

of Canada, and the Canadian Bar Association. I have no objection to these associations being consulted. I think it was natural and that they should have been consulted.

**Mr. Orlikow:** Consulted? They wrote the Bill. They weren't consulted.

**Mr. Ouellet:** I share my colleague's fear in this regard. I would like to be assured by the Minister that the present amendments reflect not only their concerns and interests, but also those of the Canadian economy as a whole, of the small businesses of Canada and, more particularly, of the consumers of Canada. If the Minister is telling us that the business community is ready to accept the Bill because it is of their own making, I will be very uncomfortable, because if their participation has been, in large part, overwhelming, I would be afraid that Bill C-91 is strongly biased in favour of big businesses.

I am not the first one to acknowledge that a bias exists in favour of business communities in any country of the world. I am not saying that is always necessarily bad. However, we must be aware of the limitations this imposes upon us and acknowledge them. I want the Minister to be open, frank, and honest in this regard and to tell us who drafted the Bill.

As far back as the 18th century Adam Smith wrote in *The Wealth of Nations*:

People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices. It is impossible indeed to prevent such meetings by any law which either could be executed, or would be consistent with liberty and justice.

More recently Mr. Justice Wyzanski of the United States Federal Court stated:

Concentration of power, no matter how beneficially they appear to have acted, nor what advantages they seem to possess, are inherently dangerous.

Their good behaviour in the past may not be continued; and if their strength were hereafter grasped by presumptuous hands, there would be no automatic check and balance from equal forces in the industrial market . . . Dispersal of private economic power is thus one of the ways to preserve the system of private enterprise.

In view of the circumstances, Mr. Speaker, the manner in which the Bill was drafted, and the historical perspective of Canadian competition policy, a serious examination of Bill C-91 in committee is of the utmost importance. The effects of concentration on the Canadian economy are already very serious. The economic sectors of the oil, publishing, newspaper, food, and retail industries have all seen less and less competition and increased, although subtle in some cases, control of markets. This is practically always to the detriment of the consumer. This is obvious. One need only look at what happened in some cases to conclude that it is abundantly clear that consumers have not benefited from this era of concentration in Canada.

It is also to the detriment of our Canadian economy. For example, mergers do not necessarily create more jobs, they often decrease the prices of shares. Neither is a merger guaranteed to bring about more productivity or efficiency. The simple truth is that in some cases it does, but in many other

### *Competition Tribunal Act*

cases, unfortunately, it does not. Our approach and vision of the problem is greatly enhanced when we consider the real motor of the economy, that is small and medium businesses, and also the spending power of the consumers.

• (1210)

Small businesses create the bulk of jobs that exist in Canada. Therefore, we have an obligation to encourage and protect competition and fair trade practices in order to ensure the best conditions for an active and healthy market-place. The reality is that it is not consumers or individual consumers who complain to the Department of Consumer and Corporate Affairs about unethical competition. The vast majority of requests that come daily to the Department come from small businesses, entrepreneurs that are squeezed out by the big ones, that are badly treated by the large dominant firms in Canada.

Therefore, once again Adam Smith's perspective can help us in our endeavour. He states as follows:

Monopoly—is a great enemy to good management which can never be universally established but in consequence of that free and universal competition which forces everybody to have recourse to it for the sake of self-defence.

The Liberal Party will be looking for indications that small businesses are protected from unfair competition by Bill C-91. We will not take only the word of the Minister, we will ask small business representatives to come before the committee and test this legislation as to whether it is efficient. If it is not we will have to amend it, because I believe it must be the essence of fair competition in the market-place; legislation that allows small businesses to prosper in Canada and multiply themselves, not to be squeezed out of business by the big ones.

I would now like to address briefly some of the aspects of the legislation, and the first has to do with the tribunal. Certainly the establishment of a tribunal can be said to be a positive step, since its members will be able to develop a certain expertise, but the issue of composition needs readdressing.

The judge on the tribunal will have great power in the decision-making process since he alone would be deciding on questions of law, and with lay members on questions of law and of fact. These lay members will be sitting on a part-time basis, opening the door to uncertainty as to their constant interest and commitment to the job, not saying anything of their total integrity. I do not think this system has been carefully considered and analysed.

[*Translation*]

I know that in Quebec, the tradition is that a judge is appointed to sit on some administrative courts. For instance, the chairman of the Workmen's Compensation Board is a judge sitting full-time on that administrative court for a five-, six- or seven-year term. And once he has completed his term, he returns to the bench, his independence as well as the security of his professional life being assured but we do not have this rather paradoxical mixture of the judiciary and the non-judiciary.