Mr. Heap: I thank you, Mr. Speaker, and I thank all Hon. Members for their assistance.

On this motion, I am attempting to protect a claimant who came to Canada, left, and returned. Under categories 1(c), 1(f), and (5), the claimant would be excluded from consideration. I am not arguing against those categories as such, I am arguing that if the claimant offers evidence that something has happened since he was last in Canada, for example, perhaps he returned to his own country and got it in the neck from whoever it was that he thought may persecute him, and who Canada did not think would persecute him, but he returned and it did happen. If the claimant can present any such evidence he should be considered.

Notwithstanding those exclusionary clauses 1(c), 1(f) and (5), a person is eligible to have a claim determined by the refugee division if the claim is based on facts that arose since the claimant's most recent departure from Canada and, in the opinion of the adjudicator or the member of the refugee division considering the claim, the claim is not manifestly unfounded.

It is a simple matter, it speaks for itself, and I believe it is generally in keeping with the clause as it stands. It does not ask for a major departure. It asks that there be the opportunity, probably in a very few cases, to take account of events that may have happened to that person since he was previously in Canada.

In Motion No. 32, I wish to suggest a fairer test of credibility than the Government has offered in order that a claimant would not be rejected merely by having the merits of his claim examined by people who are not, as a body, competent to do that, or officially asked to examine the merits of his claim. I have proposed what is well known in international law, and frequently used in Canadian discussion, although I do not think that it appears in Canadian law, as the manifestly unfounded claim.

There are two grounds on which the United Nations High Commission for Refugees, and many other countries, agree that a claim is not worthy of further consideration if it is found to be manifestly unfounded. First, it may be manifestly unfounded because all the facts stated by the claimant, even if they are true, have nothing to do with refugee status. To get into the ball park, a claimant must show that he has reason to fear persecution for one of five reasons: nationality, race, religion, political orientation, or membership in a certain group. That could be a class or any type of group.

If the claimant states that he came here because he cannot stand his in-laws at home, or because there is no work at home, we may be sympathetic, but he is not a refugee under the UN Convention. He is not a refugee from persecution as defined therein.

The other ground would be if the statements were clearly fraudulent. In Canada, and elsewhere, the manner in which that is often expressed is that if any reasonable person listening to the facts does not believe them—two and two do not make six; if the claimant came from Amsterdam, he did not come from Calcutta; the story does not hang together—and it is plain that the essential facts presented on his persecution would not be believed by any reasonable person, that is a semi-subjective judgment, but it is one that has strong support internationally.

Mr. Girard, the head of the Refugee Status Task Force has stated that that is a very weak test and that they wished a stronger one. He did not explain why they wished a stronger one, he just stated that they wished a stronger one. I believe that there is no good reason that Canada should wish a stronger test, that is, a more restrictive test than has been found workable by our colleagues in the United Nations, and our colleagues who support the United Nations High Commission and is strongly recommended by the UNHCR.

A while ago the Hon. Parliamentary Secretary commented on whether the UNHCR found Canada in contravention of the Convention. Of course, it is quite true that they did not. They do find that we need to make improvements in this Bill. This is their diplomatic way of putting it. We need to make improvements in the Bill in order to fully comply with the Convention. According to their *aide-mémoire* of some months ago, this would be one of the tests which needs improvement. They are a body that can only work by eliciting co-operation. They are not in a position to act like policemen or judges and state, "You have contravened it, you go to jail". They have no enforcement powers. They rely upon persuasion, and they have asked us to bring the test more into line with the standards that they recommend.

• (1250)

To put the question "are we in contravention" is to put an irrelevant and, by its nature, misleading question to the UNHCR representative. They had already made their position very plain, that the law needs improvement in this respect.

Finally, in Motion No. 33 I have made a further attempt or an alternative attempt, in case it better suited Hon. Members opposite, to amend the same procedure by asking the officers to consider any evidence, including that in subsection (a) or that in subsection (b), but not to rely upon the record of other people who came from the same country where the person fears persecution. That is not a test which is respected internationally. That is not a test which can be seriously applied when things change as fast as they do now.

If there is a blow-up in country *x*, and a change of government with violence, and that country is on our safe country list, it will not be changed that fast by the Cabinet. What I am asking is that consideration be given to not relying on the record of the country from which the person is fleeing or the record of acceptance by Canada of refugee applicants from that country.

The United Nations has made headway in international law in the 1948 UN declaration for human rights by establishing