These provisions were repealed in 1977 and replaced with the dangerous offender provisions we see now in the Criminal Code. These amendments were designed to be more precise, to target the most dangerous serious offenders and similarly to avoid widening the net too much. In essence Parliament was saying: "Let us target the worst offenders without sweeping in the low risk or nuisance cases".

The dangerous offender legislation contained in part XXI, now part XXIV, passed a major hurdle in the Supreme Court of Canada's decision of R. v. Lyons in 1987. The court ruled that the dangerous offender provisions did not violate the protections in the charter of rights and freedoms.

• (1815)

I mention this case not so much for its support of the current law as for the firm indication by the Supreme Court that any law that seeks to sentence one of its citizens to an indefinite term in a penitentiary must be well tailored and confined to the most serious circumstances.

I offer one example from the judgment upholding the dangerous offender legislation:

> The legislation narrowly defines a class of offenders with respect to whom it may properly be invoked, and prescribes quite specifically the conditions under which an offender may be designated dangerous. The criteria in Part XXI are anything but arbitrary in relation to the objective sought to be attained; they are clearly designed to segregate a small group of highly dangerous criminals posing threats to the physical or mental well-being of their victims.

The existing dangerous offender system contains three components: a focus on the most serious offences, a focus on the pattern of the offender's conduct, and an assessment of the likelihood of the offender's continuing his serious offending. These criteria have to be met if they are to justify locking up individuals indefinitely.

In broadening the target group so much, the motion before us runs a serious risk of conflicting with the decision of R. v. Lyons. It would broaden Part XXIV to capture any sex offence against a child. This would include cases of sexual interference under section 151 and an invitation to sexual touching under section 152 of the Criminal Code. While these crimes carry a maximum penalty of 10 years imprisonment, individual offences usually do not receive such lengthy sentences, nor do they typically involve the degree of violence envisioned by Part XXIV.

I doubt the Supreme Court would tolerate this net widening, particularly when, given the new rules prescribed elsewhere in this motion, crown attorneys would be forced to launch so many more applications. The court, as in the Lyons case, is vigilant to the potential for abuse in the overall structure of the procedure.

Returning to the issue of prosecutorial discretion, the Supreme Court in the Lyons case also stated it was important for the crown to have some discretion in bringing dangerous offender applications and that the absence of any such discretion could lead to a conclusion that the law was arbitrary.

I have raised several objections to the concept in this draft. In the interest of perspective, I point out how successful Part XXIV of the Criminal Code has proven. Between 1977 and 1995 approximately 143 offenders were found to be dangerous offenders and sentenced indeterminately to Canadian penitentiaries. Of that number, 134 remain incarcerated.

There are signs now that the provinces are using the procedure more often. Successful applications usually average eight or nine a year. In 1993 there were 15 successful cases; in 1994 there were 13, and we will all remember the recent designation of Paul Bernardo as a dangerous offender.

We can improve the dangerous offender legislation but not with the elements in this motion. I look forward to the review of the hon. member's private member's bill the standing committee, to which this motion is quite similar.

I would like to deal with this private members' bill and I am hopeful this motion will not be successful to allow us the opportunity to deal with these things one at a time.

• (1820)

Mr. Grant Hill (Macleod, Ref.): Mr. Speaker, I simply want to express my support for the private members' bill from the member for Surrey—White Rock—South Langley. It is timely, the right bill at the right place at the right time. I cannot imagine that anyone would not accept that.

Mr. Milliken: It is not a bill, it is a motion.

Mr. Hill (Macleod): A heckler across the way.

In my life I dealt with sexual predators. This motion is exactly what we need and I express my support for it.

Mr. John Bryden (Hamilton—Wentworth, Lib.): Mr. Speaker, I speak to the motion as someone who is not a lawyer, someone not involved in police work and never has been. Perhaps I can offer a slightly different viewpoint and hopefully a constructive one.

The member for Surrey—White Rock—South Langley tended to mix together two types of offenders, the sex offender, a padophile and so on, and the psychopath. These are two very different types of people with different problems.

In the cases of the sex offender and the psychopath it is acknowledged that both know right from wrong. However, some sex offenders, no matter how horrendous their crimes, feel remorse. They may be driven by a form of compulsion. The difference between that type of person and a psychopath is there is no remorse. Sometimes there is no compulsion either.