Now, there is another factor on which I am calling the attention of the House today, and which is just as important in my view. It is the one you just read, Mr. Speaker, under which any history of anti-competitive behaviour on the part of any party to the merger should be considered by the Tribunal.

I know some Hon. Members opposite will say this may never happen again, and that a company which might have broken the law in the past could very well show an exemplary behaviour afterwards. But unfortunately this is not always the case. With this amendment, I am trying to establish a factor under which people in the Tribunal might consider whether indeed they are dealing with a company that in the past has exercised good will, prudence and respect for the laws of the land or whether the Tribunal is dealing with a company which in the past has had an anti-competitive behaviour.

As I understand it, the purpose of Bill C-91 is not to closely scrutinize every single merger. Only those involving turnovers in excess of $400 million will be looked at. In a similar vein, I believe that as a result of this amendment the members of the tribunal would weigh this factor only in cases where there is strong evidence of prior anti-competitive behaviour which is deemed to have been constant or important enough to be taken under consideration. Naturally, companies which may have erred in the past but which showed good will afterwards will be allowed to merge. But since the tribunal is a new jurisdiction, I would suggest that our duty as legislators is to facilitate the job of the tribunal members and indicate to them that, in our opinion as legislators, the anti-competitive behaviour of a party to the merger, or of one of the two companies involved, may be considered on the same basis and in the same way as any other factor which is already included in the Bill as introduced by the Minister.

I think it is important—and I will conclude on this note—for the Government to realize that the absence of this factor is not a problem which can simply be disregarded. Adding such prior anti-competitive behaviour as a factor is not a cranky suggestion.

In my remarks on second reading I said there was nothing to justify the absence of certain factors. Several witnesses raised this point in briefs to the committee, particularly Professor Stanbury and the Consumers' Association of Canada. Mr. Speaker, I would remind you that four or five of my colleagues who took the floor in the second reading debate expressed regret that this factor was not included among those considered in this part of the legislation.

Therefore I urge the Government to give serious consideration to this amendment. I hope it will be accepted so that my NDP colleagues and I might give our support to this measure.

[*English*]

Mr. Orlikow: Mr. Speaker, I am proposing that Clause 47 of Bill C-91 be amended as follows:

"(*i*) and to the extent to which concentration of corporate ownership is in the public interest, by avoiding conflicts of interest between merged financial and non-financial commercial operations, and by providing lower prices, innovation, employment and other public benefits through economic efficiency."

• (1530)

The new subsection which I am proposing would provide a means by which the appropriateness of conglomerate mergers could be judged. The public interest test, which is used by many public regulatory agencies, which I have included in this amendment, was proposed by competition lawyer Gordon Kaiser in his testimony to the committee. He said in part:

It is essential that there be a facility or mechanism to have these transactions reviewed with proper public input prior to their consummation. The proper test, of course, is not whether competition is being limited substantially in a specific product market but whether the transactions are in the public interest generally. A number of regulatory tribunals review acquisitions involving regulated companies and determine whether the acquisitions are in the public interest.

The remaining parts of the test which I am proposing would deal with some of the conglomerate issues on which the committee heard a good deal of testimony from a number of witnesses including the Canadian Labour Congress, the Consumers Association, Professor Brecher, Professor Stanbury and Mr. Kaiser. The following are some of the issues which could be dealt with if this amendment were included in the Bill: First, divorcing financial and non-financial operations of conglomerate business and commercial lending agencies. This would be done to ensure that Genstar buying Canada Permanent and Imasco buying Genstar to get Canada Trust would be considered for the anti-competitive aspects which they will undoubtedly generate, namely the ability to self-deal with other people's money to advance corporate interests in a way which no competitor is able to do. I understand that we are dealing with conglomerate corporations which now control assets of $50 billion or more. They are as big or bigger than some of the big five banks.

We also propose that conglomerate mergers be judged by the public benefits which they could and should provide. For example, do they provide lower prices, innovation in the market-place, more employment and other benefits which the companies should be only too happy to tell us about if that is what they are going to achieve? What we have seen in conglomerate mergers to date is not very reassuring. We have seen big pay-outs to senior executives and board members for their stock options. The Genstar twins have denied press reports that they could clear $40 million or $50 million each in the Imasco takeover of Genstar. However, they have been very careful not to tell anyone how much they will in fact be able to make.

Let us look at what is happening in the battle to take over Hiram Walker. The three top officers of Hiram Walker have been guaranteed a salary of $500,000 a year for the next three years whether or not they stay with the company after the takeover is completed. Besides that, they have been given options to buy shares in the company for substantially less than the market price. They will be able to make several million dollars each in that way. It is too easy for companies simply to strip the assets and sell them in order to get back the money they spent in acquisition costs. This amendment would emphasize public benefit in conglomerate mergers and all mergers would benefit from having such a test applied.