My third question is on abusers. Would the Member be willing to see the process begin without the presumption of guilt, that is, without the inquiry first to stamp the person as either an abuser or a probable abuser with the issuance of a deportation order or a conditional deportation order? Can we start the actual refugee hearing without putting that stigma on the claimant?

Mr. Hawkes: Mr. Speaker, I will try to deal with those three questions in the order they were presented.

Recent history tells us clearly that a law which is not legally sound or in accordance with the Charter and all those things is a bad law. The courts will turn it down. We have had that happen to our Immigration Act in recent history. That is the reason which led to a lot of the changes in the Immigration Appeal Board.

I believe that no one in this Chamber wants to put in place a law which will be struck down. To be as sure as we can be that it will not be struck down requires expert testimony from government official and private sector people about the fine print.

I do not think in this particular case, given the complexity, the history, and the problems, that there is any danger of cutting off debate. What I do think—and I may differ from the Hon. Member who raised the question; I am not sure—is that we need expert witnesses. I do not think we need witnesses who want to attest the Parliament of Canada about their concerns about refugees. I think that is a given shared by all Members. What we need is expert testimony about the fine print.

Turning to the third country concept, it is possible to entertain some amendments which would bind that. I have an immediate reaction that that might not be the wisest course, that what we might want there is simply a test. If we are returning to another country, we want to be sure that they do not need the protection of Canada but that they do indeed have the protection of the country to which they are returning. It may be a test rather than an attempt to bind. Sometimes when we attempt to bind things we leave out some things and later, in retrospect, we wish we had them in there; sometimes we put in things we did not intend. We may not have all the wisdom; it may be that some other kind of legal concept would be helpful.

This is why I suggest that the board itself, in its expert wisdom and using what it does to judge individual cases, might indeed be the best body to judge country cases. That might be the more important thing to put in the law.

When it comes to the issue of inquiry first, refugee hearing first, the inquiry is important to stop abuse, and it should happen quickly; that is my view. The hearing on whether somebody might or might not be a refugee is what I see as a separate thing.

In our committee report in October 1985, we drew the distinction between immigration concerns and human rights concerns. I want as pure a process as we can see for the human rights concern, not for it to be fouled up with the immigration concern. However, I think we would be inviting trouble if we said that Immigration could not proceed to make the decisions which Immigration must make.

It may be that doing the two in the same hearing is better. I have not heard the testimony pro or con or all the reasons. However, I think it might not be the best way. It is the separation, the clarity on the two sides, which concerns me more, not the time.

Mr. David Berger (Laurier): Mr. Speaker, there are two very different aspects to Canada's refugee policy. First, there are refugees we select abroad and, second, there are those who make claims in Canada.

The refugees we select abroad are part of a controlled, predictable movement which allows Canada to select the cream of refugees through relaxed immigration criteria. A minority are convention refugees. I want to emphasize that immigration criteria dominate the selection of refugees abroad.

First, we determine whether the claimant is a convention refugee. Second, we determine whether the applicant is capable of becoming successfully established in Canada. We take into consideration, in so doing, all factors used in assessing independent immigrants.

The needs of the refugee are secondary in a process which is shaped by our domestic immigration needs and our domestic policies. Through immigration we seek to foster internal growth by adding skills which are in demand in Canada. We seek to further social goals such as reuniting families. This is all done within the policy goals of Canada and according to our domestic needs.

When we select refugees abroad, Canada's needs are looked after. However, this does nothing to respond to the needs of the refugee who may have to pick up and go quickly, who has no time to apply, whose life may be in danger by lining up at a Canadian embassy or consulate to apply to come to Canada as a refugee judged by immigration criteria.

Selecting refugees abroad, according to immigration criteria, is no help to those who are jumping away from the fire, as Rabbi Plaut put it several weeks ago when he spoke in Montreal. This is why we have the procedure of allowing claims in Canada.

Under the 1951 UN Convention, Canada has undertaken to protect persons who are physically present in Canada, who claim to be refugees, and who seek asylum here. This flow is much less controllable and does not allow for the selection process which is used when we select refugees abroad.

• (1930)

On February 20, the Government introduced a series of measures designed to prevent refugees from coming to Canada to make their claims. These measures include transit visas, abolishment of the non-deport list and the holding of claimants