Finally, we propose to amend the legislation to make it necessary for merging corporations to submit a prior notice when their assets or gross revenues exceed $500 million. We would then be in a position to examine the pros and cons of major mergers which are most likely to limit competition substantially, before they become a reality. Such a prior notice is provided for in competition legislation in many other countries including Japan, West Germany, Australia and the United States. The omission of such a clause in our own legislation would constitute in my view a major flaw.

In short, Mr. Speaker, these proposals will provide Canada with a legislation which will adequately govern mergers, a workable instrument which will encourage competition while not unduly affecting the activities of Canadian corporations abroad.

• (1130)

[*English*]

We also propose to repeal the existing criminal law provisions that deal with monopolies and replace them with civil law provisions dealing with the abuse of market power. The reasons for this change are in large part the same ones that apply to our proposals on mergers.

As written, the Act can now deal only with the most blatant and absolutely serious abuses of market power. Even within such stiff parameters, it does not work well. This is an area in which competition law must be effective if there ever was such an area.

Nevertheless, the law must explicitly recognize that in a small, open economy such as ours, some firms may well achieve a market dominance. The law must allow those who are doing a better job to continue to succeed. The problem arises when a dominant firm abuses its power and takes action to prevent or lessen fair and healthy competition. Small businesses which provide so many Canadian jobs are especially vulnerable to this type of behaviour.

The new Act will serve as an effective deterrent to these practices and will give small businesses protection and the fair chance they deserve. First, the law must be clear. As Hon. Members will see, the sectors regarding abuse of dominant position will clearly spell out what constitutes anti-competitive behaviour and will provide examples. At the same time, we will have a law that can be applied more precisely.

We must be able to distinguish between market success based on superior performance and success built on unfair market muscle. No public interest is served, for instance, by preventing businesses from reducing prices and gaining a larger market share because they have found ways to keep their costs down. However, we do have an interest in acting against dominant firms that use predatory practices to wipe out an inconvenient competitor. To make this distinction and others like it, the new law provides for a defence based on superior competitive performance.

[*Translation*]

Under the new provisions, Mr. Speaker, any conspiracy to limit competition will remain a major crime. Unfortunately, the current legislation is again quite inadequate. First of all, it is of doubtful effectiveness, because it does not always discourage real conspirators. Also, its wording is so vague that it could stop agreements, especially in the export industry, which, in the final analysis, would prove beneficial to our economy. Obviously, Mr. Speaker, we need legislation to block these two loopholes. Any price fixing or competition limiting agreement would weaken the economy. It is therefore necessary to provide for sufficiently severe penalties to discourage people from concluding competition limiting agreements. On the other hand, we also need legislation which does not stop Canadian corporations from concluding agreements that are desirable to tackle international markets.

As a solution to the first problem, we propose to increase the severity of the law by increasing the maximum penalty in the case of a conspiracy from $1 million to $5 million. We will also make it clear both to businessmen and the courts that any conspiracy to restrict trade is intolerable.

We also propose to amend the legislation with a view to eliminating the uncertainty surrounding the *mens rea*, the intention to commit a crime that must be proven and the agreements the existence of which is inferred, that is, the weight the Courts should give for instance to circumstantial evidence in such cases.

To deal with the second problem, we propose to amend the legislation in such a way that it could adapt to particular circumstances. We do not want to interfere with corporations which are anxious to sign agreements that are clearly in the public interest. Several examples come to mind: agreements between corporations operating within a tight market for the purpose of specializing in different lines of products, or agreements for the purpose of exporting goods to foreign countries. The new legislation provides that the Competition Tribunal may allow specilization agreements for the purpose of increasing efficiency. These exemptions would apply both to services and manufactured goods.

Mr. Speaker, another amendment deals with the status of banking institutions and Crown corporations with respect to competition legislation. At the present time, agreements and interbanking mergers are governed only by the Bank Act. As far as Crown corporations are concerned, they are not, as a rule, submitted to the provisions of the legislation governing competition. A question is constantly raised: Why should banking institutions and Crown corporations enjoy a status different from that of other industries? So far, I have not heard any satisfactory explanation.

Under our proposed amendments, all agreements and interbanking mergers would come under the Act governing competition. Crown corporations which are competing with the private sector would also be subject to this new legislation. Because of these new amendments, Crown corporations would