greater severity in the matter of penalties. More precisely, what was in the past considered only a form of nuisance, to be controlled through the informal means existing within the framework of a given community, is now treated as an infraction or an offence.

This phenomenon is all the more serious since minors are not tried in the area in which they live, but before a court having jurisdiction in the district where the offence was committed. Furthermore, since the definition of a juvenile is not uniform in all the provinces of Canada, a delinquent who is considered a juvenile according to law in one province may be tried as an adult in the neighbouring province, where the Juvenile Delinquents Act applies only to those under sixteen years of age.

It is obvious that such inconsistencies are unacceptable and contrary to the concept of justice.

Allow me to quote here Jean Chazal, a juvenile court judge who by his writings as well as his social action was successful in humanizing justice.

> We are convinced, that judges can only hand down judgments in cases where an offence has actually been committed. This is the most important guarantee against arbitrary prosecution... It is essential to understand in depth the personality of the child appearing before a juvenile court. This knowledge determines what action should be taken. But the offence does not lose its importance thereby. It is only possible to decide whether a juvenile delinquent should be punished or retrained if the offence of which he is accused has been established in fact and defined in law. A juvenile court judge has no right to transform into a delinquent, a minor whose material guilt has not been established, for the purpose of retraining him. We earnestly hope that juvenile court judges will have power to order educative measures for children in danger of becoming delinquents, but if he tries to teach a child by burdening him with even a minor offence, without having gathered sufficient proof, the judge is taking arbitrary action which in our opinion cannot in any way be justified. Moreover, for the juvenile court judge, the offence has not only legal, but also undeniable psychological importance. It often reveals tendencies in the child's character and can only indicate his intellectual level.

Judge Chazal's text, particularly the paragraph which I just read to you, is all the more important in that it conforms with my view that juvenile laws should not limit the power of judges dealing with children, but rather help them better accomplish an extremely difficult task.

In fact, applying the same law to both the case of an alleged juvenile delinquent because of an offence against municipal laws, for example remaining too long in a car parked under a particularly romantic moon in a park, and that of a young person who has just committed a burglary, is placing a difficult burden on the judge and more important it imposes a federal record on the young person in both instances.

• (3:20 p.m.)

The same philosophy also underlies the second major reform in the proposed legislation, that which deals with the definitions of offences proposed in the bill.

According to section 2, subsection (h) of the present Juvenile Delinquents Act, and I quote:

> "juvenile delinquent" means any child who violates any provision of the Criminal Code or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute.

In other words, the act authorizes proceedings for delinquencies as poorly defined as "sexual immorality or any similar form of vice" and "any other act".

In contrast, in clause 2, subclause (m), the proposed new legislation clearly defines the meaning of the term "offence" as follows:

> "offence" means an offence created by an act of the Parliament of Canada or by an ordinance, rule, order, regulation or by-law made thereunder or a criminal contempt of court other than in the face of the court.

This indicates clearly that the bill is exclusively concerned with federal offences.

The third element in the proposed legislation which I consider basic in comparison with that now in effect, and which also reflects its philosophy, is that of the age limit. As we have just seen, the present definition of juvenile delinquent is to be replaced by the definition in the act of the "offence", while "child" is defined as:

> a person apparently or actually under the age of seventeen years, or a person apparently or actually under the age of eighteen years to whom a proclamation under section 3 applies.

The following would be the definition of "young person", that is the one against whom an offence is alleged:

> "Young person" means a child apparently or actually ten years of age or more and, where the context requires, includes a person who is found, under section 29, to have committed an offence, until he reaches the age of twenty-one years.

In short, those definitions which describe the young person as a juvenile delinquent have been removed. This shows the intention on the part of the legislator to remove the stigma of some traditional concepts and also to change the application of federal legislation regarding the age limit.

Fourthly, I should like to emphasize that the proposed legislation is intended to encourage the development of social rehabilitation rather than exclusively legal procedures for the treatment of young people who have been found to have committed offences.

Since the protection of children and young persons, or in other words social legislation, is a matter of provincial rather than federal jurisdiction, it is obvious that the federal government does not legislate in that area. Nevertheless, it is of paramount importance that we should draw attention to the following passage from clause 30:

> Where a judge makes a finding that a young person committed an offence, he shall consider the predisposition report, if any, made under section 35 and any other relevant and material information, and he may then make any one of the following dispositions, or any number thereof that are consistent with each other.

In the same clause we also find:

> Where he is of the opinion that the evidence shows that it would be in the best interest of the young person to proceed under a provincial act intended for the protection or benefit of children or young persons, he may discharge the young person