

The Speaker: Yes. Honourable Members, I think I will allow this. The Opposition Leader had asked a question this morning about the \$120 million. And the Minister has come and said he has received some information in that regard. So it is important, I think, that you know what that information is. So I will allow him, at this point, just very quickly to give that information.

QUESTION PERIOD

[Reverting to Question 1 by Hon. Marc A. R. Bean: St. George's Tourism Development Site Update]

Hon. Shawn G. Crockwell: Yes, thank you, Mr. Speaker.

Because it is of national importance, I would rather tell the country than just the Opposition alone. The \$120 million is for just phase one.

The Speaker: All right. Thank you. Phase one, yes. All right. Thank you very much, Members.

Members, it is now [12:40]. I recognise the Honourable Premier.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker. I move we rise for lunch.

The Speaker: Thank you, Members. We will adjourn for lunch until 2:10 pm.

[Gavel]

Proceedings suspended at 12:40 pm

Proceedings resumed at 2:13 pm

[Hon. K. H. Randolph Horton, Speaker, in the Chair]

The Speaker: Members, we move to Order No. 3 on the Order Paper, which is the Second Reading of the Insurance Amendment Act 2014 in the name of the Minister of Finance.

Minister of Finance, you have the floor.

BILL

SECOND READING

INSURANCE AMENDMENT ACT 2014

Hon. E. T. (Bob) Richards: Thank you very much, Mr. Speaker.

Mr. Speaker, I move that the Bill entitled the Bermuda Monetary Authority—

The Speaker: No, no, the Insurance—

Hon. E. T. (Bob) Richards: —the Insurance Amendment Act 2014 be now read a second time, please.

The Speaker: All right. Thank you.

Are there any objections to that?
Please carry on.

Hon. E. T. (Bob) Richards: Thank you, sir.

Mr. Speaker, it is widely recognised that Bermuda is a global leader in the insurance business, and it is one of the main drivers of the Bermuda economy. To ensure that the insurance industry continues to thrive and work efficiently, it is necessary that from time to time we update Bermuda's insurance legislation. Furthermore, as international standards are constantly changing it is imperative that the jurisdiction adjusts its regulatory framework and incorporate these changes into our regulatory regime. Consequently our insurance legislation must be reviewed on a regular basis.

Mr. Speaker, Members will be aware that the BMA recently announced that Bermuda had made application to the National Association of Insurance Commissioners (known as NAIC) of the US to be designated as a qualified jurisdiction for the purpose of collateral reduction. Members would also be aware that Bermuda has been recommended for approval as a qualified jurisdiction by the Working Group of the NAIC. Additionally, Bermuda is in the final stages of completing the equivalence assessment under the EU Solvency II Directive. And these two initiatives have also required ongoing review of our legislative framework.

Mr. Speaker, these proposed amendments cover a wide range of matters to clarify provisions in the Act and make other housekeeping changes. In particular, one of the amendments introduces a new section which will require all registered persons on an annual basis to deliver a certificate to the Authority confirming that they either meet or shall meet (as the case may be) the minimum criteria for licensing under the Act. The new certification requirements are in line with current similar statutory requirements for other financial sectors, such as investment business.

Other technical changes include amendments regarding the material changes that are to be filed with the Authority, an expansion of the powers to give directions under section 32 where there are concerns that a licensed entity cannot meet its obligations to policyholders, and introduction of corporate governance requirements relating to the need for insurers to implement the appropriate corporate governance policies and procedures under the minimum criteria for registration.

Mr. Speaker, Members will note there is the proposal to repeal section 57(1)(a) of the Insurance Act 1978 to remove the exemption from regulatory oversight for the insurance business carried out by a friendly society and/or a trade union. Mr. Speaker, in

May of this year the BMA issued a consultation paper in which the Authority proposed that the exemption from regulatory oversight of insurance business done by friendly societies for their members or trade unions should be removed. The primary rationale for this proposal was that the BMA believed that any company that wishes to provide insurance services to the public should do so under appropriate credentialed oversight so as to ensure the appropriate public protection.

Mr. Speaker, the repeal of section 57(1)(a) of the Insurance Act 1987 has the effect of now requiring that any friendly society registered under the Friendly Societies Act 1868 or any trade union registered under the Trade Union Act 1965 would have to be registered by the BMA under the Insurance Act 1978 prior to conducting insurance business in Bermuda. The Government puts forward this policy change in the interest of providing protection to policyholders.

Mr. Speaker, with the proposed amendments before us today these additional regulatory tools will be available to the BMA to ensure that oversight of the insurance sector remains in line with global standards.

These are my introductory remarks, Mr. Speaker, and I now ask for the Bill to be read a second time and invite other Members to opine on it.

ANNOUNCEMENT BY THE SPEAKER

HOUSE VISITORS

The Speaker: Thank you, Minister.

Just before we move on we just recognise in the Gallery a former Minister and Attorney General, also former Senator, Phil Perinchief.

[Desk thumping]

The Speaker: And we have here also the Senator Vic Ball.

[Desk thumping]

[Continuation of the Second Reading debate on the Insurance Amendment Act 2014]

The Speaker: The Chair will recognise now the Shadow Minister of Finance, David Burt.

You have the floor.

Mr. E. David Burt: Mr. Speaker, thank you very much.

In speaking on the general principles of this Bill, and of course we will get into more detail when we go into Committee, the Progressive Labour Party is not opposed to the housekeeping amendments which are inside of this Bill. However, we are concerned, as was discussed in the previous debate, [about] the rationale behind the removal of the exemp-

tion for bona fide friendly societies or trade unions in offering mutual insurance to their members.

We are going to be seeking, of course, more clarity when we get inside of Committee. But suffice it to say we understand where the Government may be coming from insofar as the need to make sure that there is appropriate supervision in making sure that policyholders are protected. The question is as to why now, and how, this is being done. It is something that has certainly raised some concerns on this end. So we will certainly speak to clause 9 of the Bill, which speaks about that removal of the exemptions in [section] 57(1)(a) which the Minister spoke about.

But apart from that we understand the other items in the Bill and, as with most things, there was consultation ahead of time and we do not have any objection to the overall Bill. But we do have serious questions and challenges in regard to the change in position—the long-time change in position—insofar as where mutual insurance or insurance given by friendly societies and/or by trade unions, specifically to their members and their members only, is now something that is going to be subject to additional fees, additional regulation, additional capital requirements which is something that we do not believe is for the best interests of mutual cooperation inside of the Bermuda economy.

In our view, we have to speak about what is the best way in making sure that we can ensure that small groups and small organisations can come amongst themselves and can offer these mutual services. And I do not believe the correct answer is the way that the Government is going down the road, which is to regulate them as people who are offering insurance services to the public. These are persons who are offering insurance services to their bona fide members. And if there is a question about a society offering services to their bona fide members, then maybe the Government should be looking at amending the Friendly Societies Act, or putting more stringent regulations on the Friendly Societies Act, as opposed to telling all friendly societies and trade unions that, *You can no longer offer mutual insurance in the way in which you did. You must now fall under the Bermuda Monetary Authority and be regulated in this fashion.*

We do not believe it is the correct way to go, Mr. Speaker. We will speak more about it. I know that other Members on this side will speak about it further, but we do not believe the Government is going down the right path. We would urge them to reconsider what it is that they are doing and look for other ways to effect the end which they are trying to effect.

Thank you, Mr. Speaker.

The Speaker: All right. Thank you, Honourable Member.

The Chair will now recognise the Honourable Leader of the Opposition, Honourable Marc Bean.

You have the floor.

Hon. Marc A. R. Bean: Thank you, Mr. Speaker.

Mr. Speaker, my Deputy Leader just spoke as to some of the concerns contained in this amendment, specifically as it speaks to the friendly societies and the trade unions.

Mr. Speaker, I would like to declare my interest. I am a member—a proud member—of the Independent Order of Oddfellows, which is a long-standing, long-serving friendly society in Bermuda. So I can speak from a position of authority on these matters. Now, I usually would not speak on my fraternal ties, but the fact of the matter is that the whole fabric of the friendly society movement is now under some sort of threat—the whole spirit of the friendly society movement is under threat. And I am not sure if the BMA or the Government, to be fair, is aware of the threat that is being posed.

Mr. Speaker, the Friendly Societies Act 1868 is one of the few pieces of legislation on the books today that we can readily identify as an inheritance that was bequeathed to the people of this country by our forefathers. The whole essence of friendly societies was the fact that post-slavery, post-emancipation, black people—in particular slaves—did not have any institutions whereby they could rally around to lift themselves up to be free members of society. And so the friendly society movement had its genesis in the effort to institutionalise freedom for those who previously were enslaved.

Mr. Speaker, some members of the public will readily recall that it is through the friendly societies that we have the largest, most important holiday on the calendar year—Cup Match. Cup Match itself was created by a picnic held amongst the friendly society lodges, and that picnic was surrounding a cricket game. Today we have the largest event on our calendar, an event that our Premier takes great pride in sponsoring and ensuring that his brand is plastered all over Somerset and St. George's Cricket Clubs, who is proud to sponsor Cup Match. But yet today we see an amendment that is disrespectful to the very institution that created Cup Match.

Now, again, I am not going to say that the OBA or the Premier are intentionally being disrespectful. I am not sure if they actually understand the history of it. But the fact of the matter is that this Bill is disrespectful. It is disrespectful. And I hear somebody on the opposite side sucking their teeth, but maybe . . . well, that is understandable.

POINT OF CLARIFICATION

Mr. Mark J. Pettingill: Point of clarification. That was actually me looking at something else, Mr. Speaker, just to be clear.

The Speaker: Yes, all right. Thank you.

Hon. Marc A. R. Bean: Okay.

The Speaker: Carry on.

Hon. Marc A. R. Bean: No problem, no problem.

Mr. Speaker, let me make it clear. Where did this initiative by the BMA and the Ministry of Finance and the Cabinet of Bermuda originate from all of a sudden?

Well, I will tell you where it came from. You have an organisational group that goes by the name of Bentley Friendly Society. And if some people's feelings get hurt, so be it. I am speaking from the perspective of being a member of the friendly societies. And if you know anything about fraternalism, there is one thing we do not accept, and that is being irregular . . . that is being fraudulent.

Nothing is more disrespectful to the history of our people in this country than the behaviour that was exhibited by Bentley Friendly Society. Let me make it clear—they are *not* a friendly society! Never have and never will be a friendly society. What they did was see a loophole in the Friendly Societies Act and they perceived that this was an opportunity to get rich under the guise that it is helping black people. Well, if it was your intention to help our people uplift themselves you would have not gone and created a fraudulent organisation and attached "friendly society" to the name, you would have joined an existing friendly society.

When you talk to people like Sister Marlene Smith and Joy Wilson-Tucker and Ira Philip (a former Senator in this Government) who are all friendly society members, they will tell you that they have been sitting and waiting for the next generation who has the technical ability to run an insurance programme to join the friendly society movement because this is a goldmine of mutual aid that was bequeathed to us by our forefathers. And they, in their wisdom, felt that they did not have the capacity to do it. But they have been patient, they have been patient. And, lo and behold, we have someone who . . . by the way, Mr. Craig Walls and Mr. Kevin Bean-Walls are the principals behind Bentley Insurance. Mr. Craig Walls is an officer, employee, of the Bermuda Monetary Authority.

What?

[Inaudible interjection]

Hon. Marc A. R. Bean: Mr. Walls, a principal of Bentley Friendly Society/Bentley Insurance, the architect of this fraudulent scheme is an employee of the Bermuda Monetary Authority.

But yet, instead of the Bermuda Monetary Authority or the Minister of Finance or the Government taking the appropriate action to deal with the imposters—those who are irregular, those who are being disrespectful to our heritage—instead they went the extra mile because Bentley started to offer motor

insurance. Mr. Speaker, we know that there are persons on the opposite side who have interest in legitimate motor insurance. And so you had the Minister step in and say, *Stop, Bentley. All these policies you are writing in terms of licensing vehicles through TCD, we are not accepting it anymore.* And rightly so because they are irregular, Mr. Speaker, and it should have stopped right there.

They should have been punished. They should have been brought to the courts under the existing relevant legislation, and they should have been made an example of. But no, the OBA, ever looking for a loophole, decided that they would go a step further and do something that no other previous government has done up until this point, and that is to meddle and interfere with our heritage. They took that as an opportunity, instead of cracking the whip on Bentley, they decided that they would close the apparent loophole of future competition for their own business interests—utter disrespect!

Like I said, our Premier is so quick to sponsor and have his name and his brand all up and down Cup Match. Is the Premier aware that this Bill is disrespectful to the foundation of Cup Match? Because if he is, I would ask that they reconsider that one amendment in this Bill. The rest I have no problem with. I have no problem with, Mr. Speaker.

How is it that Mr. Walls, a BMA officer, will find a loophole and then go and try to exploit it, and the BMA is bringing this housekeeping work to close the loophole, but yet Mr. Walls . . . I have not heard anything from the BMA or the Minister as to how you are going to deal with this fraudulent organisation—nothing. In fact, he took the opportunity, because of their folly, their fraud, to go and do something that is absolutely unacceptable . . . it is absolutely disrespectful.

I know there are persons on that side of the House who understand what fraternalism is. I know we have MPs who are part of fraternal organisations, whether they are Greek fraternities, whether they are Masonic Lodges or Oddfellows. And to see that, instead of dealing with those who are irregular or going this extra mile . . . to shut down and close what is based on the spirit and principle of mutual aid. The Sunshine League came out of the friendly societies. The trade unions came out of the friendly societies. Our Workmen's Clubs came out of the friendly societies. The root and foundation of all institutions for black people in this country are the friendly societies. Yet you have these unscrupulous individuals who will conduct themselves in the most disrespectful manner and call themselves a "friendly society." Well, I am making it clear today for all to hear—they are *not* a friendly society. They are irregular and they are frauds. Okay? And I could care less if people's feelings get hurt because when you are a true and bona fide member, you can speak from a position of authority.

So I am not attacking, per se, the Government, except for the fact that to me you are going the extra mile. You are going a little too far. We would have welcomed a correction for Bentley. We have seen the e-mails that have been sent around. I have been copied on them. One moment it is anti-OBA, anti-Government House, anti-PLP—this is all on principals of Bentley accusing everyone of doing something against them when they are the ones who are out of order.

I ask, again, as we get into Committee, for the Minister to seriously consider, beyond politics, reconsider this amendment to the Friendly Societies Act. Now I can speak for the trade unions also, but I am not, because the trade unions are sufficiently organised to speak for themselves. But they too are an organisation that should seek to benefit from the principle of mutual aid and relief. Without it we would not be here today. Every single black person in this country owes a debt to the friendly society movement, whether you know it or not. Every single black politician in this House owes the friendly society movement. Without them we would have still been physically enslaved, let alone mentally enslaved.

But yet we are going down this line because we have got some shysters in the community who see something that was bequeathed to us, our heritage, as a way to get rich quick? Using the premise that this is for all black people and this is to uplift black people and . . . *oh, the OBA, you are holding us down; and, oh, the Government . . . or the Government House . . .* how could you do this to black people? Let me tell you something, you do not represent black people. You do not represent black people. And I am saying that as the Opposition Leader. And, yes, I will call you out in Parliament. Yes, I would because nothing is more disrespectful to our heritage than what I have seen and witnessed over the last year with Bentley. ***

So I will ask the BMA, I will ask the Minister to reconsider and sit down with our elders because the majority of living friendly society members today are over the age of 70, Mr. Speaker. Our young people have forgotten, or they have not had it integrated into their history. So there are very few of us under the age of 40 who are members within a friendly society lodge. The rest are over 70, over 80. [Take] an opportunity to speak to real friendly society members and explain the spirit behind a mutual aid or insurance programme to provide relief for members.

Now, I understand the liability outside when it comes to the general public. I understand the need for rules and regulations. But when we are speaking about mutual aid, quite frankly, it is not the BMA's business, it is not the OBA's business and it is not the PLP's business—it is that friendly society's business. And I dare anyone to get up . . . I dare anyone who is a member of a lodge or a fraternity to contradict what I am saying. They know what I am saying is the truth. It is internal and they have the ability to be able to pro-

vide that mutual aid for their members. Well, if it goes beyond that, you might need some regulations. You might. But you cannot close off that opportunity for people to help themselves—collective help, mutual aid.

Who do the OBA think they are? Rest assured, I hope that I see an adjustment, an amendment, something from the OBA or . . . the Premier and all his branding and all his sponsorship of Cup Match will reveal it for what it really is—less regard for the history and the heritage and tradition and more focus on getting your face out front. I am not accusing the Premier of that. I am going to give him an opportunity to use a degree of wisdom to ask his colleagues to reconsider the amendment that touches the friendly societies.

If not, what you are telling the rest of this country is that you are willing to be out front and utilise . . . position yourself on our tradition of Cup Match, but yet you are willing to be disrespectful—

The Speaker: Speak to the Chair, Honourable Member.

Hon. Marc A. R. Bean: —disrespectful to the very heritage that brought Cup Match. You cannot have it both ways.

And yes, I am a little fiery, Mr. Speaker, because I do not like frauds. Mr. Speaker, I do not like imposters, and I especially do not like people who try to hijack our peoples' heritage for their own self-interests.

So I will call him out again and take my seat. Mr. Craig Walls, a member of the Bermuda Monetary Authority, his brother Mr. Kevin Bean-Walls and Bentley Friendly Society—you are irregular and you are *not* a friendly society. And I would encourage you—and I am not being kind about it—to cease and desist from that behaviour. Cease and desist, okay? Because of that selfishness you have now brought the spotlight on a tradition that preceded even your very existence . . . because of your selfishness.

You know, Mr. Speaker, I am not partial; I do not care who it is. I do not like people who conduct themselves in that manner. And so I will ask the BMA, again, to reconsider that one amendment and go back and speak to the friendly societies—the real friendly societies. It is like if I was to ask the Honourable and Learned Member, Shawn Crockwell, who is a member of Alpha Phi Alpha Fraternity, if I was to ask the other Alphas in this House how would they perceive someone who walked up to them and gave you your sign or your symbol or whatever, and you do to recognise one another, and you come to find out that in fact they are not an Alpha. What is the general feeling within that fraternity towards that person? It is the same feeling that every single fraternity, every single lodge has—it is totally out of order. And they need to be dealt with forthwith and it needs to stop right there.

After you deal with Bentley, you do not have to be dabbling into something that has been on the books since 1868. Do you mean to tell me Henry Tucker—the former Member, former Premier—that's his name Henry Tucker? Do you mean to tell me the oligarchs in the 1940s and the 1950s when Dr. Pauulu [Kamarakafego] and E. F. Gordon were up here they did not even see the reason to go and touch this Act? Not even the oligarchs themselves saw the reason to touch it. But here we are in 2014 . . . it is being touched. Why? Because it is a reaction to frauds and imposters and shysters in our community.

That is where it should have stopped. That is where the BMA and the Minister of Finance should have dealt with the situation—Bentley and Bentley alone—nothing to do with the Grand United Order, nothing to do with the Independent Order, or the Daughters of Ruth or any other Masonic body or Odd-fellowship body. It has nothing to do with us who conduct ourselves in order, but everything to do with these shysters.

Mr. Speaker, as you can note, I am not pleased at all, because I had a feeling when they first started this shyster plan that the reaction from the Government would be overboard, *Now they going to say, 'Hey Chuck, there is actually a loophole where people—lower income people—can actually collectively get together and through self-help and mutual aid economically uplift themselves.'* That is the whole spirit behind the Friendly Societies Act and offering insurance. And, lo and behold, that opportunity . . . there is a threat of it being erased . . . and 1868 piece of legislation. What is that, 160 years? Yet, we are going to dabble with it because of some shysters?

So I will request the Minister of Finance to please, please, hold off on that one clause and go and consult the friendly society movement. They are all our elders, esteemed women and gentlemen in our community, who have been holding the tradition, holding the torch aloft for decades, hoping that my generation and beyond would see the benefit of mutual aid and relief and would join them in carrying on this heritage. But instead that entire edifice is now under threat, the very principle of our existence is now under threat because of these community shysters using black people as an excuse to try and get rich . . . using black people as the rationale, using black people's oppression and suffering as a rationale to try and put money in their own pocket.

Yes, so even though the Government has not called them out, it is my responsibility to do so. And if you all want to see me out in public and you have concerns that I called your names and I have exposed your behaviour in Parliament, then so be it. That is my job. And I do so without making any apology for it when I think of the sufferation, when I think of 300 years of slavery, post-emancipation in this country, and the struggle in the 19th century for our people even to be respected as human beings . . . and then

to see 160 years later some irresponsible man get up and try to shyster it from under us?

And then to see the Government take the opportunity to close that vehicle, instead of just dealing with those who are out of order? Shame on the Government and shame on the Walls brothers and shame on that fraudulent so-called society called Bentley.

I hope that after this debate Bentley is shut down. I will let everyone who has previously signed up to any motor policy or any insurance policy for Bentley Insurance to go and get your money back. Go get your money back! And stay far, far away from that organisation. Go get your money. Get a refund because they do not represent the friendly society movement. You know the friendly society movement that has the Cup Match awards every year and has the parades—the real authentic friendly society movement? Well, the Walls brothers and Bentley . . . that is not it! That is not it. We could call ourselves anything in this country, that does not mean that that is what you are.

So, Mr. Speaker, I will take my seat. I am not going to speak in Committee. I am just appealing to the Minister. You can understand my vibe, Honourable Minister, it is not an attack on the Government; but you know I am speaking from a fraternal perspective. They are out of order, and they deserve the full brunt of the law. But I ask you to consider closing or adding more regulations on a body that has always been self-regulatory. And if they do go into the realm of offering insurance to the public, or somehow there is liability that extends to the public, then, by all means, bring the adequate controls in place by looking to enhance the Friendly Societies 1868 Act. But do not touch what ultimately is sacred. Ultimately it is sacred.

If you are going to touch something touch Bentley—so-called friendly society—and Bentley, so-called, Insurance. That is what needs to be touched by us lawmakers up here, not the tradition that our foreparents have bequeathed to us . . . an inheritance that we should be passing on to the next generation so they can understand what it means to be ordered. They can have an understanding of what it means to appreciate the Cup Match, instead of going up to the beach and getting drunk out of their heads every first Thursday of Cup Match . . . acting stupid, getting drunk out of their heads. Why? Because they have no appreciation of their history and heritage.

And then when you have adults coming along and trying to parasite off it, they deserve nothing but condemnation. And I will lead that condemnation, because I speak from authority as a proud member of the friendly society lodge in this country.

The Speaker: Thank you, Honourable Member.

Any other Honourable Member care to speak? Then I will turn back to the Minister.

Hon. E. T. (Bob) Richards: Thank you, Mr. Speaker.

I did not expect to have a passionate speech like that on what is otherwise a boring subject known as insurance.

Let me make a few comments, particularly to the Honourable Leader of the Opposition. I understand where he is coming from. My father was a proud member of the Hannibal Lodge. So I understand the tradition that you are talking about—fully understand. And while I think that, you know, you have certainly gone far afield in your comments I would like to try to bring this debate back to what we are dealing with here, because this legislation does not seek to outlaw friendly societies. It does not seek to affect friendly societies at all other than bringing them within the ambit of the insurance regulation of this Island.

Now, I am not going to make any comments on Bentley other than to say whether they are legitimate or illegitimate insofar as the universe of friendly societies is concerned.

The purpose of this legislation is to protect people who take insurance out, their policies; and, in particular as it relates to auto insurance, is to protect people who use the roads. Because if somebody has an insurance policy from an entity that does not have the ability to pay a claim, and if that person goes and knocks down somebody else on a crosswalk or smashes into somebody's house or mashes into another car, who is going to pay? So this is what this is all about. It is about the protection of policyholders and the protection of the public. And irrespective of whether the insured is a member of a friendly society or mutual society or not, because we are talking about insurance, it has an effect on the public at large.

Insurance is not just protection for the person who is insured, and particularly in auto insurance, the insurance is a protection for the public at large, anybody who can be affected by an automobile or a bike. So that is what this is about. This is not an attack on friendly societies.

Now, as far as I know, and the Honourable Member is clearly more knowledgeable about this than me, other than the organisation that you mentioned—Bentley—I do not know of any other friendly societies that are proposing to be in the auto insurance business. All right?

[Inaudible interjections]

Hon. E. T. (Bob) Richards: So if they are not in the business this legislation is not affecting them. All right?

[Inaudible interjections]

Hon. E. T. (Bob) Richards: It is not affecting them. It is not affecting . . . if they are not in the business this legislation is not affecting them.

The Speaker: Honourable Members, let us . . . one person is talking and everybody has an opportunity to speak.

Hon. E. T. (Bob) Richards: It is not affecting them. So that is the essence of this point.

Now, if at some point in the future a legitimate friendly society decides that they would like to offer insurance of some description to their members, then what this legislation says is that they have to be put on the same playing field as other insurance companies as it pertains to the Act. Because as I mentioned earlier in the . . . and I know I cannot reflect on a former debate, but the BMA as Regulator regulates all insurance entities, including mutual insurance entities. So just because an entity has a mutual model, it does not mean that it only affects those members. The nature of insurance is that it affects everybody. All right?

So that is the issue here. The issue here is the protection of the public. In Bermuda, as it relates to auto insurance . . . auto insurance is required by law. It is required by law, and there is a good reason for that, because it is there to protect the public. And, therefore, those who are providing the insurance have to be able to pay claims when claims arise. And that is the reason that we are including friendly societies in this. If friendly societies do not have any interest in providing insurance, they are not affected.

So I appreciate the passion of the Leader of the Opposition. I have some sense of the history of friendly societies, and their history in Bermuda in particular and their history in the advancement of black people from slavery. They year 1868 was only 34 years after the abolition of slavery, but it was also long before the automobile was invented, as well. So, you know, you kind of have an anomaly there. And we are not trying to curtail or restrict any of the activities of friendly societies. What we are trying to do is to ensure that anyone who offers insurance is covered by the insurance regulations.

We are the third largest insurance capital of the world and we cannot have entities offering insurance in our jurisdiction that are not properly capitalised, that do not have the ability to pay claims when they arise and that is what this is about.

So with that, Mr. Speaker, I move that the Bill be now committed.

The Speaker: Thank you, Honourable Members.

The Minister has moved that the Bill be committed.

Are there any objections to that?

Then I will ask that the Deputy Speaker please come.

House in Committee at 2:55 pm

[Mrs. Suzann Roberts-Holshouser, Chairman]

COMMITTEE ON BILL

INSURANCE AMENDMENT ACT 2014

The Chairman: Honourable Members, we are now in Committee of the whole [House] for further consideration of the Bill entitled the [Insurance Amendment Act 2014](#). I call on the Minister in charge to proceed.

Minister, you have the floor.

Hon. E. T. (Bob) Richards: Thank you, Madam Chairman.

Madam Chairman, I would like to move . . . I guess there were 12 clauses. I would like to move them all, please.

The Chairman: Clauses 1 through 12?

Hon. E. T. (Bob) Richards: Yes.

The Chairman: Please proceed.

Hon. E. T. (Bob) Richards: Thank you.

Clause 1 is the standard citation clause, the Bill being the Insurance Amendment Act 2014.

Clause 2 inserts a new section 15A which requires all registered persons to, on an annual basis, deliver a certificate to the Authority confirming that they either meet or shall not meet (as the case may be) the minimum criteria for licensing under the Schedule of the Act. The new certification requirements are in line with current, similar statutory requirements for other financial sectors (such as in the Investment Business Act), and shall also provide for a civil penalty to be imposed by the Authority in the event of non-compliance.

Clause 3 amends section 17A to make provision for the title of the section to be amended, and that the declaration of compliance now required under the new section 15A be published. The section has also been amended so that the publication requirement does not apply to Class 3A and Class E insurers until such time as the Authority deems appropriate.

Clause 4 amends section 30JA(1)(a) to clarify or expand requirements regarding notifications by insurers of those matters considered to be a "material change" of the insurance business, relating to schemes of arrangement (the sale of insurers). The clause also amends subsection (1)(f) to provide clarity regarding the outsourcing notification requirement, that is, that such notification is required when any one of the functions is outsourced by the insurer, as opposed to when the functions are "collectively" outsourced. It also proposes to add a new requirement for notification to be provided by an insurer upon the sale of an insurer.

Clause 5 amends section 30JB(4) to increase the number of days within which the Authority has to provide an insurer with a 'no objection' to a notification

made by the insurer to effect a material change, from 14 days to 30 days, to reflect the practical administration of this clause.

Clause 6 amends section 31B to apply to Class 3A, Class 3B, Class 4, Class C, Class D and Class E insurers as opposed to only Class E.

Clause 7 amends section 32 to revise sub[section] (1)(e) [*sic*] for the Authority to be able to also intervene when an insurer is in breach of its minimum margin of solvency and enhance capital requirements as opposed to only when there is a breach by it of any applicable enhanced capital requirements. Subsections (1)(a) and (3) have been revised to ensure that the Authority can take such actions available to it under section 32 before the event of an insolvency or prior to insolvency to ensure that the interests of client and potential clients of a registered person are more effectively protected.

Clause 8 makes provision for a change to section 56 to amend the title of the section and to provide a power for the Authority to modify requirements of insurers under section 27.

Clause 9 repeals section 57(1)(a) which has the effect of now requiring friendly societies and trade associations registered under the Friendly Societies Act 1868 and the Trade Union Act 1965, respectively, to be registered by the Authority under the Act prior to conducting insurance business in Bermuda.

Previously, such sectors were exempt from the provisions of the Act if they met certain criteria. However, due to the evolution of regulatory and statutory oversight by the BMA relating to the conduct of insurance business in Bermuda and the importance of the protection of policyholders, the Authority is of the view that the current provisions should be repealed and the sectors brought into scope.

Clause 10 makes provision for the Authority to revise the Schedule of the Act "MINIMUM CRITERIA FOR REGISTRATION" to delete the current requirements, "BUSINESS TO BE [DIRECTED] BY AT LEAST TWO INDIVIDUALS", and "COMPOSITION OF BOARD OF DIRECTORS" and introduce "CORPORATE GOVERNANCE", requirements relating to the composition of the Board and the requirement for insurers to introduce corporate governance policies and procedures.

The measures introduced are similar to measures already incorporated under similar financial sector legislation administered by the BMA, that is: Trusts (Regulation of Trust Business) Act 2001; the Investment Business Act 2003; the Banks and Deposit Companies Act 1999; the Corporate Service Provider Business Act 2010; and the Investment Funds Act 2006. The introduction of such requirements will now ensure that the Authority is administering a consistent corporate governance regime across all sectors.

Clause 11 makes provision for consequential amendments to the Insurance Accounts Regulations

1980 and the Insurance Returns and Solvency Regulations 1980.

And, of course, Madam Chairman, clause 12 provides for the commencement date of the Act.

Those are all of the clauses.

The Chairman: Thank you, Member, but I believe it is 13 [that] is the commencement date of the Act. We have clauses 1 to 12 and then the commencement, which is 13.

Hon. E. T. (Bob) Richards: Okay, thank you.

The Chairman: Are there any Members that would like to speak to clauses 1 through 13?

The Chair recognises the Shadow Minister of Finance.

You have the floor.

Mr. E. David Burt: Thank you very much, Madam Chairman.

In regard to clauses 1 through 8, of course, the Opposition has no challenge as we stated in the general debate. We have a real challenge with [clause] 9 and we have challenges moving forward inside the Act.

And the reason why there is a challenge is that the Finance Minister's closing statement in the general debate said that this was particularly and only dealing with motor insurance. So if we are talking about motor insurance, which falls under completely separate Acts, should we not be looking to change those Acts, such as the Motor Car [Insurance] (Third-Party Risks) Act; the Motor Car [Insurance] (Third-Party Risks) Regulations, things that deal with specific things where there might be a challenge as to an individual writing an insurance policy that falls outside of it?

Just as an example . . . and we can talk about this Friendly Societies Act, but the Motor Car [Insurance] (Third-Party Risks) Act says that any person can apply to the Governor to write motor insurance. Are we changing that? Can any person not apply? Can the Governor not admit that? If they are not a Friendly Society and they just go to the Governor and apply, are we now going to then say that, okay, any individual under the Motor Car [Insurance] (Third-Party Risks) Act now has to be registered underneath the Insurance Act?

Where does this stop? I think that what we are using, you know—the proverbial large hammer or drill to crack the tiny walnut—does not make sense. If we are concerned with Bentley Society or friendly societies that may offer motor insurance under the guise that it is just for their members, but instead of presenting just for their members they are actually selling it to the public and there is a question as to whether or not they will be able to fulfil the risk to the first party or the

risk to the third party under the particular Act, then should we not deal with them there?

In this particular instance . . . and I have more questions to the Minister. I would like the Minister to please explain, because he went through all the clauses, I would like him to also explain, insofar as transitional and we have clause 12 where it says, "(1) A person who is registered under the Friendly Societies Act 1868 or under the Trade Union Act 1965 to carry on insurance business . . ." The Friendly Societies Act makes no mention whatsoever of insurance business. So what specifically are we talking about?

The Friendly Societies Act only talks about making good the losses of members; it does not speak . . . We can talk about what it is, but it does not speak specifically to insurance business. So the question is, where is this definition, and how does that relate to what we see inside of the Friendly Societies Act? Hopefully we can get some clarity, and, of course, we will be offering an amendment in due course, Madam Chairman.

The Chairman: Thank you.

I recognise . . . are there any Members who would like to speak to clauses 1 through 13?

Thank you. The Chair now recognises the Honourable and Learned Member from constituency 36, Sandys North, Michael J. Scott.

You have the floor, Shadow Attorney General.

Hon. Michael J. Scott: Thank you, Madam Chairman.

So the question for the Minister is, What is the criteria that the friendly societies had to comply with in order to continue to enjoy this exemption? And has the Minister examined these criteria to satisfy himself that these criteria do not expose this insurance platform of our country to any levels of risk? That is one question.

What are the risks that the Minister sees, or that the BMA see, as persisting by leaving the friendly societies out of scope as per an 1868 piece of legislation and tradition, as was articulated by the Opposition Leader?

Those are two questions that I think I would like to have some clarity on.

The Chairman: Thank you.

Are there any other Members . . . thank you.

The Chair recognises the Opposition Leader from constituency 26, the Honourable Marc A. R. Bean.

You have the floor.

[Inaudible interjections and laughter]

Hon. Marc A. R. Bean: Thank you, Madam Chairman.

Poured a little bit of water on my soul. All right? I just . . . I am not pleased with Bentley as you can imagine. *

Hon. E. T. (Bob) Richards: I got that.

Hon. Marc A. R. Bean: And the Minister made an excellent point that this is an Act—the Friendly Societies Act. This 1868 . . . we certainly did not have motor vehicles or the need for transportation insurance, outside of shipping insurance at that time, and times have changed.

But when you look at this criteria that my Honourable and Learned Shadow Attorney General spoke of, when you refer in fact to the Friendly Societies Act 1968 it speaks of "[1(b)] the making good of any loss sustained by the members by fire, lightning, tempest or shipwreck, or by any contingency whereby they sustain any loss or damage of their live or dead stock, boats, goods, or stock-in-trade, or of the tools or implements of their trade or calling."

An Hon. Member: It does not sound like motor cars to me.

Hon. Marc A. R. Bean: It does not sound like motor insurance because there were no cars back in 1868.

But the fact of the matter is that, even after cars were introduced, it still did not apply to this Act. And those friendly societies who, by their nature, were seeking to give mutual aid and relief even up into the '60s, '70s, '80s and '90s, never considered motor insurance because that was never part of the original spirit.

We all can agree that if you get on a bike then there is going to be some potential liability if you strike someone else outside of your membership. We can accept that. So you should rightly be regulated as a motor insurer or transportation insurer because that is just good practice. It makes sense, right? But when we are speaking of, let's say a tool, or my property, or my shed, then that was the spirit that this Act and the whole concept of offering mutual aid and relief . . . that is where it came from.

So again, I would like to reiterate, if the issue is those areas of insurance which create potential obligations to a third party outside of that membership group, then, absolutely, let us identify those areas and explicitly state it within this amendment. That would allow for those who might have the desire to do so to go get regulated. But those friendly societies or trade unions who might want to do something a little less complex, but certainly within the spirit of mutual aid and relief . . . do not touch it. Just leave it. Okay? Add amendments to specify what should be regulated, because not every activity needs to be regulated from a friendly society.

The Chairman: So Member you question . . . I am sorry—

Minister?

Hon. Marc A. R. Bean: It is not a question. I am making a statement, Madam Chairman.

Hon. E. T. (Bob) Richards: Thank you, Madam Chairman.

The Chairman: We are in Committee, so—

Let me see if I can understand my own writing here, which is not very good. I was asked about insurances other than motor insurance. I used motor insurance as an example, but, clearly, the same principle applies to any kind of insurance, any kind of liability insurance, it applies to that. And I am not going to take the Opposition's comments in order because I am trying to take them more logically.

Hon. Marc A. R. Bean: On the clauses, I am speaking to the clauses—

The last speaker asked about what specific thing caused us to do this. Well, the Honourable Leader of the Opposition put his finger on it, it was the Bentley situation. That is what caused this thing to happen. All right? Before this it was a non-issue. All right? It was a non-issue. So that is the specific thing that caused this to happen. It caused the BMA and the Government to look at this.

The Chairman: Okay.

Hon. Marc A. R. Bean: So I would . . . because we will bring amendment—

The Chairman: I am sorry, just which clause? Is it 9?

Hon. Marc A. R. Bean: Clause 9, yes, clause 9.

But I wanted to point out to Honourable Members that mutual insurance companies around the world, whether they be friendly societies, whether they be mutual life insurance companies, whether they be shipping P&I Clubs . . . they are all regulated. They are all regulated. In top jurisdictions they are subject to government regulation. You know, you cannot, sort of, carve out friendly societies from the rest of society.

And so we are considering . . . we will bring an amendment. But we would defer if the Minister sees the wisdom in our approach and says, *Listen, okay, we will specify which areas of insurance that have that public risk that have to be regulated.* But there are areas that are already in the Act of 1968 that clearly have no extension to the public themselves and can be seen within the confines of this members' organisation. That members' organisation is not built on making profit, it is built on a solemn oath and obligation to one another. Okay? And so that is always going to be internal.

We are not trying to curtail the mutual assistance functions of friendly societies. What we are saying is that if they are going to offer insurance, they have to be regulated. That is all. It is pure and simple. All the other comments are interesting, and in some cases informative and emotive, but what we are dealing with here is that . . . we are dealing with a matter of insurance. And whether it is mutual, just because it is mutual it does not mean that it should not be regulated, because in well-developed insurance jurisdictions—of which we are one—any kind of mutual insurance operation is, indeed, regulated. And Members need to know that. So we are not interested in the other mutual support functions of friendly societies.

So we would welcome the Minister to consider making an amendment to specify what he deems as necessary to be regulated, but do not make it a broad blanket approach which then puts constraints on a history or institution that does not deserve, on principle, such constraints.

The Chairman: Thank you.

And, quite frankly, other than the Bentley situation this whole discussion would be a moot point. It would be a moot point. But what has happened is . . . you know, you cannot ignore reality. You had something that has brought this thing to the attention of the BMA and, consequently, the Government. And particularly in view of the fact that (and I will use my honourable colleague's phrase) "legitimate" friendly societies are not offering insurance, there should be no reason for any objections to this. There should be no reason because they are not doing it. But what we have to do as a Government is ensure that anybody who is offering insurance has the capital and the know-how to protect policyholders and other members of the public. That is the important thing.

Are there any other Members that would like to speak to clauses 1 through 13?

The Chair recognises the Member from constituency 36, the Shadow Attorney General.

You have the floor.

Hon. Michael J. Scott: Just a supplemental point to the Minister of Finance.

So you know if a friendly society decides to have a mutual insurance company some time down

Mr. Minister, what is the specific learning that informed the Authority's view that this exemption now should be removed or should no longer be enjoyed by friendly societies? What specific learning informed the view, as stated in your Explanatory Memorandum . . . what specific learning informed the view of the Authority that friendly societies should no longer enjoy this exemption?

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 1 through 13?

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the road they can do so, no problem. But they have to meet the minimal criteria that the Government sets up to protect policyholders and the public. Those are the principals involved here. Nobody is trying to stop anybody from doing anything. But in 2014 you cannot have fly-by-night organisations offering insurance. You cannot have it. And so we have done this for that reason alone.

Nobody is trying to stop anybody from doing anything, but, you know, you have got to have a minimal level of competence and a minimum level of capital.

Now, I am old enough, Madam Chairman, to have lived through a fairly interesting history of corporate Bermuda. And I have seen a lot of things come and go (all right?)—people with good intentions, but not-so-good expertise and not-good-at all money—and the customers end up holding the bag. And, as Government, it is our duty to protect people against organisations like that. And that is what this is.

As I say again, I share the passion of the Opposition as it relates to friendly societies. We are not trying to stop friendly societies from mutual assistance. But if they decide to go into the insurance business for their members or otherwise they are going to have to deal with the minimum requirements as laid down by the Regulator. And that is the way it is in 2014.

The Chairman: Thank you.

Are there any other Members?

The Chair recognises the Opposition Leader, constituency 26.

You have the floor.

Hon. Marc A. R. Bean: Thank you, Madam Chairman.

And I appreciate the Minister's remarks.

Madam Chairman, I think there is a distinction that has to be made. The idea of offering mutual aid and mutual assistance is not the same as owning or operating a mutual insurance company. We readily agree that the mutual insurance business model is a viable and highly practiced model throughout the world. It is similar to a collective investment scheme in the investment side of things. People pool their funds together and someone goes and invests it on their behalf. They mutually or collectively bring their money together, but it has to be regulated.

But mutual aid cannot be distinguished in degrees. Mutual aid and assistance is mutual aid and assistance. So you have in this country a tradition, for instance, of I know a lot of ladies they have what they call "club hands", in Africa they call it the "sou-sou account", and in Kenya they call it "Shama", but it is a tradition throughout the world where people collectively band together, whether it is their neighbourhood or whatnot, and they put \$5.00—

[Inaudible interjection]

Hon. Marc A. R. Bean: Gift clubs, right. Gift clubs are hands. Those are collective programmes, collective savings, collective investment, whatever they decide to do with their gift club a hand, but that does not mean because these small groups of individuals are doing it that they should be regulated. Right?

An Hon. Member: No, nobody said that.

Hon. Marc A. R. Bean: It is not a mutual savings bank—club hands—it is not a mutual fund, even though they might take their club hand and decide that they want to invest in the newest casino lights . . . oh, sorry, I digress. They might invest for the America's Cup in a programme that can get a return. Right? You do not need to be regulated for that. That is a group of people who are associated under some tie or some bond, usually it is an oath at the friendly society level, but it could be just a familial or a neighbourly bond. They do not have to be regulated. No one is calling for gift clubs to be regulated; but money is being circulated, money is being allocated. But to go that far is overreaching the freedom of association of people and the freedom to act as a result.

Now, I am saying that so the distinction can be made. Mutual insurers, rightly, should be regulated. But mutual aid and relief is something that transcends . . . it is actually comparing apples and oranges. A mutual insurer is not a friendly society offering a mutual programme of any sort for their members, whether it is savings, investments or risk management or whatever.

I am hoping that the Minister can see the distinction, because we agree that mutual insurers should be regulated. But friendly societies [that] are proposing to do, or have the ability to do in the future, are not something that should be classified as mutual insurance businesses in the same way as a club hand or a gift club cannot be classified as a mutual savings bank or a collective investment scheme—because it all comes under the umbrella of me and you, brothers and sisters, doing something to collectively look out for each other, whether that involves money or not. Okay?

Mutual aid is not always monetary because relief can be of the spirit to just help your brother. And so that is what we mean. So the distinction has to be made, and I hope that because you have what is called mutual insurers that we are not trying to . . . which I think the Minister . . . and not intentionally, but he is describing or ascribing a mutual insurers business model to what friendly societies have the ability to do. I am not saying they are doing it, but they have the ability to do.

Hon. E. T. (Bob) Richards: That is how mutual insurance first started.

Hon. Marc A. R. Bean: Well, maybe that is how mutual insurance started and then it grew, it became regulated.

Hon. E. T. (Bob) Richards: Yes.

Hon. Marc A. R. Bean: But when it started it certainly . . . because the Minister said, *That is how mutual insurance started*. Well, when it started it did not start regulated. It got regulated as it grew. And the need for the state to say, *Well, the liability of it is extending to the greater public*, so they had to regulate it.

What we are speaking of for friendly societies has nothing to do with growing and expanding beyond the public. It is only based on the membership that you have, and nowhere else.

Now if it is motor insurance, which I agree, then specify it. But do not try and muddy the water by saying that a mutual insurer . . . it would be the same thing as a friendly society or a trade union doing something to offer mutual aid and relief to their members.

I hope that I have made or clarified in giving our position.

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 1 through 13?

The Chair recognises the Learned Member from constituency 36.

You have the floor.

Hon. Michael J. Scott: Thank you, Madam Chairman.

Mr. Minister, this is a sector exemption that can be described as an ancient exemption, given that it goes back to 1868. Now, you will be aware that there are things called "legal fictions," you typically find them in the ancient common law of England. It is analogous to it, this is an ancient exemption.

I did ask you what were the criteria for the sector exemption so that we can understand its value. I do not know whether, Madam Chairman, the Parliamentary Council researched this point, but it helps to inform the very point of the Leader of the Opposition.

* * What is it that we are destroying with this reaction? And I say, with the greatest of respect, your answer suggests that you are removing the exemption too reactively. I say, with the greatest of respect, that is how you put it.

You are saying that because there is this risk of entering into insurance, by what was an ancient exemption in 1868, that you have looked at the landscape and you have said this exemption, which we are going to remove because this is 2014 . . . we are the risk insurance capital of the world, and it needs to be regulated. But there may have been solid reasons . . . and, not *may have been*, they are clear in the mandate of this very old Act, of the Friendly Societies Act.

Their mandate is so clear and, therefore, it makes sense for us to understand what the thinking was in 1868 of granting these exemptions.

And then the following question is, Ought they to be preserved or ought they to be with one reactive move removed? And I submit that we should pause before striking them down today.

The Chairman: Thank you.

The Chair now recognises the Member from constituency 18, the Shadow Minister of Finance.

You have the floor.

PROPOSED OPPOSITION AMENDMENT TO CLAUSES 9, 12 and 13(2)

Mr. E. David Burt: Yes, thank you very much, Madam Chairman.

Before I put my amendment on . . . actually, I would like to introduce an amendment, please, to the Insurance Amendment Act 2014. And the amendment reads as follows (it will be tabled by our Whip): To delete clauses 9, 12 and 13(2) of the Insurance Amendment Act 2014 (which we have before us right now), which removes the parts relating to the friendly societies.

But allow me to speak on this, if I may, Madam Chairman. The question that I have is, Has the Government . . . has the . . . because the Minister of Transport is here and underneath the Motor Car Insurance (Third-Party Risks) Act of 1943, the Minister of Tourism is the one who authorises a motor insurer to write motor insurance. Has the Minister of Tourism and Transport issued this permission to Bentley? And if they have not issued this permission to Bentley, then I guess the question is, Why are we having this discussion?

Because if they are technically not allowed to be issuing this insurance, then should that not be something that is handled somewhere else? If they cannot . . . and I will yield if the Minister of Transport will tell me if he has issued permission, Madam Chairman, if the Minister of Transport would like to share. Has the Government issued permission to Bentley to write insurance coverage for motor cars under the Third-Party Act? I will yield if he will want to rise to his feet.

The Chairman: Thank you.

The Chair recognises the Minister from constituency 31.

Hon. Shawn G. Crockwell: Yes, thank you, Madam Chairman.

Yes, there were . . . permission was allowed, was granted. That is how this whole issue came to light. So there was an error in allowing people to licence their vehicles using the policies they had been given by Bentley. And when it was brought to light, at

some point it was discovered that we were accepting . . . no permission was given to Bentley to do it. TCD was accepting the policies they had received and presented at TCD in order to licence their vehicle. And at some point that was discovered, and that is why this whole issue . . . we stopped it and this whole issue became an issue for the Government.

The Chairman: Thank you.

There looks like another question.

Mr. E. David Burt: I did yield, so I appreciate—

The Chairman: No, the Chair recognises the Member from constituency 18.

Mr. E. David Burt: I appreciate the clarification. So if I just understand . . . there was an error made; the error was corrected. Bentley is not allowed to issue motor insurance and under the Third-Party Risk Act if the Minister does not enable someone to offer motor car insurance they are acting outside of the law. Is that not correct?

Hon. Shawn G. Crockwell: Point of clarification.

The Chairman: I—

POINT OF CLARIFICATION

Hon. Shawn G. Crockwell: Just so the Honourable Member is clear and the House is clear, I believe what this legislation is doing is preventing Bentley from issuing any type of insurance.

What TCD did in error was accept the policies that they were presenting to allow them to license their vehicles. There was no involvement in whether or not Bentley had permission to do so. The policies were not valid as far as TCD was concerned and, therefore, we stopped accepting the applications and the policies to license the vehicle.

Now whether or not Bentley continued to issue out insurance was on them, but we did not acknowledge that policy as being valid.

The Chairman: Thank you.

The Chair now recognises the representative from constituency 18.

Mr. E. David Burt: I appreciate the clarification from the Minister. But I would like to also say, Madam Chairman, that I do not believe the Minister is correct in what he is saying.

He is saying that this Bill is going to prevent Bentley from offering any type of insurance. What this Bill will do is cause any friendly society who offers this aid and benefit to be treated as a regular insurance company. Bentley Friendly Society is not a friendly society. They are an insurance company. So they

should be treated as an insurance company. And we have no issue with that whatsoever.

We have no issue with anyone who is conducting insurance on a commercial basis offering things to the public that they should do that. But the implication of this amendment as it is written . . . because it speaks to insurance business and there is no insurance business that is enumerated in the Friendly Societies Act 1868. This is tying the hands of friendly societies insofar as anything they do for mutual aid and assistance that has to be regulated under the Bermuda Monetary Authority. * *

And I would yield to the Honourable Minister to say different, because if we are just talking about motor insurance, or if we are just talking about third-party insurance, then that is one thing. But this is saying the friendly societies insurance business is a broad category which is not specific in any of the specific laws, especially things dealing with . . . there is nothing that mentions insurance business in the Trade Union Act, there is nothing that mentions insurance business in the Friendly Societies Act, there is nothing in either Friendly Societies Act. So what specific business are we talking about the insurance that we are . . . and what are we preventing here?

We understand that the Government may have erred. They have corrected their error. Bentley cannot issue motor insurance policies. That much is the case seeing the Minister has not given them permission. They cannot accept it. Why are we even here considering this amendment?

So we have this amendment that we have put on the floor, and we would hope that the Members opposite will agree with us and remove this so we can move forward and not encumber friendly societies from providing mutual aid and assistance to their membership.

The Chairman: Thank you.

Before we move forward what I would like to propose, because I believe there were some questions, is that the questions be answered and then we can look at the amendments that have been put forward.

Minister?

Hon. E. T. (Bob) Richards: Madam Chairman, let us keep it simple.

This is an insurance Act, Member; it is not an investment Act. It is not a savings Act. It is not a banking Act. It is not a playground Act. It is not a school Act. It is an insurance Act. So when you ask what is this thing trying to prevent, it is trying to regulate insurance. Okay?

So let us not get bombastic about this, all right—about how it prevents friendly societies from doing all kinds of other things. *It only pertains to insurance!* Is that clear?

So that is all I have to say on this.

The Chairman: Thank you.

We have an amendment for us. Does everyone have a copy of the amendment?

The amendment that we have before us deletes clauses 9, 12 and 13(2). So we are then removing [the] amendment [to] section 57, which is [clause] 9, "Section 57 of the principal Act is amended by repealing subsections (1)(a) and (3)(d)." We would remove that.

Then under . . . I am just . . . for individuals who do not have the Bill in front of them, I would like to clarify. We are also looking . . . the amendment in front of us is also removing [clause] 12, which is "Transitional", and clause 13(2) which is "The provisions of section 9 shall come into operation on such day" . . . the operation of the day.

That is the amendment before us.

Are there any objections to that amendment?

Some Hon. Members: Yes.

The Chairman: If there is an objection to that amendment, we must vote.

We will vote. Thank you.

All those in favour, say Aye.

AYES.

The Chairman: Those opposed?

NAYS.

The Chairman: The Ayes have it.

An Hon. Member: Wait a minute! Whoa! Whoa! Whoa! Whoa!

[Inaudible interjections and general uproar]

An Hon. Member: Names

The Chairman: I am calling for names. I am calling for names.

[Inaudible interjections]

Hon. Marc A. R. Bean: Point of order. Point of order. Madam . . . Madam—

The Chairman: You are opposing the calling of names?

POINT OF ORDER

Hon. Marc A. R. Bean: It is a point of order, because it is—

The Chairman: For calling names?

Hon. Marc A. R. Bean: You proceeded. You put the question, we voted. They did not like . . . the Government did not like the results, so then you decide to call for names. But you know what? You need three people to stand.

The Chairman: Member, do we have an objection to calling names?

Hon. Marc A. R. Bean: No. You said, "The Ayes have it." You made your decision.

The Chairman: No, no, it was . . . no, no, the Ayes have it that we would call names. And, I am sorry—

Hon. Marc A. R. Bean: No, no, no, no, no, no, no!

[General uproar]

Hon. Marc A. R. Bean: No, Madam Chairman, respectfully.

The Chairman: Would you have your seat please? And I am respectful . . . I am respectful—

Hon. Marc A. R. Bean: Respectfully.

The Chairman: Respectfully, thank you.

Clearly, it was my intention . . . and I am sorry if it—

[Inaudible interjections]

The Chairman: I am sorry if it is not appreciated. But the amendment was put forward for a vote . . . for a vote. We will call names.

[General uproar]

Hon. Marc A. R. Bean: You did not—

The Chairman: If you do not want to call names, we will then proceed.

An Hon. Member: Yes.

The Chairman: If you do not want to call names, the amendment will be objected.

[Inaudible interjections]

The Chairman: If you do not want to call names, I will ask for the Minister to proceed.

An Hon. Member: Madam [Chairman].

[Inaudible interjections]

The Chairman: Minister?

An Hon. Member: Pass the amendment.

An Hon. Member: The amendment.

An Hon. Member: She does not get it.

[Inaudible interjections]

An Hon. Member: No, no, she passed it.

[Inaudible interjections]

An Hon. Member: Check the Hansard, she did.

Hon. Michael J. Scott: Madam Chairman.

[Inaudible interjections]

The Chairman: Would everyone like to take their seats, just for a second, please. Just for a second.

[Inaudible interjections]

The Chairman: Thank you.

We have an amendment before us, as I have already—

An Hon. Member: We have done that.

The Chairman: —as I have already outlined.

The amendment was to delete clauses 9, 12, and 13(2) of the Insurance Amendment Act.

[Inaudible interjections]

An Hon. Member: And call the vote.

The Chairman: And the Ayes have it.

Minister, please proceed.

[Crosstalk]

An Hon. Member: Now we call names.

Some Hon. Members: No!

[Inaudible interjections and general uproar]

Mr. E. David Burt: Point of order, Madam Chairman.

Point of order, Madam Chairman.

Point of order, Madam Chairman.

[Inaudible interjections]

Some Hon. Members: Sit down!

The Chairman: I can only see one person. The Chair recognises the Attorney General, the Member from constituency 9.

You have the floor.

[Inaudible interjections and general uproar]

An Hon. Member: You called names.

An Hon. Member: No, you did not!

An Hon. Member: If you didn't call names—

An Hon. Member: You weren't even here *bie!*

[Inaudible interjections and general uproar]

The Chairman: Shhh! Members, I am going to make a ruling.

Thank you very much.

And the ruling is, I am going to stick to what I originally said. I will . . . I will . . . no, I will—

[inaudible interjection]

The Chairman: —I will acknowledge, when I said that the . . . No, when I . . . I acknowledge that I expect to have a calling of names. And if there is an objection to that, then there is an objection to that.

Hon. Derrick V. Burgess, Sr.: Point of order, [Madam Chairman], point of order.

The Chairman: We will have a calling of names.

POINT OF ORDER

[Standing Order 26(4)]

Hon. Derrick V. Burgess, Sr.: [Madam Chairman], the calling of names is not . . . that is not the procedure for that. It is not the procedure for the Speaker or the Deputy Speaker to call for names.

An Hon. Member: That is right.

Hon. Derrick V. Burgess, Sr.: It is for when the amendment is made for three Members—at least three Members of the other side—to stand on their feet. And that did not occur.

Mr. E. David Burt: Point of order, point of order, Madam Chairman.

Madam Chairman, if I may bring attention . . . may I bring [to the] attention of the House Standing Order 26(4)?

The Chairman: I am aware.

Mr. E. David Burt: Yes, in [Standing Order] 26(4)(c) it says, Madam Chairman, "When a voice vote has been taken, any three Members may challenge the opinion of the voice vote by standing in their places and requesting a recorded division."

The Ayes have it. The three Members did not stand and a division was not requested.

The Chairman: Member, I think there were actually more than three Members that actually stood to their feet.

[Inaudible interjections and general uproar]

Hon. Shawn G. Crockwell: Point of order, Madam Chairman. Point of order.

Hon. Marc A. R. Bean: Parliament should shut down you know! This is out of order.

The Chairman: Thank you.

The Chair recognises the Member from constituency 31.

POINT OF ORDER

Hon. Shawn G. Crockwell: Thank you, Madam Chairman.

Madam Chairman, the debate was going well and I understand the position of the Opposition. I believe an error was made by Madam Chairman before any Member on this side [could] get up and call for names, Madam Chairman, you . . . you, yourself, said names would be called. So I understand—

[Inaudible interjections]

Hon. Shawn G. Crockwell: We can . . . there is no need for the other side to be shouting at me. Okay? I was here. We can look at Hansard, but after you said, "The Ayes have it", then you called for names. It is clear.

[Inaudible interjections]

Hon. Shawn G. Crockwell: We understand . . . whether or not the position of the Opposition . . . that she cannot do it.

Hon. Derrick V. Burgess, Sr.: Point of order, [Madam Chairman].

Hon. Shawn G. Crockwell: I am on my feet. I am on my feet, Madam Chairman.

Hon. Derrick V. Burgess, Sr.: You can sit down, too. Point of order.

Hon. Shawn G. Crockwell: I would like to finish my point of order.

The Chairman: Member, can you . . . I will recognise you after the Member finishes speaking.

Hon. Derrick V. Burgess, Sr.: All right.

The Chairman: Perfect.

Hon. Shawn G. Crockwell: Now, Madam Chairman, whether a mistake was made or not, the fact is that there was not sufficient opportunity for the Government to take its feet—

Hon. Marc A. R. Bean: Point of order.

Hon. Shawn G. Crockwell: —to call for names.

Hon. Marc A. R. Bean: Point of order.

Hon. Shawn G. Crockwell: And my position, Madam Chairman—

[Inaudible interjections]

Hon. Marc A. R. Bean: Point of order!

The Chairman: Again, I am asking for everyone to have a seat while one person speaks, and I will recognise . . . and then—if the Whip in the Opposition would allow me to continue to speak—I will then acknowledge anyone else who stands to their feet.

Thank you.

Right now we see the Member from constituency 31. You are on the floor, please, continue.

Hon. Shawn G. Crockwell: Yes, thank you.

So my point is, just to reiterate, that the Government will clearly be taking a position for names to be called on this amendment. This is the Government's Bill and it is traditional in these types of circumstances when these votes happen by voice, the Government has its position. We are asking for names and we are not going to allow a mistake to undermine this piece of legislation.

[Inaudible interjections]

Mr. E. David Burt: Point of order, Madam Chairman.

The Chairman: I said I would recognise everyone else that stands.

The Chair . . . now, I have already made . . . I already know where I am going, but if anyone . . . I will entertain anything that anyone says.

Mr. E. David Burt: Madam Chair—

The Chairman: The Chair recognises the Member from constituency 18.

You have the floor.

POINT OF ORDER
[Standing Order 26(5)]

Mr. E. David Burt: And if I may call the Chair's attention to Standing Order 26(5) which says, "No Member may speak to any question after the same has been fully put from the Chair. A question is fully put when the Chair has taken a collective voice vote of both the 'Ayes' and the 'Nays.'"

With respect, Madam Chairman, you cannot reverse a decision which you have made. The Standing Orders, Madam Chairman, specifically state that three Members have to call for a division. Three Members of that side did not stand. You said that the Ayes have it. That is the vote.

The Chairman: Are there any other Members?

Ms. Kim N. Wilson: Point of information, point of information. Point of information.

The Chairman: I just was not sure . . . there were three people standing on the floor, so I was not quite sure, so, therefore, I now recognise the Member from constituency 34.

You have the floor.

POINT OF INFORMATION
[Standing Order 26(6)]

Ms. Kim N. Wilson: Thank you. And Madam Chairman, I am certain you can confirm as a point of information that pursuant to [Standing Order] section 26(6), where a division is claimed pursuant to [Standing Order] (4)(c), which requires three people to stand up and call for a vote, the Speaker—

[Inaudible interjection]

Ms. Kim N. Wilson: No, it is correct.

[Inaudible interjection]

Ms. Kim N. Wilson: The Speaker, or the Chair, shall cause a warning bell to be sounded first and then the voting shall take place two minutes thereafter. That did not happen. And, with respect, again, in continuation of my point of information, there were no three people that stood for the division—

[Inaudible interjections]

Ms. Kim N. Wilson: May I please—

[Inaudible interjections]

Ms. Kim N. Wilson: Madam, may I—

[Inaudible interjections and general uproar]

The Chairman: I actually understand, but thank you very much.

I understand.

Ms. Kim N. Wilson: May I finish?

The Chairman: Yes, please do.

Ms. Kim N. Wilson: Thank you very much for your indulgence.

So, pursuant to that [Standing Order], Madam Chairman, with the greatest respect, there was no division that was called. You would have noticed that six people sashayed in from the outside after the vote had been taken. So, therefore, it certainly . . . after the vote had been taken, after you called for the results, six people sashayed in and then took their seats. But at that same time no one stood up to call for a division.

Hon. Trevor G. Moniz: That is not true. That is not true. That is not true.

Hon. Derrick V. Burgess, Sr.: Point of . . . point of—

The Chairman: We are going to proceed.
The Ayes have it. The Ayes have it.
Thank you.
We will proceed.

**PROPOSED GOVERNMENT AMENDMENT TO
CLAUSES 9, 12 and 13(2)**

Hon. E. T. (Bob) Richards: Madam Chairman, I have an amendment.

The Chairman: And your amendment . . . does everyone have copies of your amendment?

Hon. E. T. (Bob) Richards: I have had copies made and . . . I have an amendment.

[Crosstalk]

The Chairman: And please read your amendment.

Hon. E. T. (Bob) Richards: The amendment reads as follows: "To reinsert clauses 9, 12 and 13(2) of the Insurance Amendment Act 2014."

The Chairman: Thank you.
Does everyone have a copy of this?
Thank you. We will wait until everyone has their copy.

Thank you. Does everyone have a copy of the amendment that is before them?

Thank you. We will proceed.

Ms. Kim N. Wilson: Point of order. Point of order, please.

The Chairman: Can I please confirm what the amendment is?

Thank you.

The amendment before us is a reinserting of clauses 9, 12 and 13(2) of the Insurance Act.

Are there any other Members that would like to speak?

Ms. Kim N. Wilson: Yes, I would like to speak.

Thank you, with your indulgence.

The Chairman: Yes. The Chair recognises the Member from constituency 34, Sandys South Central.

You have the floor.

Ms. Kim N. Wilson: Thank you, Madam Chairman.

Pursuant to section 24(7) of our Standing Orders, an amendment must not substantially be a direct negative of the original proposition or the amendment thereto. So, therefore, the rules prevent the proposed amendment that is on the floor as we speak. So, therefore, we cannot even discuss this; it is out of order.

[Inaudible interjections]

An Hon. Member: Hear, hear!

The Chairman: Thank you. In actual fact—

[Inaudible interjections]

Hon. E. T. (Bob) Richards: Madam Chairman—

The Chairman: Minister, if you would have a seat please.

In actual fact, the Member has just raised, and rightly so too,—

[Inaudible interjection]

The Chairman: Please proceed.

Hon. E. T. (Bob) Richards: Madam Chairman, I move that we rise and report progress on this Act.

The Chairman: We will rise and report progress. Are there any objections to that motion?

[Gavel]

[The Committee rose to report progress on the Insurance Amendment Act 2014.]

House resumed at 3:48 pm

[Hon. K. H. Randolph Horton, Speaker, in the Chair]

REPORT OF COMMITTEE

INSURANCE AMENDMENT ACT 2014

The Speaker: Thank you.

The Insurance Amendment Act 2014 . . . so it has been . . . at the end of the second reading, it has been agreed that we rise and report progress. Is that it, sir?

[Inaudible reply]

The Speaker: Are there any objections to that?

Thank you.

We now move to Order No. 4, and I believe both Orders are going to be done together, Orders 4 and 5, consideration of the Employment (Protected Disclosures) Order 2014; and the consideration of the Good Governance (Protected Disclosure) Order 2014. Both Orders are in the name of the Junior Minister for Home Affairs.

I recognise the Junior Minister Sylvan Richards. You have the floor.

DRAFT ORDERS

EMPLOYMENT (PROTECTED DISCLOSURES) ORDER 2014

GOOD GOVERNANCE (PROTECTED DISCLOSURE) ORDER 2014

Mr. Sylvan D. Richards, Jr.: Thank you, Mr. Speaker.

Mr. Speaker, I move that consideration be given to draft Orders entitled the Employment (Protected Disclosures) Order 2014, and the Good Governance (Protected Disclosure) Order 2014, proposed to be made by the Minister of Home Affairs under the provisions of section 29A([5]) of the Employment Act 2000 and section 3([7])—

The Speaker: Just a minute, Honourable Member, I cannot hear.

Honourable Members, I cannot hear.

[Pause]

The Speaker: All right, you can carry on.

Mr. Sylvan D. Richards, Jr.: Should I start from the beginning, Mr. Speaker?

Legislative Developments

Legislative Change Overview

Throughout 2014, several legislative changes were made to take into account various technical matters arising out of legislation administered by the Authority. Further, the Authority proposed that Government enact new legislation in relation to payment services and to expand the Authority's supervisory remit to include this burgeoning financial sector.

TECHNICAL AND HOUSEKEEPING MATTERS ADDRESSED WITHIN INSURANCE AMENDMENT ACTS

On the insurance side, the Authority amended the Insurance (Eligible Capital) Rules 2012 to allow for all provisions and requirements of the Rules to apply to Long-Term insurer Classes C and D.

In addition, a new section was added to the Insurance Amendment Act 2015 which will require all registered persons to state whether or not they meet the minimum criteria for licensing on an annual basis.

This new certification falls in line with similar statutory requirements for other financial sectors (and provided for civil penalties to be imposed in the event of non-compliance).

Other revisions related to: notification of material changes; allowing the Authority to intervene when an insurer is in breach of its minimum margin of solvency and eligible capital requirements; and a requirement for friendly societies and trade associations to be registered by the Authority prior to conducting insurance business.

Amendments were also made to Insurance (Prudential Standards) Rules relating to the Solvency Requirements for Bermuda Group insurers, Long-Term (life) insurance Classes C, D and E and general business commercial Classes 3A, 3B and 4.

OTHER LEGISLATIVE HIGHLIGHTS

Money Service Business Amendment Regulations 2014

After a period of industry consultation, in December 2014 the Authority introduced an amendment to the Money Service Business Regulations 2007. Amendments to the regulations were required due to the technological advances of this business as well as the growth of Money Service Businesses (MSB) globally.

The amendment strengthened the Authority's information-gathering powers and supervisory tools and allowed it to more meaningfully address the challenges presented by potential new applicants utilising technological platforms to manage their businesses.

Amendments to the Bermuda Monetary Authority Act 1969 (Fees Bill)

Effective 1st January 2015, the Authority will increase its fees after running a deficit since 2010 in an effort to minimise the impact of fee increases on the financial services industry. As a result, in 2014 the Fourth Schedule to the Bermuda Monetary Authority Act 1969 was amended to increase the fees applicable

to those entities licensed or proposed to be licensed to carry on business under the Banks and Deposit Companies Act 1999, Corporate Service Provider Business Act 2012, Insurance Act 1978, Investment Business Act 2003, Investment Funds Act 2006, Money Service Business Regulations 2007, Proceeds of Crime Anti-Money Laundering and Anti-Terrorist Financing (Supervision and Enforcement Act 2008, Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Regulations 2008 and the Trusts (Regulation of Trust Business) Act 2001. Further, registration and annual fees were increased in relation to those entities registered or intending to be registered under the Insurance Act 1978, defined "as non-resident insurance undertakings" (pursuant to the Non-Resident Insurance Undertaking Act 1967). Finally, the Banks and Deposit Companies (Fees) Act 1975 was amended and registration and annual fees were introduced for entities operating or intending to operate as a credit union under the Credit Unions Act 2010.

Banking (Special Resolution Regime) Act 2014

The Banking (Special Resolution Regime)

Act 2014 makes provision for stabilisation powers, an insolvency procedure, and an administration procedure to be exercised and carried out by the Authority and the Bermuda Government (collectively, the authorities) in the event of a serious bank failure in Bermuda.

The Special Resolution Regime (SRR) is structured into three parts. Part I states which stabilisation powers may be exercised, the roles to be undertaken by the authorities under the SRR Act, and the instruments to be utilised to effect such powers. Part II addresses the scenario where a bank has or is about to fail by providing for a bank insolvency order to be made by a court to commence with the bank's insolvency process. Once a stabilisation power has been exercised by Government under Part I of the SRR, Part III introduces an administration procedure in relation to a 'residual bank' to be carried out by an administrator appointed by bank resolution order. The SRR embeds many of the provisions of the (UK) Banking Act 2009 and proposes to provide the authorities with the necessary stabilisation powers to transfer part or all of a failing bank's business to a private

sector purchaser, to assume control of part or all of a failing bank's business through a bridge bank and to acquire temporary public ownership of a bank where required.

Friendly Societies and Section 57 of Insurance Act 1978

The Authority consulted with stakeholders regarding an exclusion set out in Section 57 (1)(a) of the Insurance Act 1978.

Under this Section, a registered Friendly Society conducting business in which the risks of the members are insured is outside the supervision of the Authority. In the particular case of activities by the Bentley Friendly Society, it should be noted that at all material times the Society was registered under the Friendly Societies Act 1868.

The Authority remains committed to the principle that any entity that offers insurance, particularly when it affects the interests of third parties, should be subject to supervision under the Act and proposes to conduct further consultation of its proposals over the course of the year.