[*Translation*]

As to special committees, since their mandate expires with the tabling of their reports the Chair will always be prepared to entertain such grievances as that submitted by the Hon. Member for Hamilton East even though the Chair has no direct authority to order the Government to provide comprehensive responses.

[*English*]

These are very important matters that relate to our new rules and the Chair hopes its comments can and will be helpful.

GOVERNMENT ORDERS

[*English*]

IMMIGRATION ACT, 1976

MEASURE TO AMEND

The House resumed from Wednesday, September 23, consideration of Bill C-55, an Act to amend the Immigration Act, 1976 and to amend other Acts in consequence thereof, as reported (with amendments) from a legislative committee, and Motion No. 67 (Mr. Marchi, p. 9261), and Motion No. 68 (Mr. Jourdenais, p. 9262).

Mr. Sergio Marchi (York West): Mr. Speaker, when we left off yesterday we were discussing Motion No. 67 which stands in my name. Motion No. 67 was moved after the defeat of a number of other motions designed to upgrade the appeal mechanism. Motion No. 67 attempts to have the Government reconsider the appeal mechanism.

The Government currently favours an appeal mechanism whereby an appeal may be made to the Federal Court only by leave and only on points of law. We suggest that that needs to be upgraded. After all, we are dealing with appeals that affect the life and safety of claimants. Motion No. 67 would have the end result of having appeals go to the Federal Court automatically without the need for leave and, perhaps more important, it would have the end result of allowing the Federal Court to deal with appeals on points of circumstance and fact rather than on points of law only.

If the Federal Court were only allowed to deal with appeals on points of law, then the stories of refugee claimants and possible errors that may have been made by the refugee board in analysing those stories would not be taken into consideration. The appellant would not be allowed to tell the Federal Court his or her own story. His or her solicitor would not be able to present new evidence to the Federal Court.

As it stands now, the Federal Court will only be allowed to determine whether or not points of law have been followed by the refugee board in making its ultimate determination. However, points of law are not the real crux of the matter. The significant element of any appeal is a review based on a claimant's story or on new evidence which has come to light since the hearing before the refugee appeal board. This new evidence may be much more convincing and may lead to the rendering of a different determination. That is why Motion No. 67 asks the Government to try to put itself in the place of a refugee claimant who has gone through the refugee board process and been refused by the refugee board but who knows deep inside that his story is in fact true. That individual would want a second attempt to present his version of the truth. If we allow for appeals on points of law only, we will not put into the system the safeguard which may prevent the horrible torture, persecution, imprisonment or death of an individual who will be sent packing.

This motion meets with the approval of virtually every witness who came before the legislative committee studying Bill C-55. Most organizations wanted a second appeal structure and favoured a separate appeal body within the refugee division rather than appeal to the Federal Court. Some even favoured a written review by a refugee board member who did not hear the claim but was part of the refugee division.

It was the agreement of the greatest number of witnesses who came before us that there was a need to place importance on the appeal system. Many judged the fairness and compassion of the system on how it treated appeals. They felt that a system was only as good and as foolproof as its appeal mechanism. Therefore, Motion No. 67 deals with the appeal mechanism.

Motion No. 67 is the last motion we on the Liberal side have placed on the Order Paper. It was the feeling of our Party that if this legislation was to stand and the Government would not follow the advice of the many groups that suggested that the Bill was too badly drafted, we must make significant and substantial changes to three particular areas of the Bill.

The three areas of the Bill that require modification are the prescreening mechanism, the safe third country concept and the appeal mechanism. It is our contention that by changing those three areas, this piece of legislation will be made much more acceptable.

It is also our contention that if there are not substantial changes to these three areas, the other amendments that are to be debated and the other amendments that have already been approved are secondary. They are important and valuable in their own right, and the drafters of various amendments did put in time and energy to draft them, but in comparison to the larger premises of the Bill, they are of secondary importance.

If we are to keep applicants away from the refugee board, if we are to send them into orbit through a safe third country and if we are not to offer them a proper appeal, what is the value of crossing the t's and dotting the i's on other parts of the Bill? Having said that, it is my hope that government Members see fit to accept Motion No. 67.