

Transportation

the vice president is a member of the committee, but it is impossible to have the president as a member if the vice president is not available.

Mr. Lewis: Before the minister answers, may I make two very brief points? I do not personally share the view some hon. members have expressed about the set-up of the committee. I imagine it would be rather difficult for the commission to function without some specialists as envisaged in the clause. I want to make one point which is not very important, and I want to ask the minister to reconsider an answer he gave.

I believe some of the fears have arisen as a result of what I am about to refer to in subclause 4. Provision is made for the committee to sit in review, but then follow these words, "otherwise than by that committee of the commission". I wonder whether that language is necessary? I wonder if it would not be sufficient if the subclause provided that the commission may sit in review and that those persons making the review shall be other than those who sat on the original hearing? The bill provides for a committee of three, but of course it may be a committee of three, or of five persons, all of whom will have had some experience in the particular field with which the particular case is concerned.

I cannot see any reason why the members of that committee who did not, in fact, sit on the original hearing should not be able to sit in review in the same way as other members of the commission may. I believe if that provision were made you would possibly answer the fears of hon. members who have referred to the fact that the president is now an ex officio member of each committee. If he does not sit on the original hearing, I do not see any reason why he should not be able to sit in review.

The other point I want to make is to ask the minister to reconsider his rejection of the suggestion made by the hon. member for Springfield concerning a larger quorum. I urge a larger quorum for a slightly different reason than the hon. member for Springfield gave, and not merely because the commission is a large body. I do not imagine that the number of members of the commission who will sit in review will be the entire commission. Obviously certain members of the commission not concerned with regulatory work will not sit. Then the members of the committee or the committee as a whole, as the clause is presently worded, who were concerned with

[Mr. Pugh.]

the original hearing will not sit on the committee.

I suggest a larger quorum is required for a different reason. My suggestion derives from ordinary experience in ordinary courts and other forums in which there are appeals. A single judge may sit on the original hearing, but if the case goes to the court of appeal there are usually at least three judges sitting. The reason is an obvious one and I almost apologize for putting it forward since it is so obvious. If we are going to consider changing or perhaps rejecting the decision of a tribunal, then we provide for more minds to grapple with the problem than the number of minds that grappled with it in the first place. I believe that is a quite simple and very logical principle for appeal tribunals. There should be on an appeal tribunal more people, more minds, concerned with the problem than the number of minds that studied the problem and made the decision in the first instance. Therefore, since we have a quorum of two for the first hearing, it seems to me that the member for Springfield is very much in the right in suggesting to the minister a quorum of three or four, when the commission sits in review of a decision made originally. It does not have to be an unwieldy quorum. I wonder whether the minister could not give a second look at that suggestion of my colleague?

Mr. Muir (Lisgar): Before the minister answers, I should like to widen the scope of this discussion a little bit. I am concerned about the powers we are giving this superboard. In subclause (3) of clause 17, reference is made to the fact that a committee of the commission may, in accordance with the rules and regulations of the commission, exercise all the powers and duties of the commission.

Subclause (6) of the same clause refers to the fact that the president and vice president shall not both sit on any hearing before a committee of the commission. The explanatory note for subclause (6) reads as follows:

The purpose of the amendment is to make sure that the president or the vice president shall not be placed in the position of having to sit upon a review of his own decision.

• (8:50 p.m.)

I am concerned because I think it boils down to the fact that the commission will be sitting in judgment on its own decisions. I think that this is too much power to give to any commission without some check or balance being provided. The commission should be made subject to review by some body other than the commission itself. I do not like the