The Senate amendment is identical to one put forward by the Hon. Member for Burnaby (Mr. Robinson) on June 17 and ruled out of order by the Speaker. If I may quote from page 14543 of *Hansard* of that date, Mr. Speaker, the ruling was as follows:

> Motion No. 15 tried to introduce a new concept into the Bill. While an inmate already has the right to appeal on the basis of law, granting him the right to appeal on any ground of law or fact or mixed law or fact is a new concept and clearly beyond the scope of the Bill as passed by the House at second reading.

The Senate amendment is no more acceptable today than it was then.

Some Hon. Members: Hear, hear!

Mr. Kelleher: As I have indicated, Mr. Speaker, the central question of using the courts rather than the Parole Board for detention decisions has been discussed on many occasions. The courts could obviously do the job if they had to, but the Government opted to leave the responsibility with the Parole Board because we believe the Board is better qualified to make detention decisions.

The reasoning is as follows. The length of a prisoner's sentence is clearly a decision for the courts. A detention decision on the other hand affects only the manner in which a sentence is served, whether all of it should be served in incarceration or the last part of it back out in society but under supervision. It is a decision based on risk assessment. It is, in other words, like a parole decision, and the National Parole Board makes thousands of these risk assessment decisions every year.

Moreover, the Bill provides for a comprehensive appeal structure, both within the Board itself and through the Federal Court. The internal appeal structure allows the inmate to request a re-examination of the facts on which the Board based its decision or, if warranted, a fresh examination of facts not known to the Board at the time of the hearing.

Paragraph 15.6 (1)(g) of Clause 5 of the Bill provides for the making of regulations and I quote:

> (g) prescribing the time when and the manner in which an inmate may apply to the Board for a re-examination of the decision made in respect of the review of his case pursuant to Section 15.4, the manner in which the re-examination will be conducted and the time when and the manner in which the inmate will be informed of the decision rendered in connection therewith.

Regulations in this regard were prepared, Mr. Speaker, and are ready to be proclaimed in force at the same time as the measures contained in this Bill. These regulations will allow the inmate to appeal a detention order or a residency requirement within 30 days after it is imposed. The appeal shall be conducted by board members who did not participate in the original decision, and shall be conducted by way of a re-examination of the material in which the decision was rendered by the Board, together with any other relevant information that was not available at the time of that decision.

The inmate has the right to apply to the Federal Court for a review of this or any other Parole Board decision. Section 18 of the Federal Court Act provides that the Trial Division has exclusive jurisdiction to issue an injunction, writ of *certiorari*, writ of prohibition, writ of *mandamus* or writ of *quo warranto* or to grant declaratory relief against any federal board, commission or other tribunal. While the court will not second guess the tribunal with respect to the facts of the case, the court will closely examine the legal procedure that was followed and the exercise of the Board's jurisdiction. This is a right of appeal which exists now and which will continue to be available to those inmates subject to the detention process.

Inmates brought into the detention review process will be afforded the most thorough substantive and procedural safeguards possible at every stage of the process. The Government has listened to the suggestions of the many persons who have examined all provisions of this Bill, and the Government has given active consideration and thoughtful consideration to all of these suggestions. Indeed, Mr. Speaker, it has adapted and adopted many of them.

This is not, in other words, a shotgun Bill. I am confident, and the Members of this House were confident when they approved the Bill on June 26, that the legislation presented to the Senate is reasonable, that it is well thought out, and that it balances the interests and concerns of the many divergent groups that will be affected by it. That includes the interests and concerns of Canadian society as a whole, the little guy, the man and woman in the street.

I urge my fellow Members of this House to continue their support for the much needed measures in this Bill. I urge their assistance in its passage without further delay. That is what we have come back to do. Let's do it.

Some Hon. Members: Hear, hear!

• (1130)

Mr. Kelleher: Mr. Speaker, I move:

> That a Message be sent to the Senate to acquaint Their Honours that this House disagrees with the amendment made by the Senate to Bill C-67, an Act to amend the Parole Act and the Penitentiary Act, because this House believes that the National Parole Board is better structured and experienced to deal with all matters of fact relating to the prediction of violent behaviour and that public safety is properly preserved through decision-making being kept with the Board.

Mr. Nunziata: Mr. Speaker, I rise on a point of order. Might I inquire whether there may be unanimous consent to put some questions to the Solicitor General (Mr. Kelleher)?

Mr. Speaker: The Member is seeking a change in our procedures by unanimous consent.

Some Hon. Members: No.

Mr. Speaker: I think the Hon. Member has heard the answer to that request for a change in procedure. Is it the pleasure of the House to adopt the motion? Debate.

Right Hon. John N. Turner (Leader of the Opposition): Mr. Speaker—

Some Hon. Members: Hear, hear!