The solution which the hon. member offers us is a very tempting one, and indeed I am tempted by it. I do have a reservation which I suppose is based more than anything else on the experience in the Soviet Union, where the principal means of dealing with dissenters in society and people engaging in what we might consider to be ordinary political protest is to subject them to psychiatric treatment in so-called hospitals. In our world we cannot neglect that kind of policy. It seems to me that we have to consider this question here in that type of world context. Therefore, there are very real problems in attempting to deal with the very tragic circumstances which the hon. member for York South mentioned through the device of compulsory hospitalization and psychiatric care.

Bill C-206, which has already received first reading, reintroduces with only slight modification the private member's bill, C-444 which was given first reading on April 14, 1978. The explanatory note to this present bill states:

> The purpose of this bill is to grant special power to the criminal courts to make "hospital orders", as opposed to imposing the standard terms of imprisonment, where it is obviously appropriate that an offender, deemed to be dangerous by the Criminal Code, should receive medical treatment rather than being simply removed from society and eventually released into the street in a worsened condition.

When the hon. member for York South first introduced her bill on April 14, 1978—I am quoting from her speech at that time because I was not quick enough to write down what she was saying today—she expanded on the purposes and principles which underly this bill, as reported at page 4508 of *Hansard:*

> This bill is premised on the acknowledgment of the fact that because brutal "justice" is frequently meted out by fellow inmates to child molesters, judges hesitate to sentence these offenders to prison terms. By granting special power to the criminal courts to make "hospital orders" as opposed to usual terms of imprisonment, this bill is designed to provide needed medical treatment to offenders suffering from psychopathic disorders and, especially important, to protect the public from the risk of further offences being committed if the offenders are at large.

In summary, the bill appears to have three related but separate purposes. The first is to protect society by ensuring that only medically treated, and presumably cured, dangerous sexual offenders, such as child molesters, are released back into society. Dangerous sexual offenders are now dealt with under the dangerous offenders provisions in part XXI of the Code. The new part XXI which was substituted for the old part with similar numbering in 1977 refers to the "dangerous offender," and replaces the "dangerous sexual offender" and the "habitual criminal". A finding that one is a dangerous offender results in an indeterminate penitentiary sentence.

The second purpose of the bill appears to be to meet the offender's needs, especially the need for treatment and protection from inmate retribution. I might add that those of us who were on that subcommittee for penitentiary reform last year are indeed very conscious of this. Those of us who overlook this—no one in this debate has, but some commentators in our society sometimes do—really overlook a very important aspect of our penitentiary system. While it is true that in the United States people do not usually have to be segregated as such in order to protect them in the same circumstances, one cannot really transpose the conditions of one culture, be it an outside culture or a prison culture, to another.

Those who have been guilty of sex offences need protection from other criminals. It is almost as if the other criminals feel a psychological need to look down on someone else; and the people who are looked down upon, above all others in the penitentiary system, are those who have been convicted of sexual offences.

The third purpose of the bill is to overcome a perceived judicial reluctance to sentence dangerous sex offenders to imprisonment under part XXI of the code. The suggestion is that judges will hesitate to impose penitentiary terms because the penitentiary cannot ensure the safety of the offender, and therefore such a sentence is in effect a sentence of harassment, mutilation and perhaps even death. In the case of the Kingston riot, as I recall there were two prisoners murdered at that time and 16 others who were maimed for life. To facilitate more appropriate sentences from the point of view of protection of society and the offender, it is necessary to provide a sentencing alternative such as a hospital order for dangerous sexual offenders.

There is a long history of problems encountered in dealing with abnormal offenders which has been categorized succinctly in the paper entitled "The General Program for the Development of Psychiatric Services in Federal Correctional Services in Canada" published in 1973, at pages 5 to 12. This history is one of the reasons the Ouimet report in 1969 and more recently the Law Reform Commission recommended the implementation of a system of hospital orders as a new sentencing alternative. The documents of the Law Reform Commission which ought to be referred to in this debate are "The Criminal Process and Mental Disorder", which was working paper No. 14 published in 1975, and then based on that the "Report to Parliament on Mental Disorder in the Criminal Process" in 1976, and a related report, "A Report on Dispositions and Sentences in the Criminal Process: Guidelines", in 1976 also.

The hospital order is a mechanism to allow a judge, after imposing a sentence of imprisonment, to order that all or part of that sentence be served in a psychiatric facility. The essential feature of the Law Reform Commission's variety of hospital order is that such an order applies only to a sentence of imprisonment. It can be considered only after such sentence is imposed, and the consent of the offender and of the psychiatric facility are conditions precedent to the making of a hospital order.

I am informed that the Department of Justice has been concerned for some time with the procedures and dispositions for the mentally disabled offender in the criminal justice system. On September 22, 1977, the law reform planning committee of the justice department gave initial approval to a mental disorder project. This project is to study the present management of the mentally disabled offender. The project is also studying official and professional reactions to the law reform commission reports that I have already referred to.