

youth court judge is satisfied on application at the time of the making of the order that the young person, having regard to the best interests of the young person and the safety of others, cannot be detained in the place of detention for young persons.

That would say that the basic presumption is this young person can be kept in a youth facility and is not a danger "having regard to the best interests of the young person and the safety of others", and that this young person does not represent a safety problem for the other people in this youth facility. In most cases the youth who are detained are not a problem to the safety of others. They may be a bad influence, but one could say they are a bad influence on one another. I can understand what we would call incorrigibles, youth who cannot be placed in a youth facility.

Having regard for the safety of others, I would rather have it defined and say a certain type of young offender, one we would call incorrigible, that is fine. This is not perfect but it is a major step forward.

In that regard, for that period of time while the young person is awaiting a decision of whether he or she is going to be heard in youth court or adult court, that does help the young person.

The other feature which is important is at the end in subsection (7) which says:

Notwithstanding anything in this section, no young person shall remain in custody in a place of detention for young persons under this section after the young person attains the age of 20 years.

That is fine because presumably in the two year period, and surely it would not be much more than two years to have this matter resolved, the person would be 20. That looks after that. That is good. This is a major improvement. The problem is when you go on to the next section in which we are talking about the actual incarceration.

Once again, what we have here is a rehashing of what is already in the bill in different language. It says:

The provincial director and representatives of the provincial and federal corrections have an opportunity to be heard—other than the young persons serve a portion of their imprisonment in a place of custody for young persons separate and apart from any adult who is detained or held in custody, a provincial corrections facility for adults, or, where the sentence is for two years or more, a penitentiary.

### *Government Orders*

What we are doing, once again, is giving the judge or the court the choice. They already have that choice, that choice is in the Young Offenders Act right now. It is in Bill C-12. This amendment does not change that.

What we want to see is something similar to what we have in the first part. All we are asking the government to do is be consistent in the second part, that is the incarceration after the sentencing, with what the government has said about the incarceration of the young person prior to the determination of whether that young person is going to be heard in adult or youth court. That is all we are asking; to say that the young person will be detained in a youth facility, unless the young person is a safety problem for the other inmates of the youth facility. That is not a lot to ask, to say that the young person perhaps cannot be incarcerated in that youth facility after he or she reaches the age of 20 years. But it does give the system a chance to rehabilitate that young person. Before the determination whether the person is to be in adult or youth court, after the sentencing the young person, until he or she is 20, can be in a youth facility where we can treat and work with that young person. He or she will not be open to physical and sexual abuse and not constantly bombarded with the criminal expertise that older inmates can give.

I say this is a minor improvement. I just wish the government had followed through and changed the second part to coincide with the first part. Then I think we would really have something here. Unfortunately it does not go nearly far enough.

**Mr. Jim Karpoff (Surrey North):** Mr. Speaker, this amendment as proposed by the government certainly does go a long way toward answering some of the concerns that were raised.

I particularly am happy to see the section makes it very clear that a young person shall be held separate and apart from any adult who is detained or held in custody unless the youth court judge is satisfied on application at the time of the making of the order that the young person, having regard to the best interests of the young person and the safety of others, cannot be detained in a place of detention for young persons.

This is a principle that is well set out and is valid, that the preferable place of detention shall be in a place for