

thought I had put them clearly enough for both of them to understand. But what disturbs me about the response of the government is the singular lack of understanding of the provisions of the agreement revealed by their comments.

Let me first of all deal with the powers of the National Energy Board. Referring to my speech, Senator Roblin said:

He made the statement that the National Energy Board would be the one that decided whether the proportionality clause in the treaty would be invoked.

I do not know where that alleged statement originated. It was certainly not from my speech. Indeed, I said just the opposite. I do not want that misunderstanding—certainly in the mind of Senator Roblin—to continue or to be shared by any other senator.

The thrust of my argument was that the powers of the NEB had been inappropriately constrained. I said that "The Free Trade Agreement removes from the National Energy Board its independent status as a regulatory agency." I further said:

The National Energy Board is no longer free to deny an export licence and apply a surplus test . . . It must go to the government, to the minister. The minister, if he wishes, then goes to the Governor in Council. The Governor in Council or the minister are free to let the request from the National Energy Board sit there, in which case it will lapse.

If the government, even today, has a quarrel with that statement, it also has a quarrel with the National Energy Board chairman. On the occasion of the hearings before the Standing Senate Committee on Foreign Affairs on September 27 of this year I referred to a situation in which the National Energy Board had concluded that it would have to deny an export licence requested by an applicant. I put it to the chairman of the National Energy Board, by way of a question, that "at that point the board would not be able to take independent action and deny the licence for reasons of security." Mr. Priddle replied:

Senator MacEachen is right. The board could not act on its own volition.

I made the point clearly and correctly in my speech of September 13, 1988. The National Energy Board has lost these powers under the new section 84 of Bill C-2. These powers have been transferred to the government. It is the government, not the board, which decides whether to deny a licence, and thus trigger proportionality.

I regret that Senator Roblin is not present today, but I would certainly like to know whether he agrees with me and Mr. Priddle on this point.

● (1510)

But that is not the only reason I regret that Senator Roblin is not present today, because his confusion or misunderstanding went even deeper when he challenged my statements concerning supply shortages and the International Energy Agency commitments. Senator Roblin's remark, as he put it, that ". . . there is only one kind of shortage in an international trading policy . . ." indicates that he has failed to understand

[Senator MacEachen.]

the difference between section 83 of the National Energy Board Act and chapter IV of the 1974 International Energy Program. I raise this matter again, because under the provisions of the Free Trade Agreement Canada has undertaken particular responsibilities to share its oil with the United States in a period of restriction, which the government itself must introduce if a licence to export is denied. I come back to this matter, because it has been alleged so frequently, repeated again by Senator Roblin and repeated by officials before the committee, that we should not worry about this matter or pay any attention to it because what we have undertaken in the Free Trade Agreement is the same thing, and even less onerous than those obligations which we have undertaken in the International Energy Program. I find that inaccurate. It is a misunderstanding which can only be circulated because of lack of attention to the Free Trade Agreement or because of an effort to gloss over what is of real concern to those of us who have examined the energy provisions of the Free Trade Agreement.

Let me just point out that section 83 of the National Energy Board Act spells out the considerations which the National Energy Board must take into account in passing judgment on an export licence application. The National Energy Board must satisfy itself that the quantity of oil, gas or power to be exported does not exceed—and here I quote the act itself—". . . the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada." Under section 83 of the act as it is presently written the National Energy Board has the power to reject a request for an export licence if, on the basis of the board's sole judgment, foreseeable supply is no greater than foreseeable Canadian requirements—or, to put it another way, if the foreseeable supply falls short of a surplus.

On the other hand, chapter IV of the International Energy Program defines the circumstances in which its demand, restraint and allocation provisions are triggered in order to create common, emergency, self-sufficiency in oil supplies. It is clear from the list of factors triggering the international program that what is anticipated is a sharp, quick and abrupt disruption of international oil supplies. I hope it will be clear that section 83 of the National Energy Board Act, which is to be modified, and chapter IV of the International Energy Program are concerned with different situations. One is concerned with the foreseeable future—the middle term, so to speak; the other is concerned with an abrupt, unforeseeable disruption. Under section 83, which is to be amended, the NEB has discretionary powers to deny export licences. On the other hand, the trigger under the international agreement is virtually automatic; it leaves no discretion to the Canadian government, as we can reasonably assume that the government will meet its obligations under that agreement. That is why, honourable senators, I cannot agree with the assertion that there is only one kind of shortage in an international trading policy. I have made the distinction between middle-term availability and short supply on the one hand and abrupt disruption