

Second Session - Thirty-Ninth Legislature  
of the  
**Legislative Assembly of Manitoba**  
**DEBATES**  
**and**  
**PROCEEDINGS**

**Official Report**  
**(Hansard)**

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Ninth Legislature**

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## LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 29, 2008

**The House met at 10 a.m.**

### *PRAYER*

### **House Business**

**Mr. Kelvin Goertzen (Deputy Official Opposition House Leader):** Mr. Speaker, on House business, in accordance with rule 31(9), I would like to announce that the private member's resolution that will be considered next Thursday is the resolution on Lack of Provincial Government Support for City of Winnipeg Nutrient Management Projects, sponsored by the honourable Member for Tuxedo (Mrs. Stefanson).

**Mr. Speaker:** It's been announced, according to rule 31(9), that the private member's resolution that will be considered next Thursday is the resolution on Lack of Provincial Government Support for City of Winnipeg Nutrient Management Projects, sponsored by the honourable Member for Tuxedo.

**Mr. Goertzen:** Now, Mr. Speaker, I would ask of you to peruse the House, as has become tradition on private members' business, to look for leave to move to resume second debate on Bill 229, The Manitoba Public Insurance Corporation Amendment Act (Elimination of Benefits for Auto Thieves).

**Mr. Speaker:** Is there leave of the House for us to go to resumed debate on second reading of Bill 229? Is there agreement? *[Agreed]*

### **ORDERS OF THE DAY**

#### **PRIVATE MEMBERS' BUSINESS**

#### **DEBATE ON SECOND READINGS— PUBLIC BILLS**

#### **Bill 229—The Manitoba Public Insurance Corporation Amendment Act (Elimination of Benefits for Auto Thieves)**

**Mr. Speaker:** I'm going to call resumed debate on Bill 229, The Manitoba Public Insurance Corporation Amendment Act (Elimination of Benefits for Auto Thieves), standing in the name of the honourable Member for Selkirk (Mr. Dewar), who has eight minutes remaining.

What is the will of the House? Is it the will of the House for the bill to remain standing in the name of the honourable Member for Selkirk?

**Some Honourable Members:** No.

**Mr. Speaker:** No? Okay, that's been denied.

**Mr. Kelvin Goertzen (Steinbach):** It's a pleasure to rise in the House this morning to speak to Bill 229. I appreciate the opportunity to commend my colleague from Lac du Bonnet for bringing forward this particular bill.

He did so, I think, with all the best intentions to protect not only taxpayers in Manitoba, but also to ensure that those who are committing crimes in our society don't benefit by the acts of their crime. I think many Manitobans would be surprised to know that under this NDP government, those individuals who are stealing vehicles, if they get into an accident and have an injury caused to them after they've stolen the vehicle and driven recklessly or whatever the circumstance was, they found themselves injured in an accident, Mr. Speaker, would get money, would get compensation from the Manitoba Public Insurance corporation over and above what an average citizen who is injured in the workplace or some other way would get.

It's unconscionable that an individual who steals a vehicle and drives it in a way to try to commit harm to others would actually benefit by that particular act. There is certainly, if not an axiom in our Constitution, a notion among the common sense of our public, that nobody should benefit from a criminal action that they have wilfully taken in our society. To have legislation that allows under this NDP government for criminals, criminals to benefit from their criminal acts is simply unconscionable. It speaks to the larger philosophy of how the NDP like to treat crime in the province of Manitoba. We have the current Minister of Justice and the previous Minister of Justice who like to stand up from day to day and say how they're trying to get tough on criminals, how they're trying to get tough on crime. But, when you dig just one inch below the surface, you find out that there's nothing to substantiate that rhetoric.

Never has that been more evident, Mr. Speaker, than the fact that auto thieves, those who are going out and in some cases through their criminal actions are committing serious bodily injury or often, unfortunately, deaths here in the province of

Manitoba. We've seen more than a few cases in recent years where innocent Manitobans were going about their daily lives on the way to work early in the morning or driving a taxicab late at night just trying to make ends meet in a world where it's harder every day to make ends meet, just trying to do that for themselves and their families, and they find themselves in a collision with somebody who has stolen a vehicle. As a result of that collision, they've lost their lives and a family has lost a father, a family has lost a grandfather or a grandmother, a family has lost a mother or somebody that was close and dear to them.

Yet some of those individuals who have committed those crimes that resulted in deaths or injury would still be eligible for a number of different benefits under Manitoba Public Insurance that an average person, an average citizen who was injured on the job wouldn't be eligible for, whether that would be increased health-care benefits or benefits to build wheelchair ramps in their homes, or to have a number of different things done that wouldn't be covered in the normal course for an average Manitoban who, on the job, received a similar sort of injury.

What message does it send, Mr. Speaker, to those young people? You know, the government likes to say we're trying to crack down on auto theft, we're trying to send a clear and strong message to those who are stealing vehicles that it's not acceptable, that it's not going to be tolerated, and yet when they learn, and we often don't give enough credit to those who are doing these sorts of crimes, they, certainly amongst themselves, learn quickly where the loopholes and where the gaps are in legislation. They must be having a bit of a chuckle to themselves, I would say, when they learnt that the NDP government was so lenient on auto theft that they would, in fact, pay for a number of different things for them if they ever got injured when they were driving recklessly in a vehicle. What sort of a message is that to those auto thieves, and what sort of a message is it to the ordinary Manitobans who are paying those rates?

We've certainly seen this government free and feel very free to go into Crown corporations and give them directions in a number of different ways, but to reach into those very same Crown corporations and take money out to put into a number of other pet projects that they might have or to try to balance their own books. We know that there's legislation here before us that we're considering now, Bill 38,

that would allow the government to take the revenues from Crown corporations and put it into general revenues to try to balance the book and in a sense, run a deficit on their core operations, run a deficit that all Manitobans, I think, would have believed that it was a time past where governments wouldn't be living within their means but not under this New Democratic government.

\* (10:10)

So that's what they do with Crown corporations. We've seen in the past where they've tried to direct Manitoba Public Insurance to pay for university upgrades through the ratepayers who are putting into this insurance mechanism.

I think that most Manitobans who are driving and paying into the MPI system would assume that those premiums would go specifically for insuring their vehicles and vehicles of drivers around the province of Manitoba; they wouldn't be used to try to balance core operation of the government and try to fund universities or any other sort of thing that should be done out of general revenues or in another way.

But they probably would be most shocked in the poll, Mr. Speaker, when they learned and when they found that MPI was, in fact, under the direction of this government, paying benefits to those who are out trying to harm them by stealing vehicles and driving them recklessly through our streets.

How is it, as a parent—and I know many of the members here are parents or grandparents at this stage of their lives—Mr. Speaker, how is it you can go to a young child whom you have influence over, whether it's your own or whether it's a grandchild or whether it's some others in your family, how do you go that child and explain to them that crime doesn't pay?

That's the old saying that we have in Canada and many would be familiar with it, that crime doesn't pay. How do you say that to a young person in Manitoba with a straight face when, in fact, they learn that those who are stealing vehicles in the province are actually eligible for benefits that many of us wouldn't be in the ordinary course of our lives? How do you tell them that crime doesn't pay?

I was reminded of a conversation I had with a police officer a while back, who told me that, on average, it takes somebody who's shoplifting—that an individual has to shoplift 50 times for them to be caught once. That's the average rate of being caught

for shoplifting; so, 50 times you have to commit that crime before you're caught even once.

Then the police officer went on to tell me that, normally, you'd probably have to appear before a court four to five times before—or at least get caught four or five times—before there'd be any sort of real sanction, that the first time you get caught you're more than likely just simply to get a warning from the police officer. The second time, you might get some sort of a judicial warning, a letter home to your parents. The third time, you might actually appear; there might just be a discharge. Maybe the fourth or fifth time, there might be some sanction for shoplifting but, if you have to shoplift 50 times to get caught once, that means that an average shoplifter would have to shoplift 200 to 250 times before there's any real criminal consequence. That's what this NDP Minister of Justice and this government have established.

How do you tell a young person that crime doesn't pay when they learn—and they learn from talking to others—that 250 times is the average amount of times they're going to have to shoplift before there's any sort of sanction? How do you tell that young person that crime really doesn't pay?

How do you tell those same young people that crime doesn't pay when they learn that this NDP government is willing to give taxpayers' dollars through MPI premiums to those who are stealing vehicles and harming others in society?

How do you try to instil the values that all of us would want to instil in our young people, either the ones who are directly under our family or the ones that we have influence over? How do you find a way to go to them and say that the values of us, as a society, are that we don't believe crime pays and, yet, if you commit this particular crime and something happens to you, we're going to give you more benefits than others would have?

What do you say to the families? What do you say to the families, Mr. Speaker, of those who have been victims of auto theft and had a loved one in their family injured or killed as a result of auto theft, when they find out that the very people who caused the injury or the death of their loved one are receiving benefits over and above what would normally be seen in society?

I know, Mr. Speaker, that my time is short. I appreciated the opportunity to come before you this morning to implore this government to do the right

thing for victims of crime, to put some action behind their words, to not just say that they're tough on crime, but actually show it by not being on the side of the auto thieves but, instead, being on the side of ordinary Manitobans who don't believe that auto thieves should benefit from their crimes. They have an opportunity. They can either stand with the victims of crime or they can stand with the auto thieves, and we'll see where they vote.

**Mr. Gregory Dewar (Selkirk):** Mr. Speaker, I ask leave of the House to allow me to conclude my comments on this bill.

**Mr. Speaker:** The honourable member had eight minutes remaining. Is there leave for the honourable Member for Selkirk to conclude his eight minutes? *[Agreed]*

**Mr. Dewar:** I thank the House for allowing me the opportunity to conclude my comments on Bill 229, the elimination of benefits for auto thieves. I just only had a couple of minutes on the last time I had to speak to this and was very eager to get up to conclude my comments this morning, and I thank the House for the opportunity to do so.

Mr. Speaker, this bill, of course, as members know, denies benefits for injuries received in an accident to a person if he or she is convicted of stealing a car without the owner's consent. We understand that the theft of cars is a serious matter. We also understand, I think, and members will also appreciate that in fact the rate of car theft in Manitoba has gone down dramatically in the last number of years. The government takes the issue very seriously. That is why I think people are realizing that, in fact, the rate of car thefts in this province has gone down.

We know that it's a serious crime both against property but also against persons, and we've seen some high-profile cases, regrettably, where people have been injured or killed by a person who has stolen a car. But the reality is if you don't provide them with benefits from either MPIC, an individual will have to seek assistance through either health care or the social assistance, and we know that these persons cannot simply be left to lie on the street and die or not be treated because of their injuries. Eventually, they have to be. As I said, they either go through our health-care system or they become a recipient of social assistance, so, ultimately, this bill will have no net effect upon taxpayers, Mr. Speaker.

So, as I've said, we in fact have taken action already to deal with this. We know that auto theft is down by about 40 percent, and we brought in immobilizers which help reduce auto theft. We know that, in fact, the immobilizer system has been expanded. I talked to the Member for Pembina (Mr. Dyck) yesterday, and he has some good concerns related to the expansion of immobilizers and the impact that that would have on his particular vehicle.

*Mr. Rob Altemeyer, Acting Speaker, in the Chair*

I know that he's willing and more than able to share his concerns with the House about what that would mean to his own particular car, but we know that someone with an immobilizer in their vehicle, it makes it very difficult for a car thief, in fact, to take that car because it makes it difficult to start, Mr. Acting Speaker. So it's just one of the many options that were made available by this government to reduce the incidence of auto theft in this province.

I was listening to the Member for Steinbach (Mr. Goertzen) and he talked about public Crown corporations. Of course, you know when it comes to Crown corporations that the Conservatives have a certain agenda and that, of course, is to simply sell them off as we know that they've done in the past with MTS and where we've lost jobs. We've seen a decrease in service and an increase in rates, Mr. Acting Speaker.

You know right now if you do steal a vehicle in Manitoba, you do lose. Someone steals a car, they lose their driver's licence with a suspension ranging from five years to life. They lose the chance to get a valid driver's licence at the age of 16. First-time offenders under 16 must wait until they're 21 to take a driver's test. They lose their future by gaining a criminal record—*[interjection]*

Mr. Acting Speaker, could you call the members to order here, please?

**The Acting Speaker (Mr. Altemeyer):** Order. The honourable Member for Selkirk does have the floor.

\* (10:20)

**Mr. Dewar:** Thank you, Mr. Acting Speaker, and you can guarantee that I'll have that time added to my debate time because I'm really eager to continue on with this discussion.

As well, of course, because of having a criminal record, you can lose future job prospects and travel opportunities, as we know. If you have a criminal record, I believe, you can't enter the United States,

for example. You, of course, lose thousands of dollars by having to repay the damages that you cause by theft or vandalism. This also, I understand, applies to the passengers in the vehicle. You lose the opportunity to obtain auto insurance. If they're under the age of 18, parents are also forced to pay for any damages that the car thief may cause, including the value of the vehicle.

As I've said, there are a number of punishments out there currently for an individual who steals a car. If you steal a car in Manitoba, you lose. You lose your licence; you have a criminal record. It reduces your opportunities to get a job, to travel. It costs you thousands and thousands of dollars, having to repay the damage to the vehicle. You lose the opportunity to obtain additional auto insurance.

Ultimately, though, as I said at the introduction to my comments, this bill will have no net impact upon the taxpayers because it does look good. I know the Conservatives are bringing this in as a public-relations gesture as they often do but, regrettably, somebody who is injured—the state will have to care for the individual regardless, whether it is through the health-care benefits or through the benefits from social assistance, because you can't simply ignore the person's injury. Often, as we know, sometimes these injuries are quite severe, Mr. Acting Speaker.

Despite the points that are made by the opposition in this bill, as I said, it has no positive benefits to the taxpayer. It's clearly nothing more than a public-relations gesture, Mr. Acting Speaker, on behalf of the Conservative Party. Thank you.

**Mr. Cliff Graydon (Emerson):** It gives me great pleasure to rise to speak to this bill, Bill 229, Mr. Acting Speaker. Really, from this side of the House, we're terribly disappointed that the Minister of Justice (Mr. Chomiak) has indicated that he wouldn't be supporting this particular bill.

This bill, I believe, is a clear step towards a deterrent to the car thieves. As the Member for Selkirk (Mr. Dewar) has pointed out, the car thieves do have some restrictions after stealing a car but, apparently, after stealing 80 cars or 100 cars, it doesn't really affect them. It doesn't affect them whether they have a driver's licence; it doesn't affect them whether they'll never get a driver's licence. It's not important to them. When they steal a car, they don't need a driver's licence. They already understand that it's not a requirement when you've stolen a car.

The cost to MPI and to the citizens of Manitoba, the honest law-abiding citizens of Manitoba, the cost of the stolen cars, Mr. Acting Speaker, is horrendous. It's an enormous cost just in money, however, the additional cost that is associated with car theft and the accidents that have been caused, the injury to the many, many innocent citizens of the province of Manitoba.

When we look at the benefits, the benefits that the car thieves have from MPIC versus the benefits to the victims—the car thief that stole the car and killed a mother of three gets in an accident. He's eligible for income replacement indemnity, death benefits, compensation for permanent impairment, personal home assistance, medical and paramedical care, including transportation and lodging for the purpose of receiving care, eye glasses, ocular prosthesis and contact lenses not worn before the accident. He's eligible for hair pieces—my goodness—medical dressings and other medical supplies, cleaning and repairing and replacing clothing that he was wearing when he stole the car.

Mr. Acting Speaker, the three children that lost their mother, those three children have to go through life supplying all of their needs without their mother. There is nothing in MPI that will ever, ever reimburse those children for their mother, and yet the perpetrator gets the benefits of the whole thing, the whole society that we have, all the benefits of MPI-insured individuals. He gets all those benefits with no single cost to him other than he will never be able to drive legally in Manitoba.

Hello. What's the matter with this system? We all want to work to removing the stigma that's associated with living in Winnipeg, with living in Manitoba, the car theft capital of Canada. We want to remove that stigma, and in one small way, in one small part of a way, we can do that by eliminating benefits to those that take property, insured property, that doesn't belong to them and do damage to themselves. Just to indicate that this bill is not setting a precedent. It doesn't set a precedent because under the current legislation for MPI, section 79(1) of the existing act, it says that "No compensation is payable under this Part to a victim, or any other claimant, in respect of bodily injury to the victim that is the result of an accident that was wilfully caused by the victim."

I say to you, Mr. Acting Speaker, that when that individual takes that car and uses it as a weapon, uses it as a weapon—he knowingly, after stealing 50 cars,

80 cars or a hundred cars, and becomes one of the elitist 100, No. 4, or classified as a class 4 car thief, knows full well that he's running the risk of injury. He's running the risk that he will be pursued by the enforcement officers in our cities and in our province and, at the same time, not knowing the vehicle, understands that there will be a risk that he will crash that vehicle. I'm suggesting to you, that when he takes that vehicle, that he wilfully—wilfully—will cause damage to himself and should be denied under today's legislation.

So, Mr. Acting Speaker, this bill only fortifies today's legislation. It's not something new. Section 79(2) of the existing act states that "A claimant is not entitled to compensation under this Part in respect of an accident in which the bodily injury suffered by the victim was wilfully caused by the claimant." Again, this just fortifies that it's not something new. The precedent has been set.

\* (10:30)

The bill's intention is quite clear. It's been pointed out that these people would be a drag, an expense to the state. I would suggest that if there was private insurance, if this was private insurance in any province or any jurisdiction in the world, it would not pay for someone that has stolen a vehicle. Someone who does not have any coverage would not be compensated, nor should the good people of this province, who obey the law daily, who pay their Autopac premiums, who pay the insurance costs, the real costs, plus, probably, of operating one of the systems that is held dearly in this province, they should not be penalized by the type of legislation that allows the perpetrator to have coverage far beyond that of the victim.

So, with those few words, Mr. Acting Speaker, I'll turn the floor over to some of my colleagues.

**Hon. Andrew Swan (Minister of Competitiveness, Training and Trade):** It's a pleasure to get up and put some words on the record on Bill 229. It's a pleasure to follow the Member for Emerson (Mr. Graydon), who, I do believe, is a true gentleman. I feel sorry for him actually having to get up and put words on the record about this bill because I know that the Justice critic and his party have given him some lines to say.

Certainly, what I would like to offer to the Member for Emerson is to put some facts on the record and put some perspective on the record. But, indeed, the Member for Emerson, it is his right to get

up and say as he pleases. This week, I think, has been a great week really to reflect on democracy. I think it has been an exciting week with the President of Ukraine visiting, an historic visit that made all of us cherish our democratic institutions. Even the committee hearings, I've sat for 18 hours of committee or so, it's been a pleasure to hear what Manitobans have to say about bills. We're very lucky that in Manitoba we have a system that allows any Manitoban to come forward and say whatever they wish about various bills, and, of course, we have a Legislature which allows private members, in many cases opposition members, to put forward legislation.

The point I'm making, Mr. Acting Speaker, is that—*[interjection]* Well, I hear the Member for Emerson wants more than his 10 minutes, but I was quite pleased to listen to him. I'm sure he'll be pleased to listen to me.

Instead of a show bill which is going to do nothing to make the streets of Winnipeg safer, I wish the Member for Emerson would maybe expand his horizons a little bit and take a look at the landscape and actually pay attention to what this government has been doing to reduce the scourge of auto theft, and also, in his heart, in his heart, question why it is that he has stood up with other members of his caucus. I think the Member for Emerson is more reasonable than most members of his caucus. I think he's got to be questioning some of the decisions that his party has taken. Maybe there is a fine tradition of independence within the Conservative caucus. I think of the former member for Carman who fulfilled that role from time to time, and I'm going to invite the Member for Emerson to maybe be a little bit open minded as we move forward.

I hear the Member for Portage la Prairie (Mr. Fauruschou) chuckling away. I will point out a couple of issues which I'm sure the Member for Emerson, maybe even the Member for Portage la Prairie, can reflect upon.

It was interesting that about two years ago when our government announced that there were going to be required immobilizers, required immobilizers for people who owned vehicles that MPI and the police and the government knew were at the highest rate of the risk of being stolen, we moved in and said, all right, there are going to be mandatory immobilizers and, oh, the hue and cry from the other benches. How can we possibly do this? Well, indeed, the mandatory immobilizer program has been greatly successful in reducing the pool of cars which can

easily be stolen, and it has, indeed, reduced the number of vehicles being stolen on the streets of Manitoba.

I'm very pleased that the immobilizer program is being expanded to a further tranche of vehicles, again, older vehicles. It was a shame that the federal government took so long to get there, but that's fine. That's fine. We've moved ahead and we're going to make sure that it's harder to steal vehicles in Manitoba.

I note, aside from the Member for Emerson (Mr. Graydon) continuing to clatter away, I haven't heard the kind of opposition we heard last time. I believe the Conservative members have grudgingly admitted that, indeed, this government was on the right track. We are on the right track and are doing the right thing.

Now I know that one of the other issues which obsessed members opposite recently was bait cars. I know they spent a lot of time in this House, they spent a lot of time in Estimates, talking about bait cars. The answer of the Minister of Justice, both the former minister of Justice and the current Minister of Justice (Mr. Chomiak), gave was, well, we follow the lead of the Winnipeg Police Service and police officers across the province. That is indeed the case.

I know that the Member for Lac du Bonnet (Mr. Hawranik) and the Member for Steinbach (Mr. Goertzen) went on and on about bait cars, but the advice we had from the Winnipeg Police Service was that bait cars really were not a very efficient way to deal with the issue. There has to be surveillance, there have to be a lot of police resources given, and, of course, the Winnipeg Police Service have told us they find better things to do with their officers. Again, we haven't heard about bait cars for a while so maybe, I'm hopeful, that again there's been some education among my friends on the Conservative benches.

I was also interested just this morning to hear Chief McCaskill on the radio, and he was talking about car theft. You know, I listened carefully to what Chief McCaskill had to say, and strangely enough, I didn't hear Bill 229 or anything like it being any sort of a priority for Chief McCaskill. What I did hear Chief McCaskill saying very clearly was the frustration that police officers feel, that indeed Manitobans, that Winnipeggers feel, with the incredibly weak provisions of the Youth Criminal Justice Act. That's what I heard Chief McCaskill say.

I don't know if my friend from Emerson listens to CJOB. I don't think he's a CBC listener. He's probably an 'OB listener. Indeed, he was on CBC so it may have been that he missed it. Chief McCaskill did express frustration that indeed there are young people being apprehended by the Winnipeg Police Service, by the RCMP. Yet at the same time, he did express frustration that there's a lack of consequence for young people being brought into the system.

Again, Mr, Acting Speaker, I am having some difficulty. I understand the level of spirited energy over on the opposition benches, but I would appreciate the chance to finish my comments with some kind of decorum in the House.

Now, going back to what Chief McCaskill had to say, certainly, he talked about the Youth Criminal Justice Act. I know that most of the Member for Emerson's (Mr. Graydon) constituency is in the area of the current MP for Provencher. I believe some of it might be Brian Pallister's constituency. I would hope, because I respect the Member for Emerson, I would hope he would be on the phone to his federal colleagues to suggest they actually get on with the job of dealing with the Youth Criminal Justice Act. I know they talk about it a lot. They talk about it and talk about it and talk about it.

Federally, we would support them moving ahead on this. We haven't seen it. I know there have been some distractions in Ottawa for certain members of the Conservative caucus, but I do take them at their word and I believe they are going to move ahead. We're just hoping it's going to happen quickly because New Democrats do believe that there should be consequences for young people that are engaged in illegal activities. You can't get consequences when a young person is simply being picked up and is being dropped off at their parents' or guardians' place without there being any interface with the justice system, which can include anything from some remedial activities to incarceration to various things.

\* (10:40)

I think that would be very helpful if the Member for Emerson could actually stand with us and pick up the phone and call his MP and—*[interjection]* Well, I hear the Member for Emerson, saying, I've tried. I've tried. I've tried. It's a shame that the Conservative members in Ottawa aren't listening to the MPs here, the MLAs here in Manitoba.

I would encourage the Member for Emerson, who, again, I believe is a very decent fellow, to try

again, and maybe if he tries again, the MP for Provencher or some of the other MPs will return his calls, and we can move forward in the way that has been proposed by the government of Manitoba.

Now, certainly, preventing crime is something that's very important to New Democrats, and, again, I understand how uncomfortable it must be for the Member for Emerson. Since 1999, this government has funded 155 more police officers and hired 23 new Crown prosecutors. Every budget where that comes in, what have the Conservatives done? They've voted against it. With the Member for Emerson being a newer member, I thought he'd come with an open mind and he would think, you know, I think more police officers and more Crown attorneys is a good thing.

I was disappointed. I was cut to the core to see the Member for Emerson standing with the rest of the Conservative caucus and voting against more police officers and voting against more Crown attorneys. Of course, he voted against more highway infrastructure. He voted against more money for bridges. He voted against more money for highways. I'm disappointed because I do like the Member for Emerson, and I'm certain that he'll have the chance to reflect on my words. He'll consider picking up the phone and trying to get his friends in Ottawa onside. I'm sure they'll answer his calls this time, because he's an honourable and respectable man.

I'm sure the next time the Member for Emerson has the chance to stand with the people of Manitoba or with a narrow, extreme leadership in his party, next time he will stand with the people of Manitoba.

Thank you very much, Mr. Acting Speaker.

**Mr. Stuart Briese (Ste. Rose):** It's a pleasure to rise and speak to Bill 229, The Manitoba Public Insurance Corporation Amendment Act.

I find it very interesting that the Member for Selkirk (Mr. Dewar) and the Member for Minto (Mr. Swan) will both rise and speak against this bill that only approaches basic fairness. I think it's very noteworthy that this is going on the record. We'll be able to use those comments when we go out and talk about justice over the years to come.

I want to talk a little bit about one specific case. Bill 229 is designed to deny benefits to people who steal or take without an owner's consent their vehicle, are involved in an accident and injured, and then go on the MPI injury list and have all the benefits that honest people, honest Manitobans have.

I have a case in my constituency that happened on February 12 where a farmer with his own semi-highway tractor, hauling a load of wheat, was in a head-on collision by a suicide victim, person. He said he had no time to even get his truck off cruise control. It was the middle of the afternoon on a straight stretch of highway, good conditions. All of a sudden, the accident happened. Suicide notes were found on the car, and my constituent was injured fairly severely.

That was February 12; today is May 29. Up until this date, he has not had any settlement out of MPI for his personal injuries. I think that is criminal. This gentleman was in no way at fault in this accident, nothing of his causing at all. He has got a soft body brace; he has a lower-back injury. He cannot stand for more than one or two minutes at a time. He has a stool in his bathroom, so that he can sit on it and shave.

He is becoming more and more and more frustrated with the system. What he's saying to me is, young punks can go out, steal a car, possibly injure or kill someone in an accident with that car, do injury to themselves and draw benefits from Manitoba Public Insurance easier than he can.

He is a farmer; he's also had a small fertilizer business on his farm. He was unable to, because of his health problems, because of this accident—he's always been a very active man—he's unable to continue his fertilizer business this spring. It lapsed. He was forced to rent out his land because he's incapable of farming it. He's not asking for much; he's just asking for fairness in the system, justice. He's not getting it.

The members for Selkirk and Minto both seem to feel that it's legitimate that we pay for personal injuries to punks that steal our cars, have no respect for public safety, cause injuries and deaths to ordinary citizens of Manitoba and, apparently, have more rights than the honest citizens of the province.

We hear over and over again from the members opposite that it's the federal government's fault. Well, it's not. This is something that they could do something about. There's precedent. There are several cases where you're not entitled to MPI benefits in the case of an accident that was wilfully caused by the victim.

That becomes a grey area to me, too. If somebody steals a vehicle and is joy riding with it and gets into an accident, how do you delineate

between whether that was wilfully caused or supposedly an accident, and how do you decide whether the benefits are there or not there?

I would hazard a guess that in my constituent's case, I don't know this for sure, but I would almost bet that the death benefit to the suicide victim has probably already been decided. My constituent is still, he is without income right now, and MPI hasn't come to any kind of a settlement. They asked for all his income tax papers for a number of years, which went in. When he was visited by the agent for an assessment on home care, the agent fills out a form as he is questioning him. As he was leaving, he asked for a copy of that; it wasn't given to him. I understand he's entitled to it. He has now got it at a later date, but he asked for a copy of if because he said the agent was writing down things not exactly as he was telling them.

I've been told by other people involved with MPI and in the health field that the particular type of brace that my constituent is wearing now, simply because he was ordered to wear that type of brace, it's very indicative of serious lower back damage. He's been to the Pan Am Clinic twice. He has to hire someone to drive him. He's a bachelor, has to hire someone to drive him to the Pan Am Clinic from the Langruth-Amaranth area because he's not able to comfortably drive. Plus he doesn't feel that after he has tests in the clinic he should be driving.

This gentleman has waited 100 days since an accident that was not his fault, not caused by him at all, innocent victim, to have some satisfaction out of MPI. It's not happening. I think that indicates why legislation like this needs to be put forward. MPI agents are busy sorting out the many, many accidents that are caused and injuries that are caused by riffraff that's stealing cars, taking them without owner's consent, getting into accidents, causing injuries, when an innocent citizen sitting out there and not getting the action they've taken. The resources are stretched too thin to handle all the things that are going on. If these were cut off, it would allow some of those resources to be used where they should be.

I think I'll close with that, Mr. Acting Speaker. I just want to make sure it's clearly on the record that I don't believe that auto thieves should be benefiting from crimes at the expense of the other MPI ratepayers. Thank you very much.

\* (10:50)

**Mr. Drew Caldwell (Brandon East):** I am pleased to rise to speak to this bill, Bill 229. Before I start speaking to the bill in particular, I'd like to make a few comments about the speech we just heard from the Member for Ste. Rose (Mr. Briese) on the individual that was injured in his constituency. I listened, in great detail, to the member's comments and share a degree of distress over this particular piece of casework. Of course, it has nothing to do with the bill being discussed whatsoever, but it does have to do with the matter at hand, with the individual that suffered an injury in the member's constituency.

I would strongly suggest to the member, as all of us in this House have a great deal of casework to attend to with individuals that have various problems or concerns within our constituencies, whether it's MPIC concern, as the member's constituent has, or whether it's Workers Compensation or Family Services or any number of particular concerns that constituents have in our own home constituencies, I would urge the member to bring that piece of casework forward to the appropriate minister and have that piece of casework dealt with to benefit the particular constituent that was injured.

As I said, I listened quite carefully to the member's remarks and it does seem that there is an individual that is suffering some great deal in his constituency, but the place to bring that piece of casework is to the appropriate minister, and that piece of MPIC, Manitoba Public Insurance casework, can be dealt with in a manner that all casework is dealt with. I know that the member is new to the House, as my colleague from La Verendrye suggested, and perhaps he isn't familiar with how to appropriately deal with casework yet, but hopefully my comments right now will enlighten him.

As I said, Mr. Acting Speaker, the case that the member brings to the House has absolutely nothing to do with this bill whatsoever. It is a piece of casework and I would urge the member to take that casework to the appropriate minister, so that it can be reviewed in an appropriate fashion and, in fact, a constructive fashion. Hopefully that constituent can get some satisfaction from the hard work of the Member for Ste. Rose should he decide to pursue helping this constituent in the appropriate manner.

Now, Mr. Acting Speaker, in regard to the bill itself, Bill 229, it has been stated previously by other colleagues, and I'll echo that, that this particular bill

really is a PR bill. Any citizen in the province of Manitoba who is in an accident or injured is going to be attended to by the public purse as a citizen of Manitoba, whether it's through the health system, whether it's through the social service system. Any person in Manitoba who gets into an accident is going to receive assistance from the Province, from the health system, as I said, if he or she is in an accident.

So this is a show bill, Mr. Acting Speaker, a PR bill which has an extremely limited effect. In fact, it has no effect on what the public Treasury or what the public purse would do to support an individual affected by an accident.

Every single initiative that we have brought forward as a government over the last number of years to fight auto theft, such as immobilizers, has been opposed by the members opposite.

*Mr. Speaker in the Chair*

Today, I'm pleased to note that auto theft is down some 40 percent. We are making progress. There's some ways to go, Mr. Speaker, but we are making considerable progress in reducing auto theft.

Again, I want to comment about the fact that this is a show or a PR bill because, quite clearly, those injured in motor vehicle related accidents will be cared for, if not through the Manitoba Public Insurance corporation, as Manitobans they will be cared for through our health-care system or our social assistance system.

This bill will have absolutely no effect for taxpayers in the province of Manitoba. Members opposite know that. Members opposite also know that this kind of appeals to the kind of beat-up people, sort of fearmongering and punishment sort of strategy, that members have to appeal to really the lowest common denominator in terms of debate.

We have, as I've said, taken considerable action with respect to provisions in The Manitoba Public Insurance Act restricting benefits to auto thieves and impaired drivers. In 1995, the members opposite introduced the Personal Injury Protection Plan and chose to provide a full range of injury benefits in all cases with the exception of drivers convicted of impaired driving, who could have their income replacement indemnity reduced in the first 12 months after the accident, Mr. Speaker.

Members opposite, when they were in government for 11 long, dark years had ample

opportunity to alter laws in this province. They chose not to, for whatever reason. In fact, the members opposite brought in no-fault legislation, which, speaking of casework, is something that I deal with on a regular basis in my constituency, and I expect all members deal with the impacts of no-fault insurance—as I've said, an insurance plan that was brought in by members opposite when they held office during the 1990s.

Mr. Speaker, the legislation that referred to the Personal Injury Protection Plan that was brought in by members opposite in 1995, were part of a package of measures to increase penalties and consequences for those convicted of auto theft under the theme: if you steal a vehicle in Manitoba, you lose. That was the theme, the buzz phrase, if you will, by members opposite, that members opposite introduced as part of this legislative package, quote: if you steal a vehicle in Manitoba, you lose. The changes also included amendments to The Highway Traffic Act designed to hit vehicle thieves hard.

Today, Mr. Speaker, in 2008, when someone steals a vehicle in Manitoba, they could lose their driver's licence with a suspension ranging from five years to life. They could lose the chance to get a valid driver's licence at age 16. First time offenders under the age of 16 must wait until they are 21 to take a driver's test if they are so convicted of stealing a vehicle.

Mr. Speaker, those who steal vehicles and gain a criminal record lose their future by gaining that criminal record. They lose future job and travel opportunities as a result of this criminal record. They lose thousands, I would say, tens of thousands of dollars by having to repay the damages caused by theft or vandalism. This also applies to passengers. They lose the opportunity to obtain auto insurance. If they're under 18, their parents may be forced to pay for any damages they cause, including the value of the vehicle.

As I said, at the beginning of these remarks, if members have casework, casework should be taken to the appropriate minister to be dealt with. This legislation, Mr. Speaker, this bill proposed, is nothing more than a PR or a show bill introduced by members opposite. It does nothing to save taxpayers from any costs associated with personal injury. Personal injury for Manitobans will be covered by the health-care system or the social assistance system. This bill does nothing to protect taxpayers and is, indeed, a bill more designed to stimulate fear

and continue with the theme of punishment, and rhetoric that members opposite are fond of engaging in, rhetoric of fearmongering and the very hard, right-wing rhetoric of punishment and retribution.

Thank you, Mr. Speaker.

**Mr. Blaine Pedersen (Carman):** Mr. Speaker, I would ask if we could call for the question on this motion.

**Some Honourable Members:** Oh, oh.

**Mr. Speaker:** Order. We still have speakers.

**Hon. Steve Ashton (Minister of Intergovernmental Affairs):** Members opposite, I think, may want to go through the rules book. Normally, when one stands, one is either going to speak. If one has nothing more to say and, obviously, members opposite have nothing more to say on this issue. They can't say, oh, let's call the question, because there aren't going to be other members who want to speak.

I want to put on the record, by the way, the hypocrisy, Mr. Speaker, of the party that brought no-fault insurance into this province. They never thought once to do—

**Mr. Speaker:** Order. When this matter is again before the House, the honourable member will have nine minutes remaining.

\* (11:00)

## RESOLUTION

### Res. 14—Privacy Commissioner

**Mr. Speaker:** The hour being 11 a.m., we will now move on to resolutions, and we'll deal with Resolution 14, Privacy Commissioner.

**Mrs. Mavis Taillieu (Morris):** Mr. Speaker, I move, seconded by the Member for Lakeside (Mr. Eichler),

WHEREAS the Premier (Mr. Doer) promised in 1999 to introduce legislation to install a privacy commissioner in the province of Manitoba; and

WHEREAS this year's budget marked the 10th of his time as Premier and still there is no mention of the establishment of a true privacy commissioner; and

WHEREAS Bill 31 does not install an actual privacy commissioner; and

WHEREAS Bill 31 was designed solely to increase the government's ability to withhold and censor information from Manitobans; and

WHEREAS polls have shown that 90 percent of Manitobans do not trust the government to protect their privacy; and

WHEREAS there is a need to establish an official that can advocate on privacy issues and educate Manitobans about what their rights are and how they can avoid having their privacy invaded, something that is not present in Bill 31; and

WHEREAS alleged government abuses of the FIPPA process, the lucrative black market sales of personal information, and the ever increasing threat of identity theft show the need for a public watchdog to protect Manitobans on the issue of privacy; and

WHEREAS the Manitoba Ombudsman has expressed her disappointment and concern over privacy issues and the lack of government action, stating that "the provincial administration has shown little interest in the process"; and

WHEREAS the privacy adjudicator proposed by the government is nothing more than a junior ombudsman and will not have the powers necessary to protect privacy and will not be accessible to the public.

**THEREFORE BE IT RESOLVED THAT** the Legislative Assembly of Manitoba urge the provincial government to consider the establishment of a true privacy commissioner within the province of Manitoba to strengthen the protection of privacy for Manitobans and to finally right this broken election promise to Manitobans.

**Mr. Speaker:** Is there agreement to present the petition as printed? Agreement? Okay.

It has been moved by the honourable—I'm sorry. It's a resolution—the resolution as printed. Is there agreement? [Agreed]

It's been moved by the honourable Member for Morris, seconded by the honourable Member for Lakeside (Mr. Eichler),

WHEREAS—dispense?

**An Honourable Member:** Dispense.

**Mr. Speaker:** Dispense.

WHEREAS the Premier promised in 1999 to introduce legislation to install a Privacy Commissioner in the Province of Manitoba; and

WHEREAS this year's budget marked the 10<sup>th</sup> of his time as Premier and still there is no mention of the establishment a true Privacy Commissioner; and

WHEREAS Bill 31 does not install an actual Privacy Commissioner; and

WHEREAS Bill 31 was designed solely to increase the government ability to withhold and censor information from Manitobans; and

WHEREAS polls have shown that 90% of Manitobans do not trust the government to protect their privacy; and

WHEREAS there is a need to establish an official that can advocate on privacy issues and educate Manitobans about what their rights are and how they can avoid having their privacy invaded, something that is not present in Bill 31; and

WHEREAS alleged government abuses of the FIPPA process, the lucrative black market sales of personal information, and the ever increasing threat of identity theft show the need for a public watchdog to protect Manitobans on the issues of privacy; and

WHEREAS the Manitoba Ombudsman has expressed her disappointment and concern over privacy issues, and the lack of government action, stating that "the provincial administration has shown little interest in the process"; and

WHEREAS the Privacy Adjudicator proposed by the Government is nothing more than a Junior Ombudsman and will not have the powers necessary to protect privacy and will not be accessible to the public.

**THEREFORE BE IT RESOLVED THAT** the Legislative Assembly of Manitoba urge the Provincial Government to consider the establishment of a true Privacy Commissioner within the Province of Manitoba, to strengthen the protection of privacy for Manitobans and to finally right this broken election promise to Manitobans.

**Mrs. Taillieu:** I do want to talk about this very important issue of establishing a true privacy commissioner in the province of Manitoba, like there is in nine other provinces and territories in this country, Mr. Speaker.

We did hear at committee from an expert in privacy and access, a lawyer, Mr. Brian Bowman, who is not only an expert in his field in Manitoba but recognized as an expert in privacy and access matters in Canada, Mr. Speaker. He stated that we are one of

the only areas in the country that does not have a true privacy commissioner, unlike nine other provinces and territories in Canada.

The role of the privacy commissioner in other areas of Canada is not only to provide access to the general public to come and raise concerns as a first point of entry to the issue of access and privacy, but to educate the public on what privacy is, why people need to protect it, and, in addition to that, how they can gain access to information that may be held by governments and governments may not want to release that information.

I just want to say that what we do have here in the province of Manitoba that was proposed in Bill 31 is not a true privacy commissioner, because this adjudicator will only be called at the call of the Ombudsman and, as we learned through the bill briefing a couple of days ago, there have only been 23 challenges in nine years to the Ombudsman rules. So, therefore, this would be a person not likely to be called very often if that was the case. Again, it creates another level of bureaucracy, another level of protection for the government, but what it does not do is provide public access to the general public, Mr. Speaker, and it does not educate the public.

I just want to use an example of what a privacy commissioner in other areas has done. I'll use the example of Ann Cavoukian in the province of Ontario, who is an advocate with the public in terms of what privacy is, how people need to protect their information. She has written many papers about intrusive types of things which other people don't really think about very much. Just one of these things is how intrusive certain technologies can become without balance, without the balance of educating the public as to how these things can be intrusive in their privacy.

The privacy commissioner does add balance and does provide the education needed. I think what we also heard from the public is there is a general lack of understanding of what privacy means today, because we have bills with good intentions that talk about protection of privacy, but then we have interpretations when people come forward and just mentioning the word, because of privacy we can't allow you to have that information. There's a misinterpretation, Mr. Speaker, of what privacy is and what privacy isn't. So there is a need for education within the public.

We hear about privacy issues every day and, just today in the *Winnipeg Free Press*, we talk about

crimes, cyber crime which is becoming one of the biggest issues today, how crime committed over the Internet and through data that is available is becoming too prevalent. I just want to read an excerpt here that criminals make use of phishing e-mails and other forms of social engineering technology to steal personal information which can be, in turn, used to defraud retailers and financial institutions. Social engineering fraudsters work from the belief that it is easier to trick someone into giving their information than to steal it from them.

Again, this relates to personal information that people may be tricked into giving. I think that there's a real void here in this province, if we don't have a privacy commissioner that would be charged with education to the public on issues such as this.

What we see is an adjudicator, Mr. Speaker, not a true privacy commissioner as promised in 1999 by this government. I can certainly see that, after eight or nine years in government, they have a lot of things they would not want to release to the public. So they clamp down on information release but, giving the illusion of being open, they create what is termed a privacy adjudicator. It just creates an illusion; it's window dressing. It does nothing to protect the privacy of individuals and does nothing to ensure that the public has access to information that the government has.

Part of the issue with a privacy commissioner, as I have said before, the issue of education to the public—I don't believe that a lot of people understand how important their privacy is because people say, well, I don't have anything to hide; I don't care what people know about me.

I would suggest, if you talk to someone who's had their identity stolen or had personal information stolen from them that was used to defraud their bank accounts, their credit ratings, and how difficult that process has been to get back that personal privacy—in fact, people say they'll never get it back because their name will always be associated with this particular crime. It's very, very difficult for people in these situations.

\* (11:10)

It is important to protect people's—I think, to educate people as to what they should and shouldn't provide in terms of information. We hear about these crimes all the time, Mr. Speaker, and we don't have a person charged in this province who would be the

one, the front person out there, educating people as to what they can do to protect themselves.

Certainly, financial institutions talk to the public about it. Law enforcement agencies talk to the public about it, but we don't have that person out there saying, this is my role, I want to create all the educational sources that I can for the public so that they can be protected against these things.

I think, you know, I just want to use an example. I want to talk about technologies, Mr. Speaker, the advancement of technologies. I've said it before: when you have technology that advances at lightspeed, but the understanding of it in the general public moves at the speed of a tortoise, the technology and what it can do gets ahead of the understanding of it.

Certainly today, technologies are used for very good purposes, but whenever you have something that could be used for good purposes, it can also be used for bad purposes, and that's what we see with the amassing of data in data bases. As is proposed in Bill 31, allowing governments to share information between departments, between Crown corporations, between organizations that they do business with, and creating these large, mega-data bases, well, Mr. Speaker, I would suggest that creation of mega-data bases of personal information become the new banks, and personal information becomes the new currency. That's what we are seeing with a lot of cyber crime today.

The idea, even with a privacy commissioner, to not only be accessible and educate the public, but, I believe, to educate people in government, people in the bureaucracy, about technologies and what they can do to provide a balance to make sure that as we go ahead and provide these services available to people, that we also provide the balance of educating people to know that there is chance of intrusion on people's personal privacy, Mr. Speaker.

I think, when you think about the Internet, for example, and when the Internet was first developed 25 or 30 years ago, what was involved in that? We didn't imagine that we would see the crime that happens over the Internet today.

What I'm saying today is if we have a privacy commissioner that looks at certain evolving technologies, we have the opportunity today to look at things that could evolve into the future, taking from us the experience we've gained with what's happened in the past, Mr. Speaker. I do believe that

there is a necessary role for a true privacy commissioner independent from the government, answerable to the Legislature, accessible to the public.

Thank you very much.

**Hon. Eric Robinson (Minister of Culture, Heritage, Tourism and Sport):** I want to thank the Member for Morris (Mrs. Taillieu) for bringing forth the resolution for the attention of members of this Chamber.

Allow me to start off by first of all saying that no doubt she has given it a lot of thought, and I want to also take this opportunity to give some background on what this government has done with respect to the issues that the member has raised.

Mr. Speaker, I note that in her resolution the summary resolve says that the Legislative Assembly of Manitoba urge the provincial government to consider the establishment of a true privacy commissioner within the province of Manitoba to strengthen the protection of privacy for Manitobans and to finally break this election promise to Manitobans.

I want to start at that point, Mr. Speaker, and address the issues that she has raised.

First of all, I don't think that this government has sat back in terms of not addressing the whole issue of FIPPA and how we can improve it. In April of 2000, Mr. Speaker, we extended the freedom of information legislation that includes bodies that the opposition had excluded specifically in their time in office to more than 350 municipal governments, school divisions, universities and regional health authorities.

Then, in 2002, our government introduced free on-line access to all government statutes and legislation as well.

As well, in 2003-2004, it was this government chaired by the now Minister of Healthy Living (Ms. Irvin-Ross) that undertook a public review of FIPPA throughout the province of Manitoba and heard from a number of people, and I'll get back to that in a moment, and heard a variety of opinions and recommendations.

Then, on May 29, 2005, Mr. Speaker, the results of the national survey by the Canadian Newspaper Association looked at how free and accessible government information is; they declared Manitoba to be No. 2 across Canada with a disclosure rate of

88 percent. Alberta was No. 1 with a rate of 93 percent.

Also, back in 2006, the right to know—we, government, issued a press notice signalling the intent to review the fee structure and the routine release of information and also to determine, in consultation with the Ombudsman, the best way to resolve disputes about access.

The November 2007 Throne Speech indicated that FIPPA would be attending to provide a person with order-making power authority that would address some of the issues that the member's talking about.

The public consultation process, as I said, was led by the Minister of Healthy Living along with a committee that was made up of members of not only this chamber, but others, to take into consideration some of their thoughts while developing these amendments which resulted in Bill 31 that we're debating currently in the Legislature.

The most common request that this committee heard was for additional oversight or order-making power regarding access to information requests. We responded with the introduction of the idea for an information and privacy adjudicator.

Presenters also indicated that they wanted the disclosure period for Cabinet records to be shortened. We've acted accordingly, reducing the closure period from 30 to 20 years in the proposed bill that's currently before the consideration of members. The bill also aims to strike a balance between access and privacy matters which, we believe, is important to our fellow citizens in the province of Manitoba.

Now I've heard some of the criticism in the last few nights about the adjudication of being possibly replaced. I know the Member for Morris (Mrs. Taillieu) has championed this cause; I admire her for her vigilance in that regard. When making this comparison, it's important for us, as members, to look at the powers associated with the office and not simply the name, commissioner versus adjudicator.

Six of the nine provinces and territories which call their review office commissioner do not give them the powers to issue binding orders. Furthermore, Mr. Speaker, neither the federal access commissioner—and I've talked about this before in this Chamber—nor the federal privacy commissioner have the power to issue binding orders as well.

We believe that Bill 31 will give the Manitoba adjudicator the power to issue binding powers comparable to the commissioners that they have in B.C., Ontario, Alberta and Prince Edward Island. Manitoba has just about 20 years of experience with the Ombudsman model; our amendments build on this model and do not discard the valuable experience that we've gained in the last two decades and more.

Annual reports indicate that nearly 14,000 requests have been received under FIPPA and its preceding act, The Freedom of Information Act. In that period, 90 percent of those were handled without applicant complaints. Those complaints made to the Ombudsman in that period, over 95 percent were resolved without the Ombudsman seeing a necessity to issue a formal recommendation.

We have heard that Ombudsman reports indicate that over 90 percent of her recommendations to departments are subsequently followed. These statistics indicate a high degree of compliance with the act; so we are doing something right, indeed, Mr. Speaker.

\* (11:20)

Mr. Speaker, for those handfuls of instances where compliance does not occur and, in many years, there are no instances for non-compliance, the information and privacy adjudicator provides an additional mechanism to the point of issuing a binding order to ensure full compliance with the legislation.

We also heard a little bit, and I'm going beyond, perhaps, the intent of the resolution that is here before us for our consideration. Indeed, in committee we heard in the last few nights that Bill 31, the criticism means that Bill 31, that government departments will drop their public registries. This is a clear misunderstanding of the provisions of the legislation.

No department or agency will eliminate public registries as a result of this amendment. In fact, FIPPA has no role in establishing or dismantling any registries. Registries are established by legislation, regulation, or policy by government departments. Examples are The Environment Act or The Water Stewardship Act, The Personal Property Registry, The Vital Statistics Records of Births, Deaths and Marriages. Mr. Speaker, the definition of existing FIPPA legislation referred to a group of registries deemed to have contained personal information

which are listed as one of the FIPPA regulations. We feel that with vastly expanded Web sites offered by departments, the utility of a regulation listing those registries is doubtful. I think that most Manitobans will actively use the department Web sites to find government information that they're seeking.

Allow me to talk briefly about the release of Cabinet documents as well because it is related to what the member's talking about. Under the current provisions, the full Cabinet for which the record was prepared must consent to its release first of all. So this works fine for a current administration, but is unworkable for previous governments because a former Cabinet cannot be reconstructed. So to remedy this we have introduced section 19(2) in the bill itself, Bill 31, so that the responsibility for release of Cabinet documents from previous administrations lies solely with the First Minister of that administration. So to clear up any confusion regarding the current government, we have an amendment to Bill 31 which separates the two situations of a former Cabinet versus a current one, making the appropriate provision for each.

I'd also like to confirm before the House that we are continuing to respect the important parliamentary principle that a current government cannot make such a decision on behalf of a former Cabinet. So I just want to reiterate, Mr. Speaker, what I said earlier that the members have to look past the name and realize what's important is that the office has order-making power. Our new privacy adjudicator will have order-making power putting us in line with those provinces I indicated: B.C., Alberta, Ontario, and P.E.I.

**Mr. Speaker:** Order. The honourable member's time has expired.

**Mr. Kelvin Goertzen (Steinbach):** Mr. Speaker, a pleasure to speak this morning on the resolution brought forward by my colleague, the Member for Morris (Mrs. Taillieu), on the establishment of a privacy commissioner. I want to commend the Member for Morris for the work that she's done over the past few years on advocating for a privacy commissioner here in the province of Manitoba; very tenacious and dedicated to ensuring that this issue be brought forward and that attention be brought to it in the province. Unfortunately, the government, as it often does, only went halfway with her suggestion, not taking the full measure of what was being looked for not only by her but also the many people who've spoken to us about this issue.

There's still time, of course, for the minister to go back to the drawing board and establish a true privacy commissioner to ensure that we have the freedom of information, proper access to public information that we desire and, of course, that all Manitobans desire in the province. It's ironic, perhaps, that we're debating this at this time of the legislative process, the issue regarding freedom of information. We all know that there's a bill before the Legislature that speaks to the opposite of freedom of information, Bill 37, which purports to clamp down on the freedom of information that residents in our ridings are going to be able to receive, not just from me as one MLA, but all MLAs. The Bill 37 is intended to prevent MLAs from having that access and that freedom of information to inform their constituents about what's truly happening in the Manitoba Legislature and their right to hear.

We've seen some deplorable actions in the committees regarding Bill 37 from the members of the government over the last number of days. I know the Member for Transcona (Mr. Reid) shakes his head, so I'll simply remind him of some of the things that have happened in the committee. I understand the Member for Transcona may have been referencing something else, and so that's fair. I withdraw that, Mr. Speaker.

Mr. Speaker, the issue regarding committees of the Legislature where we've had people coming to speak, using their freedom of information, which is tied into this particular resolution, the Minister of Justice (Mr. Chomiak) has been already forced, at one point, to apologize to a presenter for attacking that presenter for the views that they brought forward to a committee.

How can you, one day, stand and say that you truly are interested in freedom of information and the proper access to public information when a minister of the Crown personally and publicly attacks a presenter who comes before a committee to speak to a bill? I appreciated the fact that the minister apologized. Unfortunately, his Premier, the Member for Concordia (Mr. Doer), didn't take the same high road when the Premier went after a number of presenters who came representing organizations on behalf of thousands of Manitobans, went after and personally attacked those presenters at committee in a way that is practically unheard of, a way that I've probably never seen at a public committee before, the Premier going after these individual presenters at those committees.

**An Honourable Member:** Relevance.

**Mr. Goertzen:** Well, I'll be happy to show the relevance for the Minister of Energy who simply wasn't even listening.

This resolution speaks to the proper access to public information and freedom of information. When we talk about the ability for members that come before committee and freely speak and to hear information about what's going on at the Legislature, to be attacked by the Premier in a committee, Mr. Speaker, is simply unconscionable.

We also know, Mr. Speaker, that yesterday, in committee, presenters came forward in the same spirit of information and said that they wanted public access to information by allowing the committees to run at a proper time, by allowing those committees to run not 24/7, not to have closure invoked. In fact, there was a particular speaker who spoke to—

#### Point of Order

**Mr. Speaker:** Order. The honourable Minister of Science, Technology, Energy and Mines, on a point of order.

**Hon. Jim Rondeau (Minister of Science, Technology, Energy and Mines):** I would just hope that the member opposite, as a point of order, would be talking about the bill that's being, or the motion that's in front of the House at this time.

**Mr. Speaker:** The honourable Member for Steinbach, on the same point of order?

**Mr. Goertzen:** First of all, this is neither a bill nor a motion. It's a resolution. The resolution speaks to the need to have a privacy commissioner to protect the proper access to public information and the freedom of information. As I said to the minister, we're talking about the need for the public to have access to information, which is what was specifically relevant and what was discussed yesterday at committee. Had he been at that committee, he would have known that.

**Mr. Speaker:** On the point of order raised by the honourable Minister for Science and Technology, I just remind members that, when speaking to bills, relevancy is important, and I'm sure that the member—*[interjection]*—or the resolution. When speaking to resolutions, relevancy is important, and I'm sure that the member will tie his comments to resolution 14.

\* \* \*

**Mr. Goertzen:** Thank you, Mr. Speaker.

In fact, when you look at the need for a privacy commissioner in Manitoba to establish a framework and ensure that all of our access to information and the proper access to public information is protected, it touches on a number of different areas. When we talk about the need to ensure that the public can hear what's happening regarding bills that are specifically relevant, it ties directly in to the proper access to public information.

While the Minister of Justice (Mr. Chomiak) has talked about invoking closure at different times, how would that impact the ability for the public to hear about information that's happening in the Legislature? When the Minister of Justice and the Government House Leader talks about running committees 24 hours a day or talks about running them on weekends so the public can't actually hear the debate about a public bill, how does that impact the proper access to public information, Mr. Speaker?

\* (11:30)

So, on a variety of different levels, we see where the privacy commissioner and the need to protect public information is particularly relevant. I would ask this government to be diligent and to be on guard for all forms of protecting the ability for the public to see and to hear what's happening in the Legislature. Whether it's censoring information through the government mail-outs, or whether it's trying to ram legislation through the House by considering and contemplating closure on legislation, contemplating committees 24 hours a day, contemplating weekend committees to prevent the public from having that access to information, those are the sorts of things that we as the legislators, we as MLAs, have to constantly fight for, constantly ensure that we're vigilant and on guard to protect the public's right.

The Member for Morris (Mrs. Taillieu) has done a tremendous job of ensuring that access to information and the right for a privacy commissioner is brought to the attention of this government and to the public in general. Each and every session over the last number of sessions, she's brought forward concerns, whether it's directly for a privacy commissioner or in relation to a variety of specific cases where a person's individual right to privacy is possibly being impinged upon, or the need for freedom of access to information is important.

I want to conclude by commanding her. I know that we're going to hear from the leader of the independent party before this debate is over and also from my colleagues on this side of the House. We look forward to their comments and to the government deciding to put in place a true privacy commissioner, not one that is simply a watered down version of what Manitobans deserve and what Manitobans need.

Thank you very much, Mr. Speaker.

**Mr. Rondeau:** I'm pleased that the member finally, actually, started to talk a little bit about the resolution near the end of his speech and his presentation.

I think that when one is talking about a resolution it's important to actually put some facts and information on the record. I'm pleased to do some of that right now, to discuss (a) privacy, (b) how we're moving forward in getting information to the public and making sure there's access to information in the public, and (c) how we continue to make sure that people have access to information.

In April 2001, we extended the freedom of information legislation to public bodies. These were 350 municipal governments, school divisions, universities and RHAs. This meant that the freedom of information and privacy act covered 350 more organizations. Now this means that they had to protect information appropriately and they had to provide information appropriately. That was done in April 2000.

For the member opposite from Steinbach, that was actually during the NDP government, when we were in government, and I'm pleased to do that.

We also, in 2002, provided a lot of on-line services. Now I know we've had a lot of discussion with the Member for Russell (Mr. Derkach) on whether things are on-line, whether they can be accessed, but I know that we've started delivering programs, services and information on-line so that all Manitobans can get that information and all Manitobans can then do business on-line. I know we extended the e-government where people can pay bills on-line, they can submit forms on-line. By the way, Mr. Speaker, I'm pleased to say that we have adopted best encryption technology to make sure that that information is secure from other third parties.

We have also done proactive things. Mr. Speaker, I know the Member for Morris (Mrs. Taillieu) talked about the change in technology. We proactively put information on the Web, provided

information to consumer groups, Society of Seniors, et cetera, on how you protect your information over the Internet. We've done proactive things so that consumers know how to protect it, know the obligations they have, and often how to avoid fraud and illegal activities. We've done that as a government. I'm pleased that we've done that because it is an issue.

A public review took place in 2003 as required under the act. I was pleased to lead some of the discussion on FIA. We went out to Thompson, to other communities. We heard what Manitobans had. Mr. Speaker, I have to actually compliment the previous government when they said that it had to be reviewed, because it was new legislation. There was, of course, going to be issues on it. I thought it was with foresight that the previous government had a review process. Our government then reviewed it. There've been changes, because, of course, on a new legislation, there will be issues. There were a few issues. These were brought up in the public hearings across the province, and we actually started to work on dealing with the issues that the initial legislation took place.

It's also important to say where we're going. The members opposite seem to think that there is no information provided to them. I am pleased that we are now putting Cabinet travel information and expenses on-line; that wasn't done before. I am pleased to see that, in 2002, our government introduced free on-line access to all government statutes and legislation, not done before.

I am pleased to see that simple things, like when we talked about the climate change workshops, programs, policies, et cetera, they were provided on-line. The workshops, as we heard, people didn't know anything about them. It's interesting to note that these workshops, the results of the workshops, the feedback we were presented, were presented on-line. You can go to the Web site today and see that information on-line. The actual climate change plan is on-line. The actual legislation and the plan on roll-outs, et cetera, is on-line. I am pleased to see that we're doing that.

On May 29, 2005, the members opposite may not know this, Mr. Speaker, but the Canadian Newspaper Association looked at how free and accessible government information is. They actually do a survey. They actually send in information requests to all jurisdictions across Canada, and they receive the information. They declared Manitoba was

second-best in Canada with a disclosure rate of 88 percent. It was nice to see that we have moved forward, that we are actually second-best in the country.

I know, with this legislation, we're going to be moving forward with the privacy person that is being moved forward. It's interesting because that person—and this is critical—has the right to give government direction to release information. Mr. Speaker, this is not recommendations. They have the order-making power, and that is critical.

I have to compliment the Minister of Culture, Heritage and Tourism (Mr. Robinson) for actually putting that in. In the previous system, the Ombudsman—and this was a system set up by the former government. I am not contradicting them because they set it up with good intentions. What we're trying to do is now, instead of just working with departments, there is actually the order-making authority in this new privacy adjudicator.

So when we went out, we found out that there was need for it. We're following the Ombudsman's recommendation for having this set up the way it is. We have got a good disclosure rate. The freedom of information is very, very important. The power to issue binding orders is comparable to the powers of the privacy commissioner in B.C., Alberta, Ontario and P.E.I.

What's interesting, the members opposite don't understand that six of the nine provinces and territories which call their review officer a privacy commissioner actually do not give them the power to give binding orders. This adjudicator has the power to give binding orders. So, although, in many provinces that's not the case, in this case it is.

It's also important to note that the adjudicator will be an officer of the Legislative Assembly, appointed in the same manner of the Ombudsman. He or she will be equal to an independent of the Ombudsman; however, for the limited number of cases required, it did not seem to make it necessary to have a huge office, full-time adjudicator.

We will benefit from 20 years of experience; we're going to continue to provide information. The members opposite often say we don't provide information. I know that one of the members opposite complained because, when we provided them with eight inches of information that they requested of copies of original invoices and all this, we went through the office of the Ombudsman to

make sure that we could legally present this information.

The Ombudsman made legitimate decisions based on the information and the legislation, and they criticized the Ombudsman. They criticized the process and they criticized the information, even when we presented nine-inches-thick of information.

\* (11:40)

I know that the Ombudsman—I have a lot of respect for the independent third-party officers of the Legislature. I have respect for the clerks. I do not believe it's appropriate to cast aspersions. What I believe is you have an independent third party who provides the information. They can go into any government department and say that we must provide the information, which we would do. I know we take the officer very seriously, and that's important.

I think that the other thing that's important is the Ombudsman office is taking steps to strengthen their outreach to Manitobans and guide the public bodies of the act. They will also work on including setting time lines for responses, which will expedite the solution or resolution of problems. I know we're 88 percent. I know we can do it better. I know we're working to do that and I have to compliment the Minister of Culture, Heritage and Tourism (Mr. Robinson) for moving forward on this and moving the act forward expeditiously.

Thank you very much, Mr. Speaker. I look forward to seeing how this act moves forward in the near future.

### Introduction of Guests

**Mr. Speaker:** Before recognizing the honourable Member for Minnedosa, I'd just like to draw attention of honourable members to the public gallery where we have with us—we have students from Crocus Plains high school from Brandon. On behalf of all honourable members, I welcome you here today.

**Mrs. Leanne Rowat (Minnedosa):** I'd also like to recognize and welcome Westman residents to the gallery today. Thank you for coming to the city and watching question period or debate today, so thank you for coming out.

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**Mrs. Rowat:** We're speaking today on a resolution that was put forward by the Member for Morris

(Mrs. Taillieu), and the resolution speaks to the need for the government to look at the necessity of putting a privacy commissioner in place in this province. We have been sitting in committee for the last three evenings listening to presenters who are speaking very elegantly about the need and very clearly on the need for our province to look at the importance of a privacy commissioner within our province. We are certainly not moving forward with this legislation that is being put forward by the government when we are not looking at a key component that is critical to the education piece of privacy education for the citizens of our province.

The member across the way from Assiniboia talked about giving a box of information and how we—he worked in co-operation with the Ombudsman's office in getting that information for us. I think he's missing a few details in that statement or in that comment or that discussion because, actually, the Ombudsman was very frustrated by this government's inability to put that information forward. They asked on numerous occasions to get that information released. Mr. Speaker, the government continually put up roadblocks, continued to not provide the information on the Spirited Energy campaign. That box of information took months and months to get from the government's hands into the hands of the public, and I think that for him to say that he worked co-operatively with the Ombudsman is a stretch. I think the Ombudsman has clearly shown that this government has not been open and transparent in providing information to the public and has actually put up more roadblocks.

The privacy commissioner, Mr. Speaker, would have been an excellent resource and tool in making sure that that information would have got into the hands of the public a lot sooner than the six months to a year that it took for this information to come forward. I think that by not putting in this individual into a very significant role in government support is a step backwards in allowing the Province the opportunity to be open and accountable to the ratepayers or taxpayers of Manitoba.

The privacy commissioners in other provinces do have the ability to work with the public. The adjudicator does not. It's clear that the adjudicator can only be accessed if the Ombudsman feels that is necessary, and the Member for Assiniboia (Mr. Rondeau) indicated it's not going to be a full-time job. It's going to be a position that is going to be on a casual basis, Mr. Speaker.

In briefings with the minister, I understand that there were maybe 23 in nine years, 23 cases in nine years where the Ombudsman would have referred something to the adjudicator. Having the process go the way the minister is planning through this legislation is not going to be effective. The privacy commissioner in other jurisdictions has a role to educate the public on what their rights are with regard to privacy. I believe that they would have a significant role in partnering with the Ombudsman in ensuring that information is made available to the public, and also to ensure that the public knows how their privacy is being protected through information that is being shared with government.

There are a number of things in this legislation that draw concern in our discussions, briefings with the minister or with staff, and also in the committees that we've attended over the last three evenings. Individuals like Brian Bowman, who is an expert on privacy, has indicated that this legislation is dangerous. He used those words, I think, very cautiously, but very clearly indicating that there are things in this legislation that the government hasn't thought about. They haven't paid attention to what they've put into this legislation and the ramifications of being careless in drafting something that is going to affect all Manitobans.

I believe that the Provincial Council of Women's presentation the other evening was very clear in its concern that this was a promise to have a privacy commissioner made by the Premier (Mr. Doer) in September 1999. The documents that were shared by the NDP at that time said that they would establish a privacy commissioner, as in the case of other jurisdictions, that we believe this office would have dealt more effectively with the public interest in the disclosure of information. So, Mr. Speaker, by not having a privacy commissioner in place, they are actually contradicting their own promises and working backward in a democratic process of providing access to information.

Mr. Speaker, I believe that consumer groups that presented the other night we're also very concerned that individuals, seniors, people who are accessing services from this government, they need to know that their information is going to be secure and that it is not going to be used in ways that will be used against them in receiving supports and programs from this government.

So I believe that the Member for Morris (Mrs. Taillieu) has put forward a really important piece of

legislation on private-sector privacy. She's worked very hard on this issue. Her legislation is excellent and addresses a lot of the concerns that Manitobans have regarding information issues or privacy issues. I believe that this government should be paying attention to not only what has been said from this side of the House but also at the presentations over the last three evenings.

It's been clear that this bill does not create a privacy commissioner in any way, shape or form, that the privacy adjudicator is nothing more than a position created to create more bureaucratic delays and will not increase the release of information. If anything, it will mean longer delays before the public gets information. I think, you know, the public know.

Mr. Speaker, the Member for Assiniboia (Mr. Rondeau) talked about this box of information. Spirited Energy was a good example of how this government could delay and cause problems in getting information to the public which they have a right to know. When there is \$2,000 spent on alcohol by the Premier's own group of people who were working on this campaign makes me realize, and Manitobans realize, that taxpayers' dollars are being wasted by this government, and they are looking at ways to muzzle Manitobans and keeping information away from Manitobans who have a right to know how their tax dollars are being spent.

\* (11:50)

Mr. Speaker, every year we're seeing an arrogance from this government, and it's showing clearly that this government is not taking the taxpayers' dollars seriously and spending wisely. With record dollars coming from the federal government with no strings attached, they should know better than to waste money and should be spending it on things that are important to Manitobans and effectively making our province a have province.

As we saw yesterday in question period, other provinces surely understand that this government is not on track. They do not want to be associated with Manitoba when they're looking at the economic future of this country, because they know Manitoba has to get its house in order before it can even be taken seriously on a national stage, Mr. Speaker.

Thank you very much for letting me speak to this resolution. I congratulate the Member for Morris (Mrs. Taillieu) for putting together such a great, great resolution.

**Ms. Marilyn Brick (St. Norbert):** Mr. Speaker, it's my pleasure to put a few words on the record about the resolution introduced by the Member for Morris.

Mr. Speaker, I think it behooves me to put a little bit of information on the record about what the privacy adjudicator will be able to do and won't be able to do, because it seems like there's a bit of misinformation being put right now on the record.

An information and privacy adjudicator is to be appointed as an officer of the Legislative Assembly, which means that they will be directly responsible to the Legislative Assembly and to the Ombudsman. Mr. Speaker, the adjudicator has the power, at the request of the Ombudsman, to issue an order against a public body that has not acted on the Ombudsman's recommendations.

For example, Mr. Speaker, this would mean that a public body, such as Manitoba Public Insurance or Manitoba Hydro, if they had not released information or withheld information from an applicant, the adjudicator would be able to tell them that they were required, through the Ombudsman, to do this. It would require a public body to change the way it collects, it uses, or it discloses personal information.

I think that's important to note, Mr. Speaker, that this goes farther than just talking about what one individual complaint may be. It can have far-reaching implications, even to go to the way that information is being collected, the way it's being used and the way that people actually can get that information.

Mr. Speaker, the legislation that we have introduced maintains the successful mediation role of the Ombudsman's office, while adding the power to issue binding orders through the creation of the privacy adjudicator.

Mr. Speaker, I know that the members on the opposite side are looking for something that may be more adversarial; that's not what we're looking for. We're looking to maintain mediation; we know that mediation works very successfully. It's always great when you have partners who have the ability to talk to each other, and people who have the ability to talk to each other because, often, that can resolve an issue rather than it having to go through a very lengthy and very costly process.

I find it interesting as well to listen to members on the opposite side talk about cost savings. When we look at the way that this has been brought

forward, I think that we are not creating a duplicate bureaucracy by putting this under the Ombudsman. The bureaucracy will already be there for the adjudicator to work under. Mr. Speaker, I think that's commendable, that we'll save our government money rather than having us put in a whole other level of bureaucracy.

Mr. Speaker, the Ombudsman will be able to still continue to receive complaints under the Freedom of Information and Personal Protection Act and will be the point of public contact. As I said, this will save our government money because we won't have to be duplicating in terms of another level of bureaucracy. It would be redundant for applicants to have to go both to an adjudicator and an ombudsman and have two parallel processes. The Ombudsman will be able to refer the matter to the information and privacy adjudicator.

Mr. Speaker, we are open to term appointments for the privacy adjudicator, as had been mentioned previously by the Minister for Science, Technology, Energy and Mines (Mr. Rondeau). It's interesting to note, as well, that we are making changes to the access for information, so the closure period for Cabinet records is going to be reduced from 30 years to 20 years; a similar reduction is made for confidential records of local public bodies.

A technical amendment will also give consent in special circumstances to release a closed Cabinet record. Now this does cause some problems when it relates to a party who is no longer in government. There are proposed amendments that will change other parts of the legislation to allow for occasional cases where it is felt that access might be provided to records of a Cabinet of a former administration.

As soon as a new Cabinet is formed, the previous Cabinet technically no longer exists, as I had mentioned, Mr. Speaker, and thus they cannot make a decision. To solve this problem the proposed amendment identifies a single position which can make this decision on behalf of a previous Cabinet. This amendment would allow for the occasional situation where a previous government might want to grant access to some of its Cabinet records still under the closure period. It's great to note that this amendment is similar to Saskatchewan's access and privacy legislation.

This legislation that we've put forward also adds some clarification to ensure that opinion polls paid

for by public bodies cannot be withheld from a person applying for access because of the exception in the act for advice to the public body. This puts into law what is already existing practice under this government.

I think it's very interesting to note that, as I've been listening to people speak, often critics, they've been asking in our consultations that we do on the budget, they've been asking ministers for information on where ministers have travelled. It's really good to see that our government has put this information out and has made it accessible for the public and made it accessible for critics on the opposite side, and it's now being published on-line. So I have to give our government credit for that. We see that we have become open and transparent, and we have put this information out for everyone to access.

There'll also be information that public bodies receive from First Nations governments. It is given the same protection from release as information received from other governments. Public bodies are given discretion to disregard access requests that are incomprehensible, frivolous or vexatious, or that because of their repetitious nature or systemic nature would interfere unreasonably with the public bodies' operations.

It's interesting to note that occasionally, Mr. Speaker, and I have to say it is very occasionally, there are individuals who seem to, for whatever reason, want to gather information that they really have no use for, so sometimes they tend to ask numerous times for numerous pieces of information, which can be very time consuming, very costly and often lead to no further information for the individual. I think that it's good to see that, if this happens and if there is an individual who seems to be appearing constantly and constantly asking for information that really is not helpful to anyone, that this could be looked at and that there is the opportunity to move forward with a system of dealing with that individual.

Mr. Speaker, I also wanted to mention that there is a requirement in the current act that public bodies prepare directories of records, and that those would be removed after a certain period of time. Public bodies are permitted to use and disclose personal information for the purpose of delivering integrated services, and public bodies are permitted to use and disclose personal information in order to evaluate their programs.

Universities and colleges are permitted to disclose contact information about alumni for fundraising purposes, subject to specified conditions.

I have to say, Mr. Speaker, when we did have a public consultation that happened, this was one of the things that had been talked about quite often by fundraisers was the fact that it was very difficult for them to continue to proceed with fundraising if they did not have the opportunity to access information in terms of people who had attended a university or a

hospital, to use those people's information. I'm really pleased to see that this act takes a look at that and actually addresses that need.

With those few words, Mr. Speaker—

**Mr. Speaker:** Order. When this matter is again before the House, the honourable Member for St. Norbert (Ms. Brick) will have one minute remaining.

The hour being 12 noon, this House is recessed and we will reconvene at 1:30 p.m.

**LEGISLATIVE ASSEMBLY OF MANITOBA**

**Thursday, May 29, 2008**

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