I just cannot believe that Canadian judges of the Federal Court are prepared to sit on such a hybrid body. Asking a justice of a Canadian Superior Court, a Federal Court or a provincial Supreme Court to sit on the Competition Tribunal for four, five, six or seven years would be an excellent idea, but I cannot accept that this justice should continue to exercise his responsibility in his own court, to which he has been appointed and with which he is expected to work. I find it absolutely inconceivable that those justices should be asked to do double duty as justices of both the Federal Court and the Competition Tribunal. And also that they should be asked to lead a panel, not of other judges but of business experts. It is my view that the Minister made an excellent move when he decided on setting up a tribunal, but also that he erred when he turned that tribunal into some half-judiciary, half non-judiciary body.

I also wonder whether that would not be unconstitutional, and it is my view that we should have legal opinions on that before proceeding with legislation that could lead to tremendous difficulties with the Supreme Court of Canada a few years down the road.

But what is more important still for us is who will be appointed to that tribunal. We feel it is essential that people of absolute independence and integrity be appointed to that tribunal, because they will have to pass judgment on economic matters involving millions, if not billions of dollars. And if people are asked on occasion to sit temporarily on a tribunal that will have to decide whether the takeover of two big Canadian corporations should procced or not, I feel that we will thus be exposing those people who in due course will be going back to their own fields of activity to earn an honourable living. It is my view that failing to provide for a fixed term of office and some employment stability in the case of those men and women who will be called upon to sit on that tribunal is a very serious blunder on the part of the Minister, one which I hope he will straighten out.

[*English*]

In addition, the appeal procedures are very broad and could go on for a very lengthy time. In economic matters, where time is of the essence, we must examine ways of speeding up, or limiting the time spent before our judicial institutions. Otherwise, opportunities may be missed both for companies and consumers.

[*Translation*]

Moreover, our party, the Liberal Party, is concerned that Bill C-91 will not allow third parties to appear directly before the Competition Tribunal. In my opinion, this represents an obvious lack of access to the tribunal in the context of a growing bureaucratization of the whole process.

I think that it is important for the Minister to accept an amendment which would allow third parties with a competitive interest to appear before the tribunal to express their views and present their arguments before this tribunal makes any decision which could impact on these third parties, who are not directly involved, but who, indirectly, could be very much affected by a transaction sanctioned by the tribunal.

• (1220)

[*English*]

The legislative committee would also want to look into class action as introduced in both Bills C-42 and C-13, to see once again if this would be a good way for third parties to seek redress, or if procedural rules cover this kind of action sufficiently.

[*Translation*]

Mr. Speaker, I would like to say in closing that it is important in my opinion that the part of the Act dealing with mergers be as strong as possible because it is obvious that it is the weak point of the existing statute. The proof is obvious. Since 1910, there has only been one conviction under this section of the Act.

I believe that we are right to transfer jurisdiction for mergers from criminal law to civil law. However, Bill C-91 has been weakened if we consider that its predecessor, Bill C-29, listed twelve factors to determine whether there had been a contravention of the Act.

I do not understand why the Minister has made these changes. The bill introduced by Mrs. Erola was much more important, serious and useful to prevent mergers which would be detrimental to Canadian economic interests.

Bill C-91 omits several considerations, as I have just mentioned. For instance, the difference in size between the business planning a merger and its competitors. There is also the past behaviour of a company to prevent competition, for instance, as well as the potential elimination of a solid competitor, any evidence of the intention to prevent or reduce competition, the possibility that the merger will result in a substantial decrease in supply or distribution sources, as well as the nature and the degree of change and innovation in the specific market, and finally, any possibility that the merger will promote competition. Why have these factors been eliminated from the legislation which Mrs. Erola had introduced? It seems to me that the legislator should provide a text which is as precise as possible to better inform the judges of his intentions. Is it that the Minister does not feel these factors are important? Is it that the Minister wants to instruct the Competition Tribunal not to take these factors into account? If such is the case, it would be quite unfortunate, because we would have run the complete circle. While trying to tell us that the legislation would prevent unfortunate mergers in Canada, the Minister has come forward with a toothless legislation which will not prevent mergers which are detrimental to the Canadian economy.

In my opinion, there are too many loopholes in this legislation. Especially because of this defence of economic efficiency and the obligation to demonstrate a lack of competition, the legislation introduced by the Minister has so many loopholes that major corporations will be able again to get away with it.