What are the costs to society? An argument is made that the annual cost to supervise an offender while on parole is only $9,400 whereas the cost of incarceration for a year is reported to be close to $70,000. Simply put, I believe there are times when social protection is worth the price. This may just be an instance where we have to swallow the costs. If it means saving 22 people from being victimized by a man like Wray Budreo then $70,000 a year is worth it.

Canada spends about $11 million per year on dozens of programs for sex offenders. About 5,000 of the 23,000 convicts in the federal corrections system have sex crimes on their record. The government proudly points to the statistics that only 6 per cent of sex offenders repeat their crimes within three years of their release. However, researchers who study sex offenders say that the recidivism rate jumps to about 50 per cent when the criminals are tracked over a decade. It is always the part that is left out that is the most startling.

There is little evidence, or at least there is lots of contradictory evidence, that therapy reduces recidivism. I am concerned by this contradiction. Until we are more certain of treatments that will reduce recidivism, I am uncomfortable in allowing potential predators back on the streets.

Belatedly, it is important that those who commit sexual offences be categorized as to whether or not they are psychopaths. Experts agree that the recidivism rate for psychopaths is triple that of non–psychopaths.

In conclusion, let me reaffirm my very strong support for this motion. I believe that if we could encourage the justice minister and the government to pass this motion, we would go a giant step toward making our country a safer one in which to live.

Mr. Russell MacLellan (Parliamentary Secretary to Minister of Justice and Attorney General of Canada, Lib.): Mr. Speaker, I would like to thank the two hon. members who contributed to this debate.

The hon. member for Surrey—White Rock—South Langley has introduced a motion at the same time as her private member's bill is before the Standing Committee on Justice and Legal Affairs for further consideration. Admittedly, Bill C–240 pursues a somewhat different angle on the subject. I want to commend her for her dogged determination to change the dangerous offender legislation. It is obviously a subject with which she feels very deeply. She has done a lot of work in making her presentation both on the present motion and in respect of the private member's bill.

Does the dangerous offender procedure need improvement? Quite possibly it could be improved. I will start by addressing one proposed change with which I disagree, a proposal that is central to this motion.

• (1810)

The motion provides that every time two psychiatrists determine that in effect an offender poses a high risk of reoffending, the attorney general of the province in which the offender was convicted shall direct that the dangerous offender application be brought. I do not believe it is appropriate to eliminate the discretion of prosecutors in bringing dangerous offender applications.

The criteria for a dangerous offender finding are contained within the Criminal Code. That is a concept created by criminal law and supported by criminal procedure. It is certainly true these criteria rely heavily on psychiatric prediction of risk, but medical standards are not the only ones that have to be met.

Section 753 of the Criminal Code requires that the likelihood of an offender causing further harm must be established to the satisfaction of the court. This is not entirely or even primarily a matter of medical or statistical prediction. Indeed it is a legal decision made according to criteria legislated by Parliament. The crown should possess the discretion considering all the evidence available to it to estimate whether an application will be strong enough to meet this legal standard. I will return to the subject of the role of prosecutors in this process.

I would like to review the history of part XXIV of the Criminal Code in order to understand why the law is structured the way it is. I am not saying that part XXIV should never be changed, but the evolution of the dangerous offender concept and the restrictions the charter of rights imposes on that concept indicate that we should proceed cautiously in broadening it or oversimplifying it.

The dangerous offender provisions have their origins in the habitual criminal provisions added to the Criminal Code by Parliament in 1947. A person found to be such a habitual criminal could be sentenced to preventive detention for life. The state had to prove the offender on three separate occasions had been convicted of an indictable offence for which he was liable to imprisonment for five years or more and was persistently leading a criminal life.

If this sounds vague and ripe for abuse, it was. In 1969 a report by the Canadian Committee on Corrections, the Ouimet committee, found that a substantial number of these habitual offenders constituted a social nuisance but were not really dangerous. In 1948 Canada tried out the concept of a criminal sexual psychopath law. In 1958 it was thrown in with the habitual offender provisions under the name of dangerous sexual offender. Once again the Ouimet committee found in 1969 that the dangerous sexual offender legislation was capturing many non–dangerous sexual offenders and was missing the dangerous ones.