body, the competition tribunal. The purpose of this tribunal will be to adjudicate non-criminal competition matters. Its membership will comprise judges and lay experts in the areas of business, economics and public affairs.

This proposal addresses one of the problems that we have recognized and have had to live with for many years, the complexity of competition cases. Typically, the questions concern probable effects—future effects—and implications of various business activities, questions which have to be considered in their full commercial and economic context. For example: Is a given practice likely to reduce competition in the years ahead? Is this a situation where small market size makes it desirable to permit companies to specialize or to rationalize their production? Would a particular merger result in efficiency gains which would offset any negative effects on competition? Answers to questions of this type usually require the application not only of legal expertise but expertise in how the market-place functions.

I should add that these difficulties have been recognized and commented upon publicly by distinguished members of the judiciary itself. For instance, some 25 years ago Mr. Justice Spence expressed his view that: "A court is not trained to act as an arbitrator of economics." This problem has been addressed in other countries as well. Similar tribunals exist in both Sweden and in the United Kingdom.

Our proposal is based on a recognition that two needs have to be addressed. One is to draw on relevant expertise. The other is to do so in a process that is, and is seen to be, fair, open and independent. I believe the tribunal meets both requirements. Its membership will be balanced. It will include judges appointed from the Federal Court. It will also include people appointed from the world of business and economics.

To ensure fairness and consistency the tribunal will be chaired by a judge. All law appointments will be vetted by an advisory council appointed by Order in Council and made up of representatives of big and small business, consumer groups, the legal community and labour. This body will ensure that all lay members have the necessary expertise to carry out their statutory duties.

The tribunal will adjudicate. It will not have the powers now held by the Restrictive Trade Practises Commission to authorize searches and subpoenas or to conduct inquiries of its own. On matters of law there will be a full right of appeal from the tribunal to the Federal Court of Appeal.

[*Translation*]

Mr. Speaker, this Bill also provides for a comprehensive change of approach in the area of mergers and their impact on competition. In the first place, those moves would be considered as coming under civil law rather than criminal law, as is now the case under the present statute.

For years we have had the opportunity to realize that the criminal law is quite inappropriate where that kind of operations are concerned. Its inherent principles, procedures and penalties are simply out of place. Mergers and other relevant practices are trade practices in the normal course of business activities which, under examination, may or may not affect competition. Our objective is not to mete prison terms nor to levy fines but to protect public interest by setting out specific game rules based on realities and enforce them strictly thereafter.

Criminal law is not only an inadequate tool for analyzing the consquences of amalgamations but again such a procedure, Mr. Speaker, has been shown to be entirely ineffective.

As the Hon. Members know, in criminal law, it has to be proven beyond any reasonable doubt that there has been a violation. It is really asking too much, Mr. Speaker,to assess the prospective consequences of an amalgamation. In other words, how can it be stated beyond any reasonable doubt that a takeover will have effects detrimental to public interest?

It has often been said, that economics is not an accurate science. In spite of this, under the present legislation, a violation has to be proven beyond any reasonable doubt. This is truly inconsistent. Therefore, we should not be surprised that, in the past 75 years, there has never been any conviction on the grounds of amalgamation challenged under the present legislation.

The new legislation surely provides a better procedure for solving our problems. It empowers the Competition Tribunal to prohibit amalgamations or to set specific conditions whenever they are deemed to restrict competition without increasing efficiency.

For the first time, still with respect to amalgamations, the rule of international competition in the Canadian economy will be specifically recognized in the legislation. In 1910, the year when the present legislation was passed, Canada was protected in different ways against international competition either through customs tariff or tariff barriers. Today, many of our industries are directly exposed to international competition both on our domestic and foreign markets.

Thanks to these amendments, Mr. Speaker, when the time comes to rule on the legality of a merger or take-over, the Tribunal will be bound to take into account the extent of foreign involvement in our domestic market.

The new legislation provides also for an exemption in the case of joint ventures which do not limit competition in any way, including research and development projects and natural resources development. Agreements of this kind are especially important for this industry. Most joint ventures do not lessen competition in any way. On the contrary, they bring about gains in efficiency by allowing temporarily joined corporations to share the high risks involved in projects requiring major investments. Joint ventures likely to generate benefits of this kind will be expressly exempted from the provisions of this Act. On the other hand, joint ventures suspected of limiting competition will be subjected to a review by the Competition Tribunal which can then order any remedial action deemed necessary.