simply not adequate.

**Mr. McDermid:** They have opted out.

**Mr. Robinson (Burnaby):** As the hon. member suggests, they have opted out. Of course, what this does is to create a checkerboard of rights right across this land. We have heard that from the Conservative Party because, of course, they have proposed an amending formula which would permit this very checkerboard of rights right across Canada. The hon. member for Provencher (Mr. Epp) has recently suggested that maybe that is not what they will be doing, and the hon. member for Saskatoon West (Mr. Hnatyshyn) shakes his head quizzically. We are not exactly sure where he stands on this important question of a checkerboard of rights or a floor of rights right across the land. It can surely not be suggested that to define a young person in the city of Ottawa as a criminal and put him into the adult justice system and into an adult penitentiary for exactly the same conduct which a young person in Hull, across the Ottawa River, would be defined a juvenile delinquent, a young offender, and would be given the additional resources and would have been kept out of that adult penal system, is the right way to go about things. So, many of us here recognize that the penal system is almost an admission of failure, because if a young person of 16 or 17 years of age enters into such a system, there is no doubt whatsoever that their chances of getting out are very slim indeed. There have been many groups who have recommended—indeed, insisted—that there must be a simple recognition of equality before the law, a standard upper maximum age. The committee of young persons in conflict with the law in its report considered various options and recommended that the youth court have exclusive jurisdiction to deal with young persons between the ages of 14 and 18 years of age who have committed an offence. That committee has accepted as an absolutely essential requirement that there must be a standard maximum age right across the country.

I have said that the government's actions violate its own charter of rights. Section 15 of that charter says there can be no discrimination on the basis of age. How else can this

particular provision of the Young Offenders Act be construed than as discriminating on the basis of age or as denying equal benefit before the law? I predict that if the government is foolish enough to go ahead with this provision, it will be challenged very quickly in the courts of our land where it will be thrown out as a violation of the government's own charter of rights. Thus, Mr. Speaker, that provision must be changed.

● (1640)

We welcome the suggestion that young people should be diverted from the formal criminal justice process wherever possible. But there are very grave dangers in the absence of any kind of adequate guidelines for dealing with diversion in this proposed bill. There are just simply not sufficient safeguards.

The concern here, of course, is one which has been echoed by a number of persons. Once again the excellent report of the committee of young persons in conflict with the law recommended a form of mandatory screening, a suggestion which is presently in effect in the province of Quebec. The Solicitor General (Mr. Kaplan) suggested that he was not prepared to accept that, because there must be an opportunity for a young person to plead not guilty. Of course, that could be a part of this legislation, and naturally should be a part of this legislation. We recognize that there is a very real danger in opening up the possibility of diversion. If adequate safeguards are not applied, the police and the prosecutors will, in some cases, use forms of coercion. When they do not have what they consider to be a safe enough case or a tight enough case legally, they might attempt to divert a young offender who, had he gone to court, would have been acquitted of a particular offence. So we must examine very carefully the diversion provisions. I suggest we must consider very favourably the possibility of a form of mandatory screening. We will want to hear from a number of witnesses on this particular suggestion.

The bill suggests that young people should be separated from adults when they are being detained. I am sure everyone in this House would agree with that principle. However, it permits a cop-out again, because what the bill says is that young people must be detained separately from adults, but when there is no place of detention for young persons available within a reasonable distance, they can be detained with adults. Not only does that violate the provisions of the international covenant on civil and political rights, but surely it must violate all standards of criminal justice which this House is prepared to accept.

To suggest that a young person, 14 or 15 years of age, could be detained pending trial with adults, with people who in many cases have been convicted of a number of offences, surely cannot be condoned. It is happening today. I can give a couple of examples. In the province of Quebec, a 15-year-old boy was kept in an adult jail. Why was he kept in an adult jail? Because there was no facility in Quebec to deal with anglophone juveniles. Nine out of 15 anglophone juveniles last year in the province of Quebec were sent to adult prisons. There is, as the social affairs minister in Quebec admitted himself, a