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**Official Report  
of Debates  
(Hansard)**

**Tuesday 16 December 2003**

**Journal  
des débats  
(Hansard)**

**Mardi 16 décembre 2003**

**Standing committee on  
finance and economic affairs**

Automobile Insurance Rate  
Stabilization Act, 2003

**Comité permanent des finances  
et des affaires économiques**

Loi de 2003 sur la stabilisation  
des taux d'assurance-automobile

Chair: Pat Hoy  
Clerk: Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES  
ET DES AFFAIRES ÉCONOMIQUES**

Tuesday 16 December 2003

Mardi 16 décembre 2003

*The committee met at 1001 in room 151.*

**AUTOMOBILE INSURANCE RATE  
STABILIZATION ACT, 2003**

**LOI DE 2003 SUR LA STABILISATION  
DES TAUX D'ASSURANCE-AUTOMOBILE**

Consideration of Bill 5, An Act to temporarily freeze automobile insurance rates for private passenger vehicles and to provide for the review and regulation of risk classification systems and automobile insurance rates for private passenger vehicles / Projet de loi 5, Loi visant à geler temporairement les taux d'assurance-automobile dans les cas des voitures de tourisme et à prévoir l'examen et la réglementation des systèmes de classement des risques et des taux d'assurance-automobile les concernant.

**The Chair (Mr Pat Hoy):** The standing committee on finance and economic affairs will now come to order.

**Ms Judy Marsales (Hamilton West):** On a point of order, Mr Chair.

**Mr Toby Barrett (Haldimand-Norfolk-Brant):** Point of order.

**Ms Marsales:** My point of order first, please.

**The Chair:** Yes, Ms Marsales.

**Ms Marsales:** I'd like to start off by apologizing on behalf of the government caucus members to the presenters who were scheduled to appear before the standing committee yesterday afternoon. All members of the government side sincerely appreciate the time and the effort to compile the information and to appear before this committee.

I'd also like to take this opportunity to thank the standing committee members of the opposition and the third party and the government members for holding, after the adjournment of the meeting, an ad hoc informal meeting, at which time we not only listened to all of the various presenters, but we also entertained questions. I think it demonstrated a sincere interest on our part in the various points of view and perspectives of the people presenting.

Lastly, I would also like to offer an apology on behalf of my colleagues who were absent from committee yesterday afternoon to the members of the standing committee who were in attendance. Let the record show that the members of the government caucus truly value and respect the work of the standing committee and what

they contribute to the legislative process. As it is an important process, I would like to move for the record that the written submissions of the groups that were scheduled to appear yesterday be tabled with the clerk of the committee.

**The Chair:** Is there unanimous consent of the committee to table these pieces of information? Carried.

**Mr Barrett:** On a point of order, Mr Chair: I concur with the regret that we have that stakeholders did take the trouble to prepare submissions and to come before this finance committee, which is televised and recorded for Hansard. The responses from the members around the table and the questions to the various delegations at the witness table are also recorded for Hansard.

This is a very important piece of legislation with respect to insurance rates. I regret the fact that this committee turned its back on stakeholders who did take time out of their busy schedules. I would make a motion to allow those delegations who are interested—I certainly was here for the afternoon, as were other members; you weren't here, Chair. The Insurance Bureau of Canada testified; the Canadian Automobile Association; a very interesting presentation on fraud from the Toronto Transit Commission, which elicited a considerable amount of discussion from members. That discussion regrettably was not recorded in Hansard. I would make a motion to allow those delegations who so wish to return to the witness table. They did not have an opportunity to make their case, to have it recorded electronically and I make a motion that we allow those delegations to return to the witness table.

**The Chair:** Do I have unanimous consent for Mr Barrett's motion? I heard a no.

**Mr Bruce Crozier (Essex):** Just a point of order, Mr Chair: Obviously the clerk has advised you that that can be done, but I just question how that works then if there was a motion of the House for us to sit at specific times for specific reasons. Not that I'm opposed to what is being said, I'm just saying, can we have an explanation of how that works in the process?

**The Chair:** I would ask the parliamentary assistant if he has any comment that we would be doing clause-by-clause this morning, and if that is so, would we be able to entertain persons in the afternoon? That is also assuming that clause-by-clause would be finished this morning. Do you have any comment, Mr Colle?

**Mr Mike Colle (Eglinton-Lawrence):** First of all, we are more than willing to have those written presentations entered into the record. I think all the presenters who were here yesterday had written submissions and they are going to be included in the record. If there is time permitting, I guess that's for debate of the committee, whether they want to ask the same presenters who were here, who have made written submissions, to come back again.

Given the short time frame here, I really don't know how it would be feasible to get them to come in because we don't really know how long the clause-by-clause is going to take. It's certainly very difficult to predict. Then to ask them to come back to be on the record and given that who knows how long the clause-by-clause will take, how can we predict time for them to come and make presentations given the programming motion, the time limitations?

**Mr Gilles Bisson (Timmins-James Bay):** Just a couple of things: First of all, I don't understand how an entire government caucus could miss a committee meeting. I find that interesting. The opposition party and the third party were able to be here, so I think at the very least we owe those—

*Interjection.*

**The Chair:** Order.

**Mr Bisson:** The last time I checked, I had the floor, thank you.

I fail to understand how that happened, but nonetheless we're in an awkward position because if the suggestion is that we entertain presentations this afternoon after we've done clause-by-clause, what's the point of hearing them? The whole idea of committee hearings is to hear what the public has to say, reflect on those comments made by the presenters and then, if possible, from there, if we see fit, as a committee to make amendments at the clause-by-clause section.

I think the only way you could do this is to, first of all, deal with any extra presenters we may have whom we want to deal with prior to ever getting into clause-by-clause, otherwise it's a bit of a farce. It's allowing them to come and present, knowing full well there are not going to be any amendments to the bill that any presenter may or may not want to put forward to this committee.

**The Chair:** I've been informed that the presentations are being photocopied now.

**Mr John Wilkinson (Perth-Middlesex):** To Mr Barrett's point: The first thing we dealt with this morning was that all of the presentations yesterday by unanimous agreement of this committee are being put into the record. You did say that it's an unfortunate situation that this happened, but the presentations that people made they actually read from their prepared text. We were here and read along with them, and now that that forms part of the record of this committee—because we all agreed to do that—I think that concern has been addressed, sir.

As well, we have clear directions from the House as to how this committee is to deal with matters, notwithstanding glitches and mistakes, so, with respect, I think your concern has been addressed by reading all of this

into the record—which is happening—and that we should be going back to what the House directed us to do today, which is clause-by-clause.

**1010**

**Mr Barrett:** My concern has not been addressed. Granted, much of the presentation did follow the written briefs that were passed around, but what's very important, I think, is, as members of this finance committee we all realize we are here representing hundreds and thousands of people, and what we have to say as government members, as opposition members, is part of these deliberations.

I had some very important things that I did wish to get on the record on behalf of several interests that I represent in the trucking industry. I recall having a very interesting back and forth with the Insurance Bureau of Canada. They reflected on what I had to say with respect to trucking companies that are going under, are moving to the United States. The Insurance Bureau of Canada wasn't aware of that. The presentation I made was not recorded electronically. Give and take, their responses to not only my questions or my comments but questions and comments from around the room were not captured yesterday afternoon.

We only received one submission yesterday, which has gone to the clerk. I think that highlights my point as well: Other than the presentations that were handed in as people made their case, there is very little written material available to this committee, given the very short timeline that we're operating under.

Now there may be an opportunity for those on this committee to reiterate their several points. We have the schedule from yesterday that we made. I certainly want to make the case for Hansard on behalf of the number of truckers who have seen their premiums doubled. Whether that can be accommodated—

I regret that when I made this motion, I did hear a “no” from the government side. I acknowledge that.

**The Chair:** I have Mr O'Toole.

**Mr John O'Toole (Durham):** Thank you again. It is an unfortunate administrative issue that is really part of the broader attempt to time-allocate a very bundled up series of bills. This committee has had too little time to deal with a very large topic.

Even the bill itself in any substance, as we heard clearly from the presenters—I'm pleased to support the idea that the input received, even when this wasn't a duly constituted committee will be part of the transcription of proceedings here.

I'm agreed that, the way the standing orders have bound us to a certain time allocation motion, we are going to be doing an injustice to this committee, primarily because of the scope of the terms of this committee dealing with Bill 5. Mr Barrett has mentioned just one item, which was substantive input from other presenters dealing with catastrophic injury and the whole idea of DACs and what's the future for the unregulated health professionals that we heard from, the psychologists and others.

It really is a sham, and you, as new members, should be embarrassed to—I know you've apologized, but if you look back, as to the next time they time-allocate and bundle up a bunch of bills with no time for public hearings, if you recall, for the record is this: Technically we didn't deal with this until Thursday. By the time it was posted, there was no time to advise the stakeholder groups. In fact, I'm surprised that none of the litigation community ever appeared. I tried to call the law society and others myself; this is a record. They were not aware of it.

There's much to deal with this in the courts on plaintiffs and actions in the court that we have not heard anything about. Yet we know it's one of the cost-drivers in the attempt to achieve settlements.

I guess because of the limitations and restrictions placed on us, we have no alternative but to go ahead. I just want that to be part of the record. I'm disappointed and in that respect, because there hasn't really been a consultation—even the industry itself has until January 23, if you read the bill, to actually apply for the rates.

We also heard of the importance of rates and rate filings. Rate filings and actuaries cost hundreds of thousands of dollars, and until this bill is passed, they really don't have any certainty as to the extent of the changes and implications for the policyholders. It reminds me of freezing the electricity rates, technically, and the costs are going through the roof. Where is the debt going to accumulate? It's going to accumulate to the premium payers. That's who it is going to accumulate to.

It's an unfortunate box we're in and I guess you'd have to look to the government. This early in their mandate they've made a serious attempt in an undemocratic way—and I stress that because it should come up under Michael Bryant and Caroline Di Cocco's discussion on democratization. Those are my remarks.

**Mr Colle:** Again, just to be clear, first of all, to Mr Barrett's point, this bill does not deal with trucking; it deals with automobiles only. Second, there's nothing to stop him from commenting on anything he wishes, whether it's trucking or others, as we go through clause-by-clause. He can certainly put that on the record all day today.

To the point about public hearings, let it be duly noted that the Conservative government previously, which had two major insurance bills, Bills 59 and 198, had no public hearings whatsoever, no committee hearings whatsoever. All the negotiations and discussions were done in secret. So for the member of the previous government to talk about democracy—talk about the fact that they essentially precluded any hearings whatsoever on major bills of great significance.

This is a very focused bill, in essence allowing us to proceed with a 10% rate cut. That's what it's about. By delaying this action, you're basically delaying the implementation of some kind of stability to the auto insurance premiums that the people of Ontario want us to do something about. That's the focus of this bill. It's enabling the superintendent of financial services to have the power to

begin the freezing of rates and implementing a 10% reduction in the rates. So that's what the focus is. If anyone else wants to put on the record today whatever they want to put on, they're free to do so.

Second, we have the written submissions of all the deputants from yesterday. They are detailed with background information and they will be put on the record. They were listened to yesterday; they were never listened to in public during the last government, which refused public hearings on bills that were much more wide-ranging than this bill, which is very narrow in focus. They had no public hearings, committee meetings whatsoever, never mind clause-by-clause. They had no public input. They did it behind closed doors.

**Mr Wilkinson:** I find it odd for the member for Durham, who I have the greatest respect for, to publicly, on the record, state that somehow this process is a sham and it's too fast, when what we're dealing with is government motion number 10, the programming motion, which was agreed to by the members of the opposition. All of them stood in their place and said this is the way that we will deal with this legislation. So to come in here and say that somehow this process is flawed, I would suggest he may want to talk to his leader and the whip because it's a matter of record that the opposition was completely and unanimously in agreement that this is how we were going to deal with this bill today. I just found that odd.

**Mr Bisson:** Well, I've got four things. Just to the last point, I find it a little bit ironic that the Tories are protesting at this point, because they're the ones that negotiated this programming motion that we find ourselves in committee with today. However, I do understand, once you move from government to opposition, your view on time allocation changes, and I take it we're seeing a conversion on the part of my good friends who are now in the opposition.

**1020**

**Mr Michael Prue (Beaches-East York):** It's taken four weeks, but it's working.

**Mr Bisson:** Four weeks; they're starting to get it, that time allocation's a bad thing. I just want to say I believed in government it was a bad thing and I believe in opposition it's a bad thing. That particular comment is that if the Conservative caucus is unhappy about the amount of time we've got in committee, I agree with them, there should be more time in committee, but you should have never agreed to a programming motion in the first place that time-allocated this bill. So on that point, I don't think there's much of an argument.

The other thing I want to say just quickly—I'm not sure I'm convinced at this point—is that I'm hoping there will be more time for committee hearings, the most important work we do in this place. For those of us who were around at the time, we used to have committee hearings; there certainly were hardly any in the last mandate of the Conservative government. There were some in their first term, and there certainly were with New Democrats and with Liberals before under Peterson. Committee work quite frankly is where most of the work gets done

in this House. I'm just hoping that this government sees fit to re-give committees the type of authority they need to deal with bills. But, more importantly, if government members or opposition members in dealing with a bill find that there should be an amendment made, they don't take the position of the former Tory government, which was that even if the amendment made sense, they'd vote against it because it wasn't theirs. I'm hoping at least that the government doesn't go that way. However, I'm hopeful, but I'm not convinced.

On the other point, to the parliamentary assistant, before I get to the last point, you mentioned in your comments, Mr Colle, that this bill is about giving people a 10% rate cut. This doesn't do that. This bill freezes very badly, if anything, insurance rates at what they are.

**Mr Colle:** I said it gives the superintendent the ability to bring about the 10% rate cut.

**Mr Bisson:** Well, this particular bill, to be clear, doesn't spell out that there will be a 10% rate cut. What this bill spells out is a mechanism by which your government is attempting to freeze rates. But as we've pointed out in section 6 of the bill—it's pretty loosey-goosey as far as language—any insurance company can get an increase on almost anything.

Nonetheless, Mr O'Toole—or I forget who it was—raised the issue of the trucking industry. I just want to say I totally agree. I think we all agree as members that the trucking industry is hostage to the insurance companies no less, and probably more so, than individual owners. To that point, I have some amendments. Unfortunately I was not able to be here before 9 to file those amendments as I was caught up with something else, and I'd ask unanimous consent that I be allowed to table the amendments so we can deal with them at the proper time. At this point, I'd ask for unanimous consent to table the amendments that I have on the trucking industry.

**The Chair:** Agreed. Are you finished?

**Mr Bisson:** Yes, that was all I wanted.

**The Chair:** Mr O'Toole?

**Mr O'Toole:** Thank you very much, Chair, for allowing us to try to deal with this in a proper, considered manner. I just want to refer back and correct the record on a couple of issues. For the record, there's been consultation on auto insurance, as Mr Crozier, Mr Colle and others would know, since 1988. There have really been three regimes of auto insurance reform, one of which of course was the NDP Bill 164, which was a pretty profound change in the no-fault approach to insurance. There were consultations on Bill 59, as well as Bill 198. In fact, there is a public document which was sent out and broadly distributed.

**Mr Colle:** There weren't committee hearings.

**Mr O'Toole:** There were very broad consultations. In fact, there was a series of questions which precipitated some amendments to not only statutory accident benefits but the motor vehicle accident victims fund and other aspects of insurance that are quite technical and industry-specific and, in that respect, those consultations are all part of a public document which led to Bill 198, which

was a refinement of those scheduled entitlements. I want to make sure that although Bill 198 was a larger bill involving more financial measures than just the insurance bill, it was a government bill—a budget bill, technically.

With respect to the programming motion, the second part of my concern here, whether or not we file a report from this committee, it will be deemed to have been presented. So in that respect, quite honestly, it disempowers this committee. We don't have any power. That's really what it says. Even if we don't do anything, you're going ahead with it. In fact, I'm going to put on the record that I'll be surprised, as I tried on Bill 2 last week to move a very reasonable motion with respect to retroactivity, and it was denied by the government members only—the NDP, to their credit, Mr Prue, voted against the bill, but voted for that amendment. That's important to recognize. If the committee is prepared to deliver and receive, I think it's only fair that the insurance industry and other stakeholders should be given appropriate time to be invited to present to this committee. Given that the programming motion will deem this to have occurred, we could sit here, rather than just go through the blah, blah, blah, clause-by-clause review, and actually hear input.

I'm going to ask Mr Colle if he would consider that we take a small recess and attempt to call presenters either for this afternoon or tomorrow. I'm prepared to sit and listen to real input, and I believe that all honourable members around here really do want to receive proper input. My first request here is to move for a small recess so that we can actually caucus, without being whipped, to see if we can come to some consensus to encourage further and protracted input on this bill this afternoon and tomorrow, to show respect to the stakeholders as opposed to some lump of photocopied paper, that some of the members may be busy on other things and may not be able to review.

With that, I'm moving that we take a 15-minute recess to caucus.

**The Chair:** Mr O'Toole, are you making an amendment to the prior motion?

**Mr O'Toole:** This would be an amendment to the standing committee's report, which I should put on the record as well. Here are the timelines we had to deal with: We had the programming motion, and the minutes of the subcommittee, which I believe were released on the Thursday. Committee members would provide their list on Thursday, December 11, by 4 o'clock. We had a couple of hours. There were about 12 presenters. The witnesses would have 15 minutes. The 15th—that's yesterday—was to be hearings, public input, and then we had to have the amendments. We sat until 6 o'clock, however disorganized that was, and we had until 9 o'clock this morning, with the assistance of leg counsel, Catherine Macnaughton, to actually draft meaningful amendments. We've already heard from the NDP that because of other commitments of staff etc—they have no research budget, because of your unwillingness to recognize the work they do, to draft amendments with

respect to issues they felt weren't being addressed in the bill.

**The Chair:** Mr O'Toole, your amendment to the subcommittee report is a different amendment than the one we have on the floor now. So we'll deal with the first one.

**Mr O'Toole:** Which is to receive the input.

**The Chair:** The original motion was to seek unanimous consent to hear witnesses this afternoon. That's what we're talking about. Then we can move to yours after.

**Mr Bisson:** Just to add to that very quickly, I wanted to hear back from the parliamentary assistant on my first comment. I understand the want to be able to hear from the people who actually want to be here to present. However, there's a difficulty in hearing after we've done the clause-by-clause. How are we ever going to amend the bill if we've done the clause-by-clause this morning? We'd have to reverse the order somehow, which means we'd have to extend these hearings into another day. I don't know, technically, how you can do that.

**The Chair:** Would the parliamentary assistant care to comment?

**Mr Colle:** Given the programming motion that we've received, we're to deal with the clause-by-clause today. I can't see how we could change that.

I should also mention that it's beyond belief that the member of the opposition talks about stakeholders and giving them a fair hearing. They had two of the most significant bills on insurance, Bill 198 and Bill 59. They didn't allow one stakeholder to present to a committee. They didn't allow one amendment. They didn't allow any kind of questioning in the committee or any presentation. They invited nobody to come to committee because they had no committee hearings on the most significant changes in insurance in the last decade. For them to say that this programming motion and this committee are in any way not allowing input, compared to their record, which was basically closing the doors and doing all their insurance legislation behind closed doors, in secret, is such an abomination. Remember, there wasn't one amendment, not one clause-by-clause discussion, not one public deputation when they were in power.

1030

Just look at the record of Bill 198, Bill 59: zero public input, and they changed everybody's insurance from top to bottom with no committee whatsoever. At least here, given the fact that they agreed to this schedule and they agreed to the subcommittee report—and second, we have agreed, given the request by the third party here, to bring forth their amendments because we think they're worth looking at and discussing. They never allowed any amendments, as I said, when they did two major bills, which is a denial of everybody's right to be heard on car insurance. Now they talk about us doing something that they did non-stop for eight years. It's really appalling that they should even dare to mention that.

**The Chair:** I want to bring some clarification to a point the parliamentary assistant made. In the program-

ming motion, which I'm reading from, part 3, "The standing committee on finance and economic affairs shall meet for two days at the call of the Chair for the purpose of public hearings and clause-by-clause consideration of the bill..." It was the subcommittee that determined how we would deal with that statement, and the subcommittee determined, and this committee sanctioned, that we would have hearings yesterday and clause-by-clause today. That is how that came to be. It was through the subcommittee.

**Mr Crozier:** Just to point out, on the schedule yesterday there were seven deputants listed to appear. We're talking about having them come back. This may be a rhetorical question, but has anyone even approached them to see if they could come back today? We may be talking about something that wouldn't be possible anyway. So I suggest that the most effective use of this committee's time is just to simply get on with business.

**Mr Wilkinson:** Again, we need to put this on the record; because I am surprised. There must have been a conversion on the road to Damascus in regard to the member for Durham. I look at the Hansard from Thursday, December 4, when we were dealing with this programming motion, and I see that just before we voted for this, which we all voted for, both on the government side and the official opposition side, "The debate continued and after some time, Mr O'Toole moved under standing order 47 'that this question be now put,' which motion was carried on the following division." Then I look at the vote itself. I know that other members of this committee were there, including Mr O'Toole, who agreed that this was how we were going to deal with it.

The House has been very clear to us, Chair. Today we are to deal with clause-by-clause. I would caution all the members of this committee that we should not thumb our nose at the House, which is the group that empowered us to be here today, and somehow decide that we can come up with our own rules. I would respectfully urge that we get down to the business of the day as agreed to—and, I might add on the record, by the members of this committee, including the members opposite, except for Mr Prue, who on the record voted against it. But the vote was carried 37 to 5. I think that would be a very strong indication of the will of the House.

**Mr O'Toole:** I don't know how beneficial this discussion at this point really is.

**Mr Colle:** I guess so. You just contradicted yourself.

**Mr O'Toole:** No, Mr Colle, with all due respect, here's what I'm trying to say. I saw the futility in the House. When I moved that the question should be put, I knew after some consultation and with the greatest respect for the members of the government that it was futile. You weren't prepared to listen. Even the tone and the timing within the time allocation or the programming motion was such that it was like a David-and-Goliath struggle. It really was, you being Goliath.

**Mr Prue:** Then they took away the slingshot.

**Mr O'Toole:** Yes, then they took away our slingshot.

**Mr Colle:** You had a chance to vote against it.

**Mr O'Toole:** We did, by the way. What I want to say here, though, is that I think we've got a motion here that will deal with part of the input that we received out of the formal committee. But I am still going to move another consideration for the committee, which would allow us to—

**The Chair:** Can we stay with the original motion and keep that in your mind, Mr O'Toole, for another point?

**Mr O'Toole:** I just want to put it on the record maybe twice, once now and once later. But the other one would be that we would actually take the recess, because the motion in the House could be purely an agreement of the House leaders to allow the extension of time for this committee to hear substantive input not only from the truckers but from other stakeholders in the community. All we'd have to do is have consent here of this committee for us to take a recess, talk to our whips, talk to our House leaders—you should probably just talk to your whip, because they'll tell you what to do anyway. Maybe I should just call the whip, because basically you'll do what the whip says. I understand that. I've been there; I've done that.

**Mr Colle:** You sure have.

**Mr O'Toole:** But now it's your turn to really show democracy in action. This is an open opportunity for you to reinvent government. Anyway, we'll have more to say when that motion comes up.

**The Chair:** We have a motion seeking unanimous consent to hear witnesses this afternoon. I heard a no.

**Mr O'Toole:** Can we have a recorded vote?

**The Chair:** Not on unanimous consent. Now then—

**Mr O'Toole:** Mr Chair, you don't have unanimous consent.

**The Chair:** That's right.

**Mr Colle:** That's right. So you're denied. You asked for unanimous consent.

**The Chair:** I have an amendment from Mr O'Toole to move a recess subject to the provisions of the subcommittee report. Is there unanimous consent to reopen the subcommittee report? I heard a no.

Now, you just made one here in the last few minutes, Mr O'Toole, seeking a recess for persons to meet with their respective House leaders for 10 minutes. Is there unanimous consent for that motion? I heard a no.

**Mr Crozier:** I didn't know we had to vote on it.

**Mr Prue:** You have to vote on the recess.

**Mr Crozier:** Under the standing orders, you can call for a recess.

**Mr O'Toole:** I didn't ask for unanimous consent. I did not use that term.

**Mr Crozier:** You simply ask for a recess and we recess.

**Mr O'Toole:** I said because there were motions on the table already, it was inappropriate to actually move a motion for a recess.

**The Chair:** I'm advised that if Mr O'Toole wanted a recess, it would be 20 minutes.

**Mr O'Toole:** I move that we take a 20-minute recess to caucus to see how to move forward.

**The Chair:** We are recessed for 20 minutes.

*The committee recessed from 1038 to 1058.*

**The Chair:** This meeting will now come back to order. Are there any comments?

**Mr Barrett:** I wish to put forward just a brief motion. Having spoken with our House leader and the Leader of the Opposition, again, given the fact that delegations and discussions were not heard and recorded, a motion to request an evening sitting of this committee.

**The Chair:** Your motion would be contrary to the programming motion.

**Mr Wilkinson:** It would also be contrary to the subcommittee.

**Mr Barrett:** I make this motion in the context of, during that subcommittee meeting, there may not have been an anticipation that this committee would crash as a result of lack of quorum.

**The Chair:** The House has deemed the committee may meet from 10 am to 12 noon, and again following routine proceedings until 6 pm on each of the two days. You couldn't overrule the House.

Any other comment?

**Mr O'Toole:** I just want to put on the record that I gather we've tried to open up public consultation, as Mr Barrett has just tried to extend evening sittings. We're quite familiar with the programming motion. For the record, it's important to note that that programming motion is the first in my almost 10 years here where they've wrapped three very substantive bills, Bill 2, Bill 4 and Bill 5, into one time allocation motion, which really bound the committee to such tight time frames that even well-considered members of the government might have otherwise been open to more democracy, dare I say.

We understand that our hands are tied. It's in the hands of the government and it appears they're completely unwilling to try and find a way to accommodate, even reflecting of their, I dare say, deliberate move to not have quorum yesterday, which was—

**Mr Crozier:** Oh, come on. Point of order.

**Mr O'Toole:** I dare say that—

**Mr Crozier:** On a point of order, Mr Chair: You're impugning our motives and that's just not right. You're wrong, as a matter of fact, but it's not right to impugn motive. I'm going to say that it's a little frustrating to hear you pontificate over there when we had to endure the same type of action from your government when it was in power.

**The Chair:** That's not a point of order.

**Mr O'Toole:** "The slings and arrows of outrageous fortune, or to take arms against a sea of troubles," and thereby end it. That's really all I'm trying to say, as was said by Shakespeare some time ago. But anyway, I relinquish my right to speak to this particular motion that's going to be defeated. Or so I gather.

**The Chair:** Any other comment before we move to clause-by-clause? We will now move to clause-by-clause. You have all been given another package that contains the motions as well. You have received the hard copy, the written copies, photocopies of submissions that

were made yesterday. They should be at every member's desk. Are there any comments, questions or amendments to any section of the bill and, if so, what section? Any comments or questions?

**Mr Barrett:** Do you go first or do I go first?

**Mr O'Toole:** They have the first section.

**The Chair:** No, I'm just asking if there are any questions or comments about the bill.

**Mr Barrett:** Yes, comments. I'll commence at the beginning with the title, An Act to temporarily freeze automobile insurance rates for private passenger vehicles and to provide for the review and regulation of risk classification systems and automobile insurance rates for private passenger vehicles. This came up in discussion with delegates, the issue that this bill does absolutely nothing for commercial vehicles, trucks, buses, whose owners and operators have been facing sky-high rate increases, in some cases forcing them to pull their rigs off the road for good. Many commercial operators do have difficulty getting insured at all at this point. This bill ignores that issue entirely.

We have a bill that doesn't apply to trucks, it doesn't apply to school buses, commercial vehicles. It doesn't freeze rates, it doesn't reduce premiums. The bill is little more than window dressing and kind of an addition to a litany of broken promises that we have seen over the last several months.

I did not have an opportunity to get this on the electronic record yesterday. I've received a submission which I could circulate to the committee members as well. It's from an operator, an owner, of a trucking company Burford way. I've certainly talked and have been approached by a number of other owners of tractor-trailers. These are people who travel across the Canadian-US border. They describe this as "a very scary situation."

This e-mail came from Jeff Bryan of Jeff Bryan Transport in the Burford area:

"In the past three years, our industry has seen astronomical increases in our insurance premiums.

"I myself have seen over three years my premium go from \$150,000 for 32 trucks to \$280,000 for the same amount of trucks."

At first thought, you would assume they've had some claims. I know I always ask this question when I talk to people who own these small trucking companies. As Mr Bryan says, "That is not the case. Our claims history is one of the best in the industry. We ... went as far as to self-insure all 65 of our trailers for fiscal damage and have a \$25,000 deductible on all our tractors. This year my broker has notified me that I should expect another 15% to 20% increase, and to make things even better," and I think he says that somewhat facetiously, "she also advised me that they want us to produce deductible escrow of up to three times my deductible. This will force me to lower my deductible in order not to be forced to give \$75,000 of my cash flow away. That \$75,000 would be what I would use in case of an accident."

It's like posting a bond, if you will, to the insurance company. Continuing to quote:

"I feel that the reason for these ridiculous circumstances is that there are only a very few insurance companies writing long-haul trucking in our province. My next best solution ... this year is to relocate our fleet of trucks to Tennessee where I do the bulk of my business ... and buy insurance where there seem to be more options instead of the two that are available in Ontario."

Again, I know the competition issue was raised by the mutual insurance companies in previous testimony before this committee. We heard this concern around monopolies from the people representing the taxicab industry in deliberations at the witness table, and I'm quite heartened to see that amendments will be coming forward today to address the issue of some of these problematic circumstances for those people who are attempting to get insurance on tractor-trailers.

Certainly for our side of the House, as PC opposition, we're aware of the cost pressures on the current auto insurance system and we remain committed to ensuring that Ontario continues to enjoy a healthy auto insurance marketplace, giving consumers competitive rates and choice. As a result of the previous government's 1996 reforms, rates fell, as we all know, by more than 12% up to the end of 1999 when, at that time, according to the regulator, rates began to go up again for a number of reasons: rising health care, vehicle repair costs.

Certainly during the election, people in my area were promised a 20% reduction. I will be asking my constituents, people who contact my office, to bring in their insurance bills in January to see if they have received a 20% reduction or not. We know there are other pressures worldwide: the impact of rising claims costs and, at one point—I don't know how significant it is—the issue of poor investment decisions. Obviously, we recognize that more work needs to be done for affordable insurance: dealing with fraud, rising claims, rehabilitation and, as we heard in testimony yesterday, the importance of the companies themselves taking a look at cost containment and new ways of doing business. Thank you, Chair.

**Mr Bisson:** I have some amendments that you know deal with the trucking industry. I understand the amendments, they're my amendments. I would ask unanimous consent that I be allowed to move those amendments when the time comes on committee, and to be able to debate those. As you know, there is a deal in the House this afternoon that will resolve this anyway, but technically I need unanimous consent to be able to read the motions into the record, to introduce them.

**The Chair:** I think we'll need to look at the standing orders as they come from the House in terms of your request.

1110

**Mr Bisson:** Just for the record, just quickly, as you know, there have been discussions between the government and New Democrats over the last couple of days. There will be a motion read into the House this afternoon that resolves all of this as far as being able to do what I'm asking to be done now, so it's a bit of a no-brainer.

**The Chair:** Mr Bisson, you cannot use unanimous consent in order to acquire something that has been deemed by the House.

**Mr Bisson:** All right. Then I'll have to get my colleague to do that for me. Just let me put on the record right at the beginning that the amendments that I bring forward—and I'm going to have to sneak away at one point because at 11:30 I have another follow-up meeting regarding what I talked about.

The members of the government, I'm sure, understand this as well as I do, and the Conservatives do. We all have the same problem. We have trucking industry people in our ridings, either independents or brokers. They're being whacked with high trucking insurance rates. In the riding that I come from, the trucking industry in the central northern part of my riding, up around Hearst, Kapuskasing, Timmins, is primarily for the woodlands industries. Most of those people are independents, with one or two trucks. They've seen their rates basically go up by 300% and 400%. A number of them have had to close up. A number of them have had to get rid of their trucks and get out of the trucking industry altogether because they've not been able to afford the increase in rates. God forbid if they should get into an accident; it's even worse. Everybody knows it's pretty hard, with the amount of miles put on every year on the part of a trucking company, to have no accidents whatsoever.

First of all, on the part of the independents is one of the reasons I bring this forward. But I just want to tell you very quickly the story of one particular broker in Val Rita. Val Rita, you'll know, is the bedroom community of Kapuskasing; it's just north of Kapuskasing by about three or four kilometres. Within that community, the largest employer is Parent trucking, owned by Muriel Parent and her husband and family. What's happened there is that originally, about three years ago, they were paying about \$40,000 a year for trucking insurance on a fleet of about, if I remember correctly, eight or 10 trucks. So they were paying about \$40,000 to \$50,000 for their entire fleet, which is a substantial amount of money for any small business to pay.

Last year—not this particular year we're in but the year previous—their trucking insurance quote went from about \$40,000 to just over \$200,000. Basically, the trucking company had approached me to try to do something to avert that. At the time, we tried dealing with Janet Ecker, the Minister of Finance, in order to do something that would prevent these types of rate increases from happening. Clearly, that's not a 100% increase, that's not a 200% increase; you're talking about 400% in one year. I don't know anybody who gets that kind of raise. Not even federal MPs, when they vote themselves a raise in the House, get that kind of increase. Even when there was a bill in this House, it was nowhere near 400%. So I think we can all agree that is exorbitant.

What's happened to this company now is that in 2003, the insurance company came back and said, without any incident, "Never mind \$200,000; we now want over \$400,000." It was basically going to close them down last

August. What I finally did is deal directly with the insurance company and threaten to go public about how they were going to shut down the largest employer in Val Rita and how that would not look good to that particular insurance company. As a result of that, they sort of backed off and they said, "Rather than making it over \$400,000 for the year, we'll renew the policy up until January 1 of this year." So they got the \$200,000 rate from last year for only September, October, November, December and just into the beginning of January.

As a result of that, they're in the market looking for trucking insurance. Truck insurance—as you well know, basically they're thick as thieves as far as the corporations go. If one quotes \$400,000, every other insurance company wants to quote the same amount of money. After 30 years of business, that basically puts this company out of business, and quite frankly that is unacceptable. I think all members of this committee, be they on the opposition side or the government side of the House, would agree that no individual business should be put out of business because of what we're seeing happening in the insurance companies. So I have a number of amendments that I'm going to have my colleague Mr Prue, as the committee member here, move on my behalf to try to capture within your legislation at least freezing trucking insurance rates at their current level.

My only caveat to that is we need to strengthen section 6 of the bill, which is a different issue, because I think section 6 doesn't go far enough to put an absolute freeze or an absolute cap on insurance. I think that's a bit loose. I think even if I were to pass these amendments, there's probably still an argument to be made that the insurance could be raised. That's why we're also going to suggest the government may want to tighten up section 6 of the bill, so that we clearly have an actual freeze so we actually do what's intended by the title of the bill.

My colleague Mr Prue will move those amendments. I'm asking for members of the government to support those. I believe there is a total of four amendments: one in section 2, two in section 3, and then section 6; we're going to recommend that we vote against that section—that's one of the ways of being able to deal with the issue that I raised—and then basically change the title of the bill at the very end. That way we'd be able to capture the trucking industry and give respite, at least for 90 days, to those people in the trucking industry who are being whacked by greedy insurance companies.

**The Chair:** Thank you, Mr Bisson. Any other comments?

**Mr Wilkinson:** Just for the members here, I was told this is dealing with the trucking industry and is not in the purview of this bill. Yesterday's deputation, I think it was from the Insurance Bureau of Canada, who are in support of what we're doing, made an excellent point that companies only have so much capital, and if we have systemic problems in private auto insurance, which is what we're dealing with today, it requires companies to take more money into reserves. That's what limits the pool of money for other people, like the cab drivers, who

were here yesterday, and the trucking industry. We have the same problems in our riding as well.

I'm pleased with the fact that by getting on to this right away in the first part of our mandate and starting to deal with this auto insurance, there should be, and we're hoping, good benefits for the rest of the P & C industry, not just for private passengers, because we do get a beneficial effect from dealing with what we've been asked by the House to deal with today in this meeting.

**Mr Bisson:** I just want to be very clear, if we don't make an amendment to this bill by January 1, Parent trucking will be closed. They don't have until after January 1. This is very time-sensitive. I know, as I'm sure you know within your own constituency, all kinds of independents and small brokers who are facing the same thing: Their insurance is being renewed this fall and this winter. I know a number of them that I've talked to are saying, "If I get whacked with what they're telling me I'm going to get whacked with, we're going to have to close our doors." I would think, as committee members of this committee, both government and opposition, we would do all that we can in our power—which we have to deal with in this committee—to basically try at the very least to give a bit of respite to the trucking industry until such time that we actually move to public auto, because we know that's the only way you can really deal with rates in the first place.

There's another way of dealing with rates, which I've mentioned in the House before, but you probably don't want to go there, which is that insurance doesn't become mandatory and people self-insure by way of what they used to call the old unfunded liability that you used to have when you were a kid. Bruce would remember that and I would remember that, because we're old enough. I don't advocate this, but there are only two ways of fixing the insurance problem.

One way is that you go back and take out of the legislation what David Peterson put in, which is to mandate everybody to be insured and then basically people opt in or opt out of having insurance. The problem with that is you're going to have all kinds of uninsured people on the road, and if you happen to be a pedestrian hit by a driver with no insurance, tough luck. But that's the way it used to be and people then would opt in to what they used to call the unfunded liability to be able to get minimal coverage of \$100,000 or \$250,000 or whatever the number. I don't advocate that, but that's one way to control rates.

The other way to control rates is to do what public auto has done in places like Manitoba. I've used the example before. A 22-year-old with a perfect driving record, with five years of driving history, with a 1989 Chevette, I think it is: \$4,300 here in Ontario; \$700 in Manitoba. I think it's a pretty big no-brainer. They're paying less because it is a completely public system, there's no profit, the pooling issue is different, the security part is different as far as how much of that they have to keep secure by way of legislation, and also the whole question of not passing off. As it is now, everybody is

double and triple insured. You're insured by way of OHIP; you're insured by your own employer's insurance; you're insured by way of insurance you have on your car. That eliminates that probability by way of public auto, but that's for another debate. I agree with you that we're going to get to another debate where, finally, the Liberals are going to have to see the light and go to public auto, but I'll debate that then. For now, we need to move an amendment to at least capture the trucking industry to protect them so that they don't have to close their doors come January 1.

**1120**

**Mr O'Toole:** I just want to clarify a couple of things before I get going here on the bill. In the explanatory notes it leaves it quite open. I'll just read the second paragraph: "The superintendent shall not approve the insurer's proposed rate increase or a smaller increase unless"—that's the operative word here—"the superintendent finds that it is in the public interest and just and reasonable in the circumstances to do so, given the insurer's exceptional financial circumstances." It sort of leaves it wide open. I think it's covered in section 6. That's the first. There's too much vagueness in that particular thrust to the bill.

One of the other things I want to clarify as well: In section 2, "Application of the act," it says, "This act applies"—

**The Chair:** Mr O'Toole, we must speak to the bill in order of the sections.

**Mr O'Toole:** I'm speaking to it as we go through, but in a generality—

**The Chair:** You're picking sections. If you could talk in a generic way about the bill—you're citing section by section.

**Mr O'Toole:** I was talking broadly from the explanatory notes, which I think is the broader—

**The Chair:** Then you moved to section 2.

**Mr O'Toole:** It refers to a section there. I'll deal with that because there is an amendment by the NDP.

**The Chair:** We'll get to that.

**Mr O'Toole:** Of course. Very good.

**The Chair:** Thank you, Mr O'Toole.

**Mr Colle:** This bill is really a first step to try to stabilize a dysfunctional auto insurance system that the previous government allowed to deteriorate because of their lack of action. For the last three or four years motorists, stakeholders, have been begging the government to take action. They refuse to do anything to stabilize auto insurance. Thus, we have an incredibly difficult situation here in Ontario when it comes to getting auto insurance. It's the previous government's neglect, the lack of transparency. Talk about trucking: They introduced a bill, Bill 198; they passed regulations; there wasn't one word to protect truckers or commercial vehicles in that legislation. They had a chance to do something to protect the commercial trucking industry. They did nothing. They essentially left us with a dysfunctional system that this bill is trying to at least begin to stabilize, the beginning of a stabilization process. As we said in our party platform,

within an hour of taking power Premier McGuinty issued a directive to the Minister of Finance to freeze rates, which was done October 23.

The next step and commitment we have is to reduce on average by 10% the rates that have to be filed, if this bill is passed, by January 23. So it's a reasoned approach, a balanced approach to try to first of all ensure that there is competition in the marketplace so that the motorists can have choice.

This is about over eight million motorists in Ontario who need by law to have auto insurance. We've heard from the various stakeholders, we've heard from the medical rehab stakeholders, we've heard from the insurance companies. What we need to think of is the eight-million-plus motorists whose premiums—talk about the trucking companies going out of business. We've got people in this province who can't go to work, go to their job, because their insurance premiums are too high.

That's the urgency here, to act quickly to take some steps to keep the industry stable so that we can proceed to this first 10% cut. Then, in the next stage, we will proceed with more reforms of this chaotic automobile insurance system that the previous government left us with, and bring in more reductions and more stabilization. But we need to keep competition out there.

You heard—it's surprising, we've got a rural member across the way there—the small mutuals. They were here saying, "It's essential that you keep section 6 of the bill in, because we want to be able to offer insurance across the province of Ontario," as they have been doing since 1850. So for the members of the Conservative Party to say that they're not going to listen to the small mutuals, who, by the way, for the record again, are not-for-profit—their shareholders are the policyholders. They're small mutuals like Algoma Mutual, Amherst Island Mutual, Bay of Quinte Mutual, Dufferin Mutual, Elma Mutual, Halwell Mutual, Hamilton Township Mutual which said, "Don't let Queen's Park arbitrarily impose anything on us that might force our companies out of business." That's why they support section 6, because you can't treat all insurance companies the same. When you look at the INGs of this world and compare them to the small mutuals, there's no comparison. You can't have the same treatment. In way of fair treatment, we are directing the financial services commissioner to take everyone into account so that we don't have companies that, through no fault of their own, might be pushed into insolvency.

Then what do you do? What do you tell the thousands of people who may be policyholders of that insurance company? They say, "Oh well, it doesn't matter. We got rid of section 6 in the bill. We don't care about the fact that now you have no insurance company to go to." In fact, as you know, it's almost impossible to get insurance now in this province. They won't take you. For us to jeopardize not only the small mutuals, but also the thousands of people who may be thrown off insurance coverage by an insurance company that's all of a sudden declared insolvent, what good would that do to those

people? Where would they get insurance? That's the question that's before us.

This is, again, a bill that's very focused. It's saying, "Give more powers to the financial services commissioner," which the previous government refused to do. It's giving him the ability to tell the insurance companies to file by a certain date. If they're not acceptable to the financial services commissioner, he can reject those filings, and those companies will not be able to do business in this province. That's the first time those powers have been given, essentially, to the people of Ontario through the financial services commission. That's the heart of this bill.

We would like to solve all the problems and all the messes the previous government left us with auto insurance. Everybody agrees in this province, right across the board. I spoke to people from the Canadian Automobile Association to speech pathologists, tow truck drivers, paralegals and quasi legals. They all agree: Auto insurance in this province has been left in an incredible mess by the previous government. Nothing was done to protect the interests of the eight million motorists. We are taking this first step to try to stabilize the system so you have competitive rates out there, and people have some fair and reasonable ways of being treated. This is the beginning, as I've said, of a three-step, comprehensive process to fix this mess that the previous government left us.

**The Chair:** Any other comment?

Seeing none, I'll move to section 1. Are there any comments, questions or amendments? Seeing none, shall section 1 carry?

**Mr O'Toole:** Recorded vote.

#### Ayes

Colle, Crozier, Marsales, Oraziotti, Peterson, Prue, Wilkinson.

#### Nays

O'Toole.

**The Chair:** Section 1 is carried.

Section 2: Any comments, questions or amendments?

1130

**Mr Prue:** I would like to read the following amendment into the record. You have a copy in front of you.

I move that section 2 of the bill be struck out and the following substituted:

"Application of act

"2(1) This act applies to,

"(a) insurers and contracts of automobile insurance to which sections 410 to 417 of the Insurance Act would apply but for sections 4 and 5 of this act; and

"(b) insurers and contracts of automobile insurance for commercial motor vehicles as defined in subsection 16(1) of the Highway Traffic Act.

"Same

“(2) Except as provided in clause (1)(b), this act does not apply to an insurer in respect of any category or coverage of automobile insurance for which the insurer is not required to make an application for approval under section 410 of the Insurance Act by reason of an exemption granted under subsection 413(1) of that act.

“Facility Association

“(3) This act applies to the Facility Association only with respect to the personal vehicles—private passenger automobile category of automobile insurance and with respect to automobile insurance for commercial motor vehicles as defined in subsection 16(1) of the Highway Traffic Act.”

**The Chair:** Thank you, Mr Prue. I am going to rule your motion out of order. It is beyond the scope of the bill.

**Mr Prue:** With the greatest of respect, I think member Bisson, when he was here—what it is our intention to do is to bring it within the ambit and the scope of the bill. We all are quite sympathetic to the plight of those who earn a living on our highways, whether they be truck drivers or I suppose cab drivers or other people. We think that without this a great percentage of the motoring public will be left out in the cold. Certainly people will lose their livelihoods, their jobs and be caused a great deal of harm.

**The Chair:** Thank you, Mr Prue. There is no debate on the ruling.

**Mr O’Toole:** We’re talking to section 2 now, and you ruled the amendment out of order?

**The Chair:** You comments to section 2.

**Mr O’Toole:** And further questions on section 2?

**The Chair:** Yes, you can do that.

**Mr O’Toole:** Thank you. Well, in that respect, I will.

I earlier mentioned my concern with subsection 2(3) of the bill: “This act applies to the Facility Association” with respect to this. They tried to add the commercial vehicle. I want to be on the record as saying Mr Barrett, and Mr Bisson as well, had spent some time trying to add the commercial section, which is out of order.

I understand that the facility group is the high-risk pool. If you look at the detail of the bill and further looking forward, your intention here is to reduce rates by 10% and a further 10% for good drivers. What this will do is it will flush everybody into the facility group who has any kind of record, and they’ll be getting whacked; they will. How do you determine your classification system when we don’t have the regulations in front of us? I’m very concerned that the facility group right now will harbour a great deal of people who can ill afford an exorbitant rate increase.

I’ll keep a copy of this Hansard and cite it to you in the future when I get all the calls. So it’s just a concern that I believe you’re going to be flushing a lot of people into the facility group. I’d ask the parliamentary assistant if he has any response to that.

**The Chair:** Any other comment?

**Mr Colle:** The member across had a chance to do something about the predicament drivers, motorists, find

themselves in. He had eight years to do something. In fact, he was involved with this file as parliamentary assistant. He did nothing. Now, all of a sudden, to start to impede our attempts to fix his mess is unconscionable.

**Mr Wilkinson:** Just to make sure that we’re factually accurate, the member from Durham said that this second 10% was going to be restricted to good drivers. The intention—and we were very clear on the campaign trail over this—is that that 10% further reduction is—we’re going to allow consumers to have the customization that they have asked for so that the premiums they’re paying reflect the actual risk that’s being taken on. Sometimes consumers are being forced under the current system to pay for coverage they could never claim. We always thought, when we looked at this file, that that needed to be addressed. I just want to make sure that the record reflects that fact, because that’s what that second 10% is about.

**The Chair:** Any other comments?

**Mr O’Toole:** I just want to put on the record that it’s very important that the current parliamentary assistant, however temporary, left the impression he would like to look to the history. I think Mr Wilkinson is probably making some better arguments here, but I leave that to the caucus debate. In 1988, the rates went up 7%; in 1989, 7.9%; in 1990, 3.8%. In fact, the real change here was in 1994 with Bill 164, the no-fault; it went up 11.8%. In 1995, it went up 9%, which was the residual of Bill 164, which we had to move on. Then I look at Bill 59. If we didn’t take any action—there were rates every subsequent year: 2.5% in 1996; 3.1% in 1997; 3.4% in 1998; and 1.6% in 1999. Bill 198 was part of the finance bill, which really was going further to introduce some reflection of risk classifications and expedited rate filing. So it’s wrong for Mr Colle to leave the impression that we did nothing. In fact, we had two very comprehensive reforms to auto insurance, which resulted in about a 20% reduction in rates. If I’m looking at the current proposed legislation, and it will come up during the debate today, I’m very concerned. As I said before, the additional 10% rate reduction—and I’ve got your discussion paper here; I’m keeping an eye on you: Lower Rates for a Change. Everything has “For a Change.” I think all you’re doing here is trying to get some rate issues into the market, and nothing more, in this bill. We’ll talk about it more in section 6.

**The Chair:** Any other comments? Shall section 2 carry?

**Mr O’Toole:** Recorded vote.

#### Ayes

Colle, Crozier, Marsales, Oraziotti, Peterson, Wilkinson.

#### Nays

Barrett, O’Toole, Prue.

**The Chair:** Section 2 is carried.

Section 3: Any comments, questions, amendments?

**Mr O'Toole:** I move an amendment; I'll read it for the record.

I move that section 3 of the bill be amended by striking out "sections 5, 6 and 7" and substituting "sections 5 and 7."

Under the very capable counsel of Ms Macnaughton, I want to move unanimous consent that I stand this down because it's contingent upon section 6, which is what they call the Mack truck section. We'll talk to that at that point in time. It's empowering—no criticism intended—the superintendent to mosh the rates through. So with unanimous consent, I would stand this down until the consideration of section 6.

**The Chair:** Is there unanimous consent to postpone this section? Agreed. We'll come back to that one.

**Mr Prue:** I too have a motion on section 3.

**The Chair:** Section 3 is stood down. We move to section 4.

**Mr Prue:** Is that to be stood down as well? OK, thank you. That's fine. The motion carries mine as well.

**The Chair:** The whole section is being stood down, so no amendments have been moved.

Section 4: Any comments, questions or amendments? Seeing none, shall section 4 carry?

**Mr O'Toole:** Recorded vote.

### Ayes

Colle, Crozier, Marsales, Oraziotti, Peterson, Prue, Wilkinson.

### Nays

Barrett, O'Toole.

**The Chair:** Section 4 is carried.

Section 5: Any comments, questions or amendments?

**Mr O'Toole:** This is a section here that really strikes out what Mr Colle had said, that there was no action. We had in fact taken action, and this section actually deletes any action, as of October 23, of a reclassification system that was already underway. So to leave the impression with the naive viewer or listener that there was nothing being done—this section entirely revokes all of the actions of the previous government retroactively. Shameful.

1140

**The Chair:** Any other comments? Shall section 5 carry? Section 5 is carried.

Section 6: Any comment, amendment?

**Mr O'Toole:** I guess section 6 is probably one of the more controversial sections. In a very brief summary, it should be under the title, "Foreshadowing the application to charge higher rates." Wow. If you read through, "an insurer may apply," it really talks about higher rates, and this "criteria for approving higher rate." In the next little subsection 3 it says, "not make more than one application," and it talks about the administration basically

falling into the hands of the superintendent of financial services.

I'm concerned. This was referred to in the House by Mr Kormos, I believe, when this bill was introduced, who has a fair reputation on auto insurance. This is one section that kind of contradicts the title of the bill, the Automobile Insurance Rate Stabilization Act. This is a Mack truck clause here; you can just start pumping in the new rates. I'll be voting against this very strongly, and I'll be requesting a recorded vote on section 6.

**Mr Prue:** I would also draw the committee's attention to the final subsection 6(7), which I think for many purposes is abhorrent. It says, "The decision of the superintendent under this section is final for all purposes." This means that there would be literally no appeal, there would be nothing that could be done. So when the superintendent deems that your auto insurance is going up and the insurer is getting more money etc, you the consumer, you the driving public in Ontario, have no recourse, and I can't support that either.

**The Chair:** Any other comment?

**Mr Colle:** Again, just to put on the record, this is about bringing stability to auto insurance in this province. At this present time, the whole system is unstable and dysfunctional because of the previous government's neglect, and therefore as we proceed, we're trying to ensure there is a lot of choice for the insurer and the insured, that drivers who need auto insurance have a choice of various companies.

As I said before, this is not just about the INGs of this world, this is about the small farm mutuals that we hope to keep in the market, because they operate not-for-profit, they operate to service people in rural areas and agricultural communities that get any kind of profit back in savings as lower rates. It's not just about the small mutuals; it's about a vast variety of companies that offer insurance. It's about the CAA, the Canadian Automobile Association; they also offer insurance. It's also about an insurance company operating out of Hamilton that's owned by the New Democratic Party of Saskatchewan that offers insurance, and who would dare say the company owned by the New Democratic Party of Saskatchewan should be put out of business if it's going to be insolvent?

We're saying if there's an exceptional situation where the actions by the commissioner of financial services would put one of these companies out of business, that company would have to prove, with documented filings, its insolvency and the financial constraints it's under. So it has to be proven, and the commissioner of financial services, a very experienced individual, would scrutinize that application.

Again, as we said in our bill, this is about the public interest, that if it's in the public interest to keep one of these insurance companies solvent for the benefit of the eight million drivers, we think it's important to keep that option. This is an option the superintendent of financial services asked for, the most respected professional in auto insurance in this province. He said you've got to

have this option in the bill so that the marketplace can be stable, so that motorists have choice, so that the small companies can stay in operation as much as the larger companies. To vote against this section would basically be telling the small farm mutuals that we don't care what happens to you. Well, we do care about the small farm mutuals. We care about the CAAs. We even care about the NDP-owned company that operates in this province. We feel the more competition, the more product that's offered, the more variety, then the more choice a consumer has, which gets them better service and lower rates. As you saw in the documentation by the Ontario consumers' association, they showed the variance, that if you go to different companies, you can see the variance: up to 48% reductions if you have choice.

So we're not about saying only certain companies should operate in Ontario. We're saying the financial services commissioner has it within his expertise to ensure that in some exceptional cases, if the company is going to be withdrawing from the marketplace and it can prove that it's on the risk of insolvency, they can take steps to have special consideration for that exception. That's what section 6 is about.

I'll read again into the record, especially for the members of the Conservative Party, who always talk about supporting the rural communities, what the Ontario Mutual Insurance Association said when they spoke here yesterday. I don't know if they were listening. They said, "Specifically with respect to the content of Bill 5, we support clause 6(1), which allows an insurer to apply to the superintendent for approval of rate changes that exceed the authorized rates if the insurer believes it is just and reasonable, having regard to its financial circumstances."

Again, this is a temporary freeze that gives the commissioner of financial services the ability to use his professional expertise, to use his good judgment and to use scrutiny to ensure they can prove that when applying for the special exemption, they have the documentation. Certainly, I have total faith in the financial services commissioner and his expertise and his attempt to be fair to the eight million people who need auto insurance in this province. That's why section 6 is here.

**Mr Wilkinson:** As someone who comes to this place for the first time and who comes from financial services, I want the rest of the members here to understand that insolvency is always the number one concern of a regulator. Insurance is based on the principle that people pay their money in good faith and that when an insured event occurs, they are paid. People would not pay premiums if they felt that insurance companies were not going to be solvent. The whole system falls apart. I was telling people, why would someone pay for, I'll say for example, a life insurance premium for 40, 50, 60 years if they had any doubt about whether or not the insurance company was going to pay? So it is in the public good that we have solvent insurance companies.

As the parliamentary assistant was saying, the farm mutuals, which are huge in my riding, who have done an

exceptional job of containing costs, haven't a track record of late of having exorbitant price increases. For us to come by as a government and then turn around and say, "No, there will be no bending of the rule," would put them in a terrible fiscal position and undermine, really, the strength of our rural economy. That's why I'm voting in favour of section 6.

I think the other thing that's important—because what we have found, I think, as we've taken over this file after years of mismanagement, is really neglect of the file and tinkering around the sides. The superintendent came to us and said that insurance companies come and they file for an increase. The superintendent right now only has the power to say yea or nay. The superintendent has no power to say, "Well, actually it's nay, but if it was somewhat less, then it would be aye." So it's important that we give the superintendent the ability to deal with these individual filings, that we depoliticize this process, that we give the power to the superintendent, which he has requested, so that we can deal with these matters. I am in complete agreement that when the superintendent makes a ruling the decision is final. My God, I don't even want to think what the market would be like if people could be appealing ad infinitum with their fancy, high-priced lawyers every decision that our superintendent made as he regulated the market. It's the role of government to regulate the market. We don't create it, but for the good of the consumer, for the good of those 8.5 million people who are driving in this province and need auto insurance, our job is to make sure that we regulate it. We need a superintendent with teeth, a superintendent who is able to negotiate. I think section 6 has that right balance and I would urge all members to support section 6, particularly if they want to go to any event in rural Ontario in the next few years.

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**Mr Barrett:** I would like to address section 6, also known as the Mack truck loophole. I note the title of section 6 is, "Application to charge higher rates." It doesn't say application to lower rates. Again, the question that looms over these deliberations is what happened to the 20% rate reduction that so many people were promising at the door. I just want to read the paragraph on section 6 into the record for people who may be reading Hansard down the road. It really is quite telling: "An insurer may apply to the superintendent for approval to charge rates that exceed the authorized rates if the insurer believes it is just and reasonable in the circumstances having regard to the insurer's financial circumstances, but the superintendent shall not approve the application unless the criteria," and they name several clauses, "are satisfied."

We're talking about section 6, the Mack truck loophole. I know that in deliberations in the House it's been referred to as the Concorde jet loophole. I would put forward, as a resident of Port Dover, you could steer a lake freighter through this loophole. I find it somewhat ironic that there's been so much talk about the Mack truck loophole on a piece of legislation. This allows any con-

sideration for a Mack truck, an International, a Peterbilt, a GM or a Ford.

**Mr O'Toole:** None of it's covered.

**Mr Barrett:** None of this is covered by this particular piece of legislation.

**Mr O'Toole:** I'll be much more succinct. I'm asking procedural questions through you, Chair, to the clerk. Procedurally, the way my amendment in section 3—which had been tabled for a moment, until consideration of section 6, I would assume. Because it's a Liberal-dominated committee, undemocratic or whatever, they will win the vote. They'll probably carry section 6 and then my section actually attempts to delete section 6. My question to you is, would it not be out of order? I'm quite displeased. Before I vote, I want to move an amendment which would really say, I move an amendment to delete section 6, the Mack truck section.

**The Chair:** I didn't hear your amendment, Mr O'Toole.

**Mr O'Toole:** My procedural problem here is that I have set down the amendment to section 3. That amendment substantively deleted section 6. The reason is that we haven't dealt with section 6, but if we vote in section 6 and my amendment attempts to delete it, then it's out of order. So I'm stuck here and I think I've trapped myself, actually.

**Mr Prue:** I think you did too.

**Mr O'Toole:** Thanks for having legislative counsel here. It proves that most of the good work here is done by someone else, either a legislative assistant or a legislative intern. That's something we should all be striving for, to get one of them working for you. I understand that it isn't out of order.

**The Chair:** Very good. We can move ahead, Mr O'Toole.

**Mr O'Toole:** Sure. Thank you.

**The Chair:** Any other comments? Seeing none, shall section 6 carry?

**Mr O'Toole:** Recorded vote.

**The Chair:** All in favour?

#### Ayes

Colle, Crozier, Marsales, Oraziotti, Peterson, Wilkin-son.

#### Nays

Barrett, O'Toole, Prue.

**The Chair:** Section 6 is carried.

Section 7.

**Mr O'Toole:** I'll now deal with my amendment to section 3, if that's permissible.

**The Chair:** You're satisfied with that, Mr O'Toole?

**Mr O'Toole:** Yes. Once again the staff have helped me to look better.

**The Chair:** We'll move to section 7. Any comments, questions or amendments?

**Mr O'Toole:** I move a section 7 amendment. I'll read it for the record.

I move that subsections 7(6), (7) and (8) of the bill be struck out and the following substituted:

"Superintendent's powers

"(6) After considering an application and any additional information, material or evidence relating to the application, the superintendent,

"(a) shall require the applicant to,

"(i) maintain its current or proposed rate, or both, for a category or coverage of insurance at the rate that was approved or was deemed to have been approved under the Insurance Act as of October 23, 2003, or

"(ii) reduce its current or proposed rate, or both, for a category or coverage of insurance by up to 30% of the rate that was approved or was deemed to have been approved under the Insurance Act as of October 23, 2003; and

"(b) may require the applicant to vary one or more of its current or proposed risk classification systems.

"Criteria to be considered

"(7) The superintendent shall require the applicant to reduce its current or proposed rate for a category or coverage of automobile insurance or require the applicant to vary a current or proposed risk classification system if,

"(a) the current or proposed risk classification system or current or proposed rate is not just and reasonable in the circumstances;

"(b) the current or proposed risk classification system is not reasonably predictive of risk or does not distinguish fairly between risks;

"(c) the current or proposed rate would impair the applicant's solvency; or

"(d) the current or proposed rate is excessive in relation to the applicant's financial circumstances.

"Industry reduction

"(7.1) Despite subsection (7), in determining current and proposed rates for the purposes of this section, the superintendent shall ensure that there is an average reduction in rates charged by insurers in Ontario of at least 20%.

"Written submissions

"(8) The superintendent shall give the insurer an opportunity to make written submissions before making an order requiring a reduction in a current or proposed rate or a variation in one or more of its current or proposed risk classification systems."

**The Chair:** We have about two minutes before we recess. Are there any comments?

**Mr O'Toole:** I'll keep my comments brief. Really, what it's doing, in layman's terms, is moving back to the rate classification system prior to the date of the 23rd, and also looking at least at a 20% rate reduction. This is what the people of Ontario want. This is what you've been saying at the doors. It's the right thing to do. I ask for your consideration of this amendment. It's absolutely imperative. It would be one time that you could do the right thing for the people of Ontario. I'll be supporting you if you adopt this amendment.

**Mr Crozier:** Chair, just a quick question that you may want to deal with this afternoon. How do you arrive at an average when you start with the approval of one rate and go on, over a period of time, to another?

**The Chair:** That's a question for this afternoon.

This committee will recess until following routine proceedings today.

*The committee recessed from 1159 to 1548.*

**The Chair:** The standing committee on finance and economic affairs will come to order.

When we broke for recess prior to the noon hour, we were on section 7, and I believe Mr O'Toole had just read the motion into the record and had made a brief comment. Are there any further comments?

**Mr O'Toole:** With the indulgence, the points that are being made here, the mega-motion that we're talking about here and the attempt to get some administrative change, however subtle, to this bill—this section is tied to my previous amendment on section 3. We're prepared to leave section 7 in, in the event that section 6 is now passed, so I've got to amend this thing. What it substantively does is it allows you to keep a promise. This section here that I'm referring to actually brings to bear, in section 7, it really constitutes going back to the rates and classifications of October 23. During our consultations with the people, we heard that those rates and classifications should be changed. That was occurring in Bill 98.

Section 7.1 is added. It gives you a chance to keep one of your election promises, which is a 20% reduction in premiums. I'm going to take this valid motion and I'm going to request a recorded vote. What it means to me, without—there's no Machiavellian theory going on here. I just want you to be clearly on the record voting against a 20% reduction as you promised at the doors in my riding. So it's not a set-up; you have free will; you're born with free will. I'm hoping that David and some of the newer members—Judy—would be amenable to being on the record of keeping your promises, just this once.

**The Chair:** Any other comment?

**Mr Colle:** The previous government could have put this in their legislation. They had a chance to do this but they're asking us to do it, which we feel is reckless because it doesn't take into account that the insurance industry, the state of affordability, is in such a fragile state that we can't act recklessly and do these unilateral, across-the-board percentage decreases without taking into account that there are a lot of people who are affected by whatever this government does. That's why we've been very cautious in what we do.

This government, in its dying days, had an opportunity to do this. If they believed in this type of unilateral action of this-pie-in-the-sky 30% cut, they would have done it. They didn't, and that speaks volumes. That's why we're rejecting it for a more cautious approach that will give people stability, and then further stability and decreases as we sort out the mess they left us.

**The Chair:** Any other comment?

**Mr O'Toole:** Thank you for that. I'm glad Mr Prue has joined us, because I know he would support reasonable and fair pricing in auto insurance, and certainly honesty in policy making. This amendment says it all. It addresses reducing rates by 20%—it allows them to keep a promise—so if we all vote for it, it would be a better law. That's the way I see it.

**The Chair:** Any further comments? All in favour of the motion?

**Mr O'Toole:** Recorded vote.

**Ayes**

O'Toole, Prue.

**Nays**

Colle, Marsales, Oraziotti, Parsons, Peterson, Wilkinson.

**The Chair:** The motion is defeated.

Shall section 7 carry? Carried.

We would refer back to section 3. This motion was postponed. Section 3, motion number 1: Do you have any comment?

**Mr O'Toole:** For the record again, what this is doing is, it's in a motion that—you've passed section 7 and you've passed section 5 and you've passed section 6. Reference made, I move that section 3 of the bill be amended by striking out "sections 5, 6 and 7" and substituting "sections 5 and 7." You get most of it, and I'm asking for your support on this substantive motion, which really doesn't allow you to approve rate increases.

**The Chair:** I inform you that this motion is out of order because the sections that you are calling for have been carried. Shall section 3 carry?

**Mr Prue:** What about mine?

**The Chair:** I'm sorry; you're quite right. Mr Colle, you have an amendment?

**Mr Prue:** I don't think Mr Colle—

**The Chair:** My mistake: Mr Prue does.

**Mr Prue:** He shaved his moustache off. You should not confuse the two of us.

I would like to make the following motion, which is to section 3 of the bill.

I move that section 3 of the bill be struck out and the following substituted:

"Temporary insurance rate freeze

"3. Subject to any rate change approved in accordance with this act, every insurer, on issuing or renewing a contract of automobile insurance after October 22, 2003, to which this act applies, shall use only the rate for each category and coverage of automobile insurance,

"(a) that was approved or was deemed to have been approved under the Insurance Act as of October 23, 2003, in the case of an insurer referred to in clause 2(1)(a); or

"(b) that the insurer was entitled under the Insurance Act as of October 23, 2003, to use after October 22,

2003, in the case of an insurer referred to in clause 2(1)(b).”

If it's in order, I'd like to speak to it.

**The Chair:** Your motion is out of order.

**Mr Prue:** Can you explain to me why, just for the record.

**The Chair:** For the record, in that 2(1)(b) was deemed to be out of order, your motion also speaks to the same subject and is therefore out of order. Are there any comments to section 3?

**Mr O'Toole:** I appreciate that. I know we're just wrapping up routine business here, but this reluctance to accept any input from any committee that's really genuinely trying to improve the bill—

**The Chair:** Are you challenging me?

**Mr O'Toole:** No, I'm not. I think the Chair has been fair. It's unanimous support on the other side. The government is not listening to [*Inaudible*].

**The Chair:** That's a comment. Any other comment to section 3? Does section 3 carry? Carried.

Are there any amendments to sections 8 through 11? Hearing none, shall section 8 carry? Carried. Shall sections 8 through 11 carry? Carried.

Section 12: Are there any amendments or comments?

**Mr O'Toole:** Yes. Mr Barrett and I have an amendment on subsection 12(1).

I move that subsection 12(1) of the bill be amended by striking out “a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000” and substituting “a fine of not more than \$1 million and on each subsequent conviction to a fine of not more than \$2 million.”

If this is in order, I'll speak to it.

**The Chair:** The motion is in order.

**Mr O'Toole:** What we're trying to do here is send a signal to the industry. We're all fair and reasonable people, I presume, for the most part. These fines are tokenistic. He has talked about ING and all these major corporations where \$100,000 is cost of doing business. We're talking about serious. If you're serious about keeping rates and classifications down, why not have a strong enough deterrent—some would use the term “hammer,” but I'll use the word “deterrent”—of a million dollars as opposed to \$100,000? I'm willing to discuss it: \$100,000 may be—let's make it \$500,000. My amendment is a million; it's prepared to be an amendment. I'm prepared to discuss it. But if you're not prepared to move on this tiny, minuscule amendment, Mr Colle, it's eroding my confidence in the very process here of democracy. Give us one.

**Mr Colle:** The previous government, in the eight years they were there, never put any fines in whatsoever

in terms of the Financial Services Commission of Ontario's ability to enforce rate filings. This is a first and, I think, a very fair way of dealing with companies that don't abide by this bill, if it's passed. As many of you may know, one of the things that does happen with fines is that if you put the fine level at such an amount that it is deemed inappropriate or too high by juries or by a judge, they tend to stay away from imposing those fines. That's why you'll see that the history of fines is at a reasonable level, so that judges and juries are not afraid to impose those fine levels.

Again, this is the first step in bringing controls in terms of dealing with insurance companies and the way they file. As I said, the previous government had the opportunity to put in their million-dollar fines. They basically put in no fines whatsoever.

**The Chair:** To the committee: “At 4 pm on the second day, those amendments which have not been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall cause there to be one final 20-minute waiting period for the purpose of calling in the members, and shall then, immediately without further debate or amendment, put every question necessary to dispose of clause-by-clause consideration of the bill.”

We are recessed for 20 minutes.

*The committee recessed from 1600 to 1620.*

**The Chair:** The standing committee on finance and economic affairs will come to order once again.

Shall the amendment to section 12 carry?

**Mr O'Toole:** Recorded vote.

#### Ayes

O'Toole.

#### Nays

Colle, Marsales, Oraziotti, Parsons, Peterson, Wilkinson.

**The Chair:** The motion is lost.

Shall section 12 carry? Carried.

Shall sections 13 through 16 carry? Carried.

The New Democratic motion to change the title is out of order.

Shall the title of the bill carry? Carried.

Shall Bill 5 carry? Carried.

Shall I report the bill to the House? Carried.

The committee is now adjourned.

*The committee adjourned at 1622.*



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