

PRELIMINARY
UNEDITED
TRANSCRIPT

HOUSE OF ASSEMBLY
FOR THE PERIOD:
3:00 p.m. - 6:00 p.m.
FRIDAY, NOVEMBER 6, 1981

The House met at 3:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER (Simms): Order, please!
The hon. President of the
Council.

MR. W. MARSHALL: Mr. Speaker, pursuant to notification and discussions had with the Opposition House Leader this morning where I advised, as everybody in this House knows and the public knows, that the House has been resummoned for the purpose of considering a matter of utmost urgent importance, to wit, the current lab and x-ray strike in the hospitals, I requested the Opposition to agree to the deferment of the usual ordinary routine of business which would normally come up today so that we could get into the matter before the House. And I also requested the Opposition at the same time to permit the bill to be given notice of, have its first reading, second reading and proceed on to its stages for however long that will take simultaneously without having to wait for separate sessions. I understand that the Opposition has concurred and agreed with this procedure. I believe the Opposition House Leader, the member for Port au Port (Mr. Hodder), will concur with this with any additional information that he wishes to give the House. And I would like to say I thank the Opposition for their co-operation.

MR. SPEAKER: The hon. the member for Port au Port.

MR. J. HODDER: Mr. Speaker, speaking on behalf of the Opposition I might just like to point out a little error. We had not acted on the request of the government in giving up Question Period. As a matter of fact, our conversations this morning, if the hon. House

MR. J. HODDER: Leader (Mr. Marshall) would remember, were about a variety of topics and what would happen if/or, that sort of thing. But the Opposition has voluntarily, by themselves without a request actually on Question Period, has voluntarily decided to give up this particular time.

MR. W. MARSHALL: Mr. Speaker.

MR. SPEAKER (Simms): The hon. President of the Council.

MR. W. MARSHALL: That is quite acceptable, Mr. Speaker, and I still would like to extend to the Opposition our thanks for their co-operation.

MR. SPEAKER: Such a motion would require unanimous consent. Do I understand there is unanimous consent then?

SOME HON. MEMBERS: Agreed.

MR. SPEAKER: Those in favour 'aye', contrary 'nay', carried.

The hon. the Premier.

PREMIER PECKFORD: Mr. Speaker, I give notice that I wish to propose a bill to the House this afternoon, Bill 111, "An Act To Provide Essential Health Services To The People Of The Province". And I move that it be now read a first time, Mr. Speaker.

Motion, the hon. the Premier to introduce a bill, "An Act To Provide Essential Health Services To The People Of The Province," carried. (Bill No. 111).

On motion, Bill No. 111 read a first time.

MR. SPEAKER: I understand by agreement the bill will now be read a second time.

Motion, second reading of a bill, "An Act To Provide Essential Health Services To The People Of The Province". (Bill No. 111).

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MR. SPEAKER (Simms):

The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker, it is with a

great deal of personal

PREMIER PECKFORD:

and I am sure collective regret, on behalf of the people on this side of the House, that we find ourselves this afternoon having to introduce this piece of legislation. It has always been a cardinal, personal tenet of mine since legislation was passed several years ago as it related to collective bargaining in the Public Service, it has always been a tenet of mine that the right of strike, which was so arduously won by society generally in the Western world over the last 200 or 300 years, was one that should always be at the disposal of the workers of the land. I have always believed that, long before I got involved in politics. I believe it even more since I got involved in public life, and believe it to this day and will continue to support and fight that that right would always be maintained for the workers of a democratic society.

It was hoped, I guess, the spirit and intent of the legislation that was proposed and passed and under which collective bargaining has been occurring in the Province ever since, it was hoped that a way could be found in the health care system to permit the right to strike to continue unimpeded and that through a process of the Labour Relations Board and the union movement and so on that a way would be found to designate essential services over the last number of years. Although that process has not worked, the people in the union movement have been extremely responsible in providing those essential services even though, as I say, the process for so designating has not been completely put in place. And so up until a number of weeks ago there has not been any necessity, even though the process in that legislation has not worked, to do anything additional, even though there is a great requirement for us to do so we do not get into ad hoc situations like we find ourselves now because nobody had actually threatened or carried out a threat to remove essential services from, in this particular case - in most cases, the government

PREMIER PECKFORD:

service - in this case the health services of the Province. Last weekend, I guess it was, after the collective bargaining process had broken down, the union concerned with the health care system in the Province and especially the Health Sciences Complex, removed their essential services from that institution, from that hospital. And then was put in place a series of events which we are very proud of, Mr. Speaker, a series of events. We sat down as a Cabinet and as a government and contemplated what action we should take and it was the view of government at that time that we should try every possible available means to sit down and have this matter resolved without the necessity of introducing any legislation at this time. And so we called upon the labour movement generally and the Federation of Labour, to assist government in trying to break the deadlock that had arisen. We made it clear right from the start that the Government of Newfoundland and Labrador took the position that essential services in the health care system had to be reinstated and only after that time could negotiations proceed. Underlining that the Federation of Labour and its new president proceeded to try to assist. And I feel that I must go on record as saying that we are very appreciative of the work that that gentleman did on our behalf and on behalf of the people of Newfoundland and Labrador. He was very co-operative and he tried hard to break the deadlock. The President of the Federation of Labour was aware that our underlying principle and tenet was that, from our point of view, essential services cannot be used as a tool in negotiations, that we cannot as a government have the essential part of health care used as a tool in order to bargain for a new contract, that that was an unacceptable principle from our point of view. And so we began, after essential

PREMIER PECKFORD: so we began after essential services were reinstated through the auspices of the government, the union itself and the mediation or whatever you want to call it, intervention, help with assistance of the President of the Federation of Labour and negotiations got going again.

Unfortunately the union has seen fit, for its own reasons, which I guess have been articulated - some that were articulated to me today as I came into the building - to remove those essential services again.

We felt, in conversations over the last two or three days in Cabinet meetings that were held, from letters that we have received from the hospitals, the administration and so on - and we can only trust the advice that we get from the doctors, the medical personnel and the administration of the hospital - that this withdrawal again of essential services makes the situation worse than it was at the first removal. Obviously, things as they move along in time get worse and a lot of work which is essential gets backed up.

So after searching around for other alternatives it was thought that - and given that other hospitals also now that are in a regional kind of situation and where specialty work is done are also

PREMIER PECKFORD: reaching critical paths as it relates to providing health care service. The whole thing is starting to unravel in a very unfortunate way - that it was necessary for the government to act decisively. And so we are here today in special session to introduce a bill, and, Mr. Speaker, let nobody get it wrong, to introduce a bill to provide for essential health services. We, as I said at the outset, believe in the right to strike but we also believe that right carries with it a responsibility, especially as it relates to the health care system of any society. And that responsibility must be that essential services in that health care system cannot be used as a tool in the bargaining process. Other tools must be used but not that one.

And the whole principle underlying this bill today is that, that the essential services of a health care institution when determined by government after advice from the administration of that facility must have the right to legislate a certain level of essential care if in fact that essential care has been withdrawn. And that is the only principle that is there, Mr. Speaker, that is the only principle that is there. It does not violate the right to strike but it says that in particular health care situations there must be a provision to safeguard the health care system when a strike is in progress.

It is my hope, Mr. Speaker, that this bill is passed this afternoon through all of its stages so that we can, before the weekend comes upon us, have that essential level of service put there. I suppose I, of anybody else in this House, would have as good a reputation - there may be a few others who have as good a reputation as I have - for being scrappy and being at times a little bit aggressive to the point of being embarrassing or whatever, I would hope, however, that this afternoon, given the topic that we have before us and the importance of this bill, that we can stick

PREMIER PECKFORD: with the principle that is in the bill and that I have just outlined and that we can keep the level of debate on a high plane and deal with the principle of the bill and see that we can have that level of service provided in our health care system.

PREMIER PECKFORD: it is regrettable that this was necessary. We believe that we have taken all the necessary steps to ensure that this would not happen. There comes a time when a government has an overriding responsibility for public good and that that responsibility must be met head on and decisively.

I thank the Opposition for their co-operation on this matter and I once again want to go on record as thanking the Federation of Labour and especially its President for the way in which he has handled himself through these very trying times. I would also like to thank the President of the Executive Council and House Leader (W. Marshall) during the last week and the last few days, and the Minister of Labour and Manpower (J. Dinn) and the Minister of Health (W. House) and the President of Treasury Board (Dr. Collins) for the ongoing work they have had to do on behalf of government and on behalf of the people of this Province.

It is, as I say, Mr. Speaker, with regret that the government introduces this bill. We are committed totally to the right to strike. We are committed to safeguarding a certain level of essential service within the health care system of this Province and we believe as a matter of principle, and are willing to stand on this principle, that the essential service sector of the health care system cannot be used as a tool for bargaining. We must use all other tools, all other tools, but not this one. It cannot and was never designed, intended to be used the way it is now. We must safeguard our population. We must safeguard our health care institutions and we intend to proceed with this piece of legislation today.

Thank you, Mr. Speaker.

SOME HON. MEMBERS:

Hear, hear!

MR. STIRLING:

Mr. Speaker.

MR. SPEAKER (Simms):

The hon. the Leader of the Opposition.

SOME HON. MEMBERS:

Hear, hear!

MR. STIRLING:

Thank you, Mr. Speaker.

Let me first of all assure the House that we do agree to having this bill passed through all the steps today.

SOME HON. MEMBERS:

Hear, hear!

MR. STIRLING:

Let me state here and for the record that it is the opinion of myself and my colleagues that there is an emergency situation in Newfoundland and Labrador today in the system that provides medical services to our citizens. We agree to that and we have been saying so publicly for weeks. As to the course of action to deal with that situation, I have asked the hon. the Premier on a number of occasions to get both sides of this dispute into his office and keep them there until this was resolved.

Because, Mr. Speaker, I believe, I sincerely believe that this resolution could have been resolved if the Premier had used his office,

MR. STIRLING: the strength of his office and his great popularity, his great personal energy and all of the drive that he is known to have, that I have no doubt that the Premier could have settled this strike if he had brought together the Treasury Board and the members of the union. I believe that sincerely, Mr. Speaker, and I think that the Premier in not doing that has for some reason decided that this issue is not worthy of his personal involvement. He has, at this stage, not sat down with the union. For all his great reputation that he talked about earlier, and his personal commitment to the right to strike, he has not at this stage thought it was important enough to call them together into his and office and make a personal appeal. And we have seen how effective he can be with a personal appeal. I would suggest, Mr. Speaker, that the Premier was derelict in his duty in not personally intervening in this strike, bringing the parties together and having one serious attempt at settling it.

Because, Mr. Speaker, the Premier could have settled this strike. Let us just try to put it in its proper perspective. This group of employees by free choice have decided to come together and they have selected a bargaining unit. That bargaining unit sat down to bargain and they could not come to an agreement with the Treasury Board. So it was referred to a conciliation board, Mr. Speaker. When it was referred to the conciliation board - a conciliation is set up for the purpose of bringing independent views, independent minds, and we had a first-class conciliation board, Mr. Speaker, - the conciliation board looked at the position of the government, the position of the Treasury Board, the position of the union, the ability of the Province to pay, and the conciliation

MR. STIRLING: board made a recommendation.
The conciliation board made a recommendation which was presented to the government and presented to the union.

The union, Mr. Speaker, although it did not give them everything they wanted, the union recognized that the conciliation board report was the only way to settle this disagreement and they accepted the conciliation board's report.

What did the government do?
The government did something, Mr. Speaker, that they have not admitted to today. They decided, for whatever reason, that they would not accept the conciliation board report, and, instead, they would attempt to split the union into two units - something that they had not bargained to do, something they had not sat down and discussed - they decided to split it into two units and they made an offer which they would have thought would have been accepted by 70 per cent of the unit. And the union, Mr. Speaker, continued to press for the conciliation board position. There was an exchange of opinion, there was some, maybe, hasty action taken, a decision was made and transmitted back and forth and a mediation was set up.

MR. STIRLING:

Mr. Speaker, the government set out a position, "If you restore emergency services we will sit down and negotiate." And the union did. Let there be no doubt in anyone's mind, Mr. Speaker, the union lived up to their portion of that bargain. They restored essential emergency services.

Mr. Speaker, they then received a letter, a directive, that declared, in the opinion of the hospital, thirty-eight employees that in their opinion created the essential services.

Mr. Speaker, those of us who are not intimately involved in this whole issue on a day to day basis may not realize what this whole business of essential services is all about. And the Premier is quite right, this bill does not solve the problem. This bill does not send the people back to work. This bill does not deal with compulsory arbitration. This bill, in the height of a strike that went on for six weeks, this bill defines essential services, something that under the Collective Bargaining Act is supposed to be defined by the Labour Relations Board, an independent board, and they have not been able to do it successfully, Mr. Speaker. So what this bill deals with - nobody in the Province should get any misunderstanding about what this bill deals with - this bill, in the middle of a strike after five weeks, attempts to define essential services. How is it that the government can now come up with a definition of essential services? How come in the middle of a strike they can now define what the Labour Relations Board and the courts have been unable to do, define essential services, Mr. Speaker? Very simple, because you know what this government says is a definition of essential services? The definition of essential services under this bill, is whatever the government decides is essential services. That is what essential service is defined as. The government

MR. STIRLING: will decide what are essential services.

So, Mr. Speaker, the Lieutenant-Governor in Council, the Cabinet, the people who are charged with that responsibility, the responsibility for health care in this Province, have decided to take on themselves the definition of essential services. So, Mr. Speaker, in the press release that was put out by the President of the Council (Mr. Marshall), he has said that for the present time they are only going to define essential services as thirty-eight people in the Health Sciences Complex. That is their definition of essential services. And the threat over the union in the rest of the Province that, "If you do not agree with this, and if you do not capitulate and go back to work, we will

MR. STIRLING:

'define up to fifty per cent of your membership as essential services.' Now, Mr. Speaker, it is a farce for the Premier of this Province to try to pretend that he is continuing to give to the people of this Province the right to strike when in actual fact he is going to take away the right to strike of up to fifty per cent of the bargaining unit and then only decided in the middle of a strike.

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: That is not acceptable, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: Mr. Speaker, let us just go back a day or two, when it reached the point where the mediation committee could not get an agreement and the government decided that there indeed was a problem in this Province and there was a state of emergency, something which all of us have recognized all with the exception, Mr. Speaker, of the Minister of Health (Mr. House). The Minister of Health still has the gall to go on television and say, 'Oh, we have an excellent quality of service in our hospitals in this Province at this stage.'

SOME HON. MEMBERS: Oh. oh!

MR. NEARY: Shame! Shame!

MR. STIRLING: Mr. Speaker, I have spoken to administrations in hospitals, medical doctors in hospitals, workers in hospitals and, maybe more important, patients and the families of patients and, Mr. Speaker, this whole health system has been in a state of crisis and we have been operating with doctors working back in the dark ages for the last six to eight weeks in this Province. Mr. Speaker, the health problems started when this Minister of Health (Mr. House) put out to the boards, all the hospital boards a situation in which they said you have to cut any increase by four per cent and manage somehow on a reduced budget. That is when it started. It started with the

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MR. STIRLING: . . . problems with the nurses and
it continues now. And, Mr. Speaker, there is no question
there is a state of emergency. So what were the choices?
The Premier wants to be able to say that 'I did not use
back to work legislation. I did not force it. It is not
fair, not fair. I am the greatest fellow in the world.
I never did it. It is not fair, not fair. I never ever
did it.'

MR. NEARY: . . . No wonder he did not want a

Charter of Rights.

SOME HON. MEMBERS: . . . Hear, hear!

MR. STIRLING: I fully expected that the Government of this Province, Mr. Speaker, would have used the Collective Bargaining Act. There is already provision in the Collective Bargaining Act that recognizes there are times when a Cabinet cannot manage; a Cabinet that we now have that cannot manage, they cannot negotiate, they cannot bargain, they cannot treat people in good faith and the system breaks down, Mr. Speaker, when they cannot accept a negotiating board's point of view, the conciliation board. So the system breaks down, and the act provides for it, Mr. Speaker. But the Premier does not want to face up to it so therefore he brings in a separate piece of legislation to define essential services.

What will this piece of legislation do? It will not, Mr. Speaker, resolve this strike. All it is going to do is prolong the suffering, prolong the travail. It is going to say to the Health Sciences Complex, 'You can have thirty-seven of your people to operate out of one hundred and sixty.' What about all the other hospitals in this Province, Mr. Speaker? What about the person who now has cancer and knows he or she has cancer and cannot get treatment? We had a situation reported only this morning from Bellevue, where somebody has been sent to Halifax because he cannot get an X-ray. We have another case of a person with a temporary cast on because they think that the arm may be broken. And whenever the strike is over, Mr. Speaker, that person can then get X-rays.

So, Mr. Speaker, what was the alternative? If the Premier could not bring himself to bring both sides together in his office - the same pattern that he established with the fishermen and the

MR. STIRLING: fishery. Last year it went on for the whole Summer, Mr. Speaker, and the Premier would not bring both sides together and negotiate it. Is he so concerned that he may have a failure that he cannot possibly take a chance, cannot live up to his responsibilities of bringing people together and attempting a solution? That was the solution. But if he would recognize that the Cabinet failed, that the government failed, that there was now a state of emergency, that, Mr. Speaker, what everybody in this Province wants - maybe with the exception of a few people, but I doubt that - certainly everybody whom I have spoken to in the union, everybody who is a patient, wants this strike to be over. And when you reach a point where you call a House of Assembly back into emergency session - there was not a great enough emergency in Grand Bank, Mr. Speaker, to call this House of Assembly back together.

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: There was not. There was not enough of an emergency in Baie Verte to call this House back together. There was not enough of an emergency in Stephenville to call this House back together. There was not enough of an emergency in the fishing industry to call this House back together. So, Mr. Speaker, what action should have been taken by this government when they brought people

MR. STIRLING: back together? Well, Mr. Speaker, they already have it in the act. And for the purposes of those who may not be familiar with it, we are talking about an act, October 20, 1973, "An Act To Govern Collective Bargaining Respecting Certain Employees in the Public Service in the Province". Section 27 of the act is what we should be here debating today, Mr. Speaker, except the Premier wants to have, as usual, his cake and eat it too. He thinks he can convince the labour movement that what he has done here is not a restrictive piece of legislation. He wants to convince the labour movement that he was not against strikes. So, Mr. Speaker, if they really wanted to do something to put people back to work, they would have used Section 27 of the act which says, "Where the Assembly resolves that a strike of employees is or would be injurious to the health or safety" - it goes on and on - "it may declare that from and after that date stated in the resolution a state of emergency exists."

In other words, Mr. Speaker, you do not need new legislation. The existing legislation under Section 27 of the act says, when the government recognizes that they can no longer govern, they can no longer negotiate they can no longer manage, they have to throw up their hands and come back to the House of Assembly and say, "Please, House of Assembly, would you take over because we have failed" and they realize that.

Section 27 of the act calls upon the House of Assembly to declare a state of emergency. Mr. Speaker, who is covered by that? One of the sections defines an employee as being "an employee employed by a corporation or a hospital," so it refers to hospital.

MR. STIRLING: Mr. Speaker, in Section 29 of that same act, it requires that the strike be terminated immediately and that the matters be referred to adjudication.

Now, Mr. Speaker, what is in the new act that is not in the existing legislation that NAPE has suggested, on public airwaves, should have been done? What is it? What is in it? Why is it that the government chooses to bring in a new piece of legislation this afternoon instead of the existing legislation? Because, Mr. Speaker, the old legislation was brought in, was thought out in the cool coolness that does not exist in the present situation in a strike. And it provides, Mr. Speaker, a referral to compulsory arbitration. There is no arbitration provided for in this new bill this afternoon, no bill, no arbitration, no place for the employees to take their case. What it says in this new bill is, "We, the Cabinet, will decide what are essential services." Is it going to be done by a group of medical people, a group of hospital administrative people? No, on the recommendation of the hospital board, the Cabinet will decide who are the essential people.

MR. STIRLING:

But what about the protection of the employees, Mr. Speaker? What about the employees who have a right, what about them? Under the existing bill, Mr. Speaker, it would get referred to binding arbitration; they would be forced to accept it, the government would be forced to accept it. So why is that not acceptable to the government? And I would hope that the Premier will explain that to us when he closes the debate, except for the camouflage, except for the phoniness of saying, 'I am not against strikes, I am not taking away any of your rights, I am not suggesting that you cannot strike. What he is saying is 'you can strike just as long as you never strike and if you ever use the strike, I am going to take it away from you with a specific piece of legislation and give you no arbitration, give you no right, give you nowhere to go.'

SOME HON. MEMBERS: Hear, hear.

MR. STIRLING: Mr. Speaker -

MR. WARREN: Call an election on it.

MR. STIRLING: - there is no question that the Premier has sensed that out there in the general population there is only one concern and that is get the people back to work. Mr. Speaker, we do not think this legislation goes far enough, it meddles in the collective process, it meddles with the rights of the employees, it meddles with the hospital boards, it meddles with people all over this Province and you might as well accept the fact. And what we are saying is that the government is trying to be half pregnant in this kind of a situation. They do not quite want to say to the unions, 'Yes, unions, I am sorry this is broken off, it is all over, you have to go back to work, we will refer it to binding arbitration and you will have to take a settlement'. They do not want to go that far. They want to take a phony position that says, We are not going to take away any of your rights, What we are saying is that you are going to be forced to allow us to decide who are essential services.' And they are going to

MR. STIRLING: provide for firing of the employees if they do not go to work. Tomorrow morning they come out with a list which they decide is the essential services and say, 'These people must go to work'. But, Mr. Speaker, it would be very easy for us in this House today to stand up and say, 'Look, we are going to vote for this piece of legislation' because the public out there does not care as long as this is resolved, as long as people go back to work. But, Mr. Speaker, we would be guilty, guilty of the same kind of

MR. L. STIRLING:

phoniness, because if you admit that this problem must be solved by this House of Assembly, the legislation is already there to do it. And that is to have the determination and the honesty to say to the union, 'Look, boys, we are not going to settle this. We are not going to settle this at all. So we are going to force you back to work. Binding arbitration.' Because the health care of this Province has reached a state, Mr. Speaker, where it is in a state of emergency. We do have an emergency in this Province and this legislation does not go far enough because all it does is continue the anguish, continue the torture, continue the need for somebody from the West Coast who needs hospital services to have to go to another Province, or somebody with cancer on their insides to continue to wonder because it is not an essential service, it is not an emergency service, it does not bring a situation where somebody has to have that dealt with.

So, Mr. Speaker, this legislation that we are dealing with should be dealt with under the Collective Bargaining Act. This government should be saying - and this is what we are saying on this side of the House - that today in this emergency session, in which we have waived all the rights that we have, we are saying that the section of the Act that should be used is this section twenty-seven of the Act which declares a state of emergency in our hospitals and all employees should be legislated back to work. But their protection is binding arbitration, Mr. Speaker, something that is missing in this phony bill, this bill which attempts to do in the middle of the legislation nothing more than define essential services.

MR. L. STIRLING: So, Mr. Speaker, let us just review what we have at stake here. First of all, we have a situation dealing with the whole labour relations movement, the same kind of twisted thinking, Mr. Speaker, that could give the general service bargaining rights - bargaining unit, the general service bargaining unit, an 8 per cent increase and then a Cabinet that could sit down and vote themselves a 16 per cent increase retroactive to the first of January -

MR. S. NEARY: They did not wait for public opinion to do it either.

MR. L. STIRLING: - done in secret after the House closed, this same kind of twisted thinking, Mr. Speaker, feels that they do not have to establish a good labour relations situation in this Province;

MR. STIRLING:

the Labour Minister, who has lost the confidence of everybody in both labour and management in this Province, and a Cabinet that does not bargain in good faith, that forces people to go on a hunger strike - like the last time that the College of Trades workers were out - this government enters into negotiations and does not bargain - and the people of this Province should know that they have not bargained in good faith - and a Premier who will not lower himself to sit down and use his office to help bring about a resolution.

Mr. Speaker, the Premier should have been able to stand in this House and say, "I tried. I tried for days, and days, and days and I could not do it, therefore, I come back to the House." But he has not tried.

So the first case, Mr. Speaker, is that in the whole labour relations area we have not had a situation exactly like this before, and, so, it is their lack of confidence.

Secondly, in dealing with the employees in this particular unit, this legislation is getting at only that group of employees in that unit. And then they are going to take a specific hospital, is what they have said they are going to do, a specific hospital, and designate thirty-eight. Now, Mr. Speaker, I believe that if we are going to have any kind of a reasonable relationship with people in the public service that we have to establish a means where they can realize that they are going to be bargained with in good faith; the teachers, the public servants, all of them.

And, Mr. Speaker, one of the things that this government has not yet realized is that for a deal to be a good deal, it has to be good for both sides. So they can cripple the union in this situation,

MR. STIRLING: . . . they can make it embarrassing, they can make it hard, but their day of reckoning will come the next time around in negotiations. So these employees have to feel they are treated fairly.

There is already legislation in effect. We should be using the resolution under the existing legislation. Just let me summarize what that would do: It would force everyone back to work. As against this situation under this bill, it does not force anybody back to work except the thirty-eight employees in the Health Sciences Complex; and then they will decide, hospital by hospital, what they want to do.

Mr. Speaker, there is a very simple way to resolve this whole situation. If the Premier is serious about it,

MR. STIRLING: if he will suspend his discussion on this piece of legislation and go back to the existing act, the Collective Bargaining Act that the employees are familiar with, they sat down to bargain under, they understood what they were getting into, they can go back to that piece of legislation and force all of the employees back to work in all of the hospitals, Mr. Speaker.

MR. WARREN: Hear, hear!

MR. STIRLING: Because we cannot carry on this system without all of the employees, in all of the hospitals, going back to work.

If the Premier would withdraw this piece of legislation, and bring in the proper resolution under the existing piece of legislation, he would have the support of this side of the House. But, Mr. Speaker, we cannot be party to a cowardly, dastardly act that is attempting to confuse the public of Newfoundland.

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: Because, Mr. Speaker, this will not settle the strike. This is a half way measure. This is only going to bring back thirty or forty people that the Labour Relations Board cannot define. And this is done with no other purpose other than to grab public attention -

MR. NEARY: Great.

MR. WARREN: Yes.

MR. STIRLING: The great, great Cabinet -

MR. WARREN: Ayatollah.

MR. NEARY: Union buster.

MR. STIRLING: - the great government of the Province, wants to be known as saying on one hand, "We solved the strike, boy. We legislated them back." Of course anyone now who is dying of cancer, anyone who has a cancer problem, they are not going to be able to get treatment. Anyone with a broken arm, they are not going to be able to get treatment.

MR. STIRLING: Anyone needing regular blood tests, they are not going to be able to get treatment. A person who is pregnant, getting regular tests cannot - that is not an emergency. That is not essential services. All of the people who need regular X rays and treatment of that nature, that is not essential, Mr. Speaker. A child came from the Premier's own district, a child had had an accident, came from Green Bay by ambulance into the Janeway Hospital and was sent back saying, "No, we cannot take X rays." That will not change, Mr. Speaker. This legislation will not change that. It is not going to do a thing except make it appear as though they are doing something, not doing something real.

And the other thing, Mr. Speaker, the other purpose in doing it is the same purpose that they had when they split the union into two, and those that had more were offered more, and those that were getting paid less were offered less. They attempted to force a union to accept that kind of treatment. And it is to the credit of the union, and their membership, Mr. Speaker, that they would not accept that kind of blackmail. And

MR. STIRLING: now we have a different type, Mr. Speaker, and on this side of the House we cannot vote for that legislation, Mr. Speaker.

MR. NEARY: Hear, hear!

MR. STIRLING: We cannot vote for that piece of legislation in its present form. If they brought in a piece of legislation that said; one, end the strike today; two, force everybody back to work; three, submit the whole thing to binding arbitration, we would vote for it on this side of the House. But that is not what they did, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: Now, Mr. Speaker, I realize -

MR. NEARY: They are too cowardly.

MR. TULK: Cowardly.

MR. STIRLING: - that we are taking a risk on this side of the House. The simple thing to do, Mr. Speaker, to take the public opinion that is out there saying, 'Do something to get them back,' the simple thing would be for us to come in and in five minutes pass the piece of legislation because it is the government's responsibility, not ours. We are not in government. If we were in government, Mr. Speaker, this situation would not arise today -

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: - because we would have bargained in good faith.

SOME HON. MEMBERS: Hear, hear!

MR. STIRLING: Mr. Speaker, we would have set out a

set of principles -

SOME HON. MEMBERS: Oh, oh!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Simms): Order, please!

MR. STIRLING: We would have set out a set of principles -

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER (Simms):

Order, please!

The hon. Leader of the Opposition.

SOME HON. MEMBERS:

Oh, oh!

MR. SPEAKER:

Order, please! I must also bring to the attention of visitors in the gallery that while the members of the Legislature are very pleased and happy to receive visitors in the Legislature, I have to point out that visitors are not permitted to participate in the proceedings of the House in any way, shape or form by showing either approval or disapproval. And I must bring that to the attention of the visitors in the gallery on behalf of hon. members.

The hon. Leader of the Opposition.

MR. STIRLING:

Mr. Speaker, I do not know how they have the patience to sit quietly in this House of Assembly. I do not know how they have the patience to sit quietly throughout this Province when the whole economy is going down the drain. The fishery is in a state of collapse. We have a situation in which there is no new construction started, where 250 out of 1200 carpenters are the only ones working. And now, Mr. Speaker, these people, these people who have bargained in good faith, who believe what the Premier said five minutes ago, how their stomachs must have churned to have to sit quietly and listen to a man stand up and say, 'Boy, I have the best reputation in this House for concern about

MR. STIRLING:

employees, when they had to go on a hunger strike -

MR. TULK:

They have one concern, being smart.

MR. STIRLING:

- when they had to go through such a situation, Mr. Speaker. The people who are working in health care they could be working anywhere else but they care about patients, Mr. Speaker. They are people who are doing work that you and I would not do. They are doing work that is in some cases not very pleasant work to be doing, but they care about people. They have brought the state of medicine, Mr. Speaker, because of their skills and their abilities and their technique and their dedication, they have brought us a state of medical care in this Province second to none, and yet this government introduces a new restrictive piece of legislation dealing specifically only with those people. And, Mr. Speaker, let me repeat, one of the problems dealing with the existing piece of legislation they have brought in is that it does not go far enough. It does not solve a problem, it creates a problem. It makes people's blood boil. They get upset, they get tormented, they get frustrated because they are in the middle of negotiations and their employer is changing the rules, changing the rules in mid-stream, something that nobody on that side would tolerate if he were a member of the union. And, Mr. Speaker, they are in that kind of a situation. This bill does not go far enough. You have to legislate them all back to work and submit it to binding arbitration. That way you do not pick and choose people on a picket line and say, 'You are going in today,' 'You are not going in,' 'You will get paid,' 'You will not get paid.'

MR. NEARY:

The best way to do it, of course, is let the bargaining process follow its natural course.

MR. STIRLING: Mr. Speaker, what we have here is the collapse of the bargaining process.

MR. NEARY: That is right.

MR. WARREN: And the collapse of this government.

MR. STIRLING: Collapse of the bargaining process, Mr. Speaker, when you have to come to the House of Assembly and declare a state of emergency as they have done. If we were in government there is no question we would have bargained in good faith.

MR. WARREN: Hear, hear!

MR. STIRLING: People would have known what to expect. They would have known what the guidelines were. We would have had meetings with them. Mr. Speaker, I am not too proud to sit down with a group of employees and force a settlement, which the Premier could have done if he wanted to do it. So he did not do it. The conciliation board came in and brought in a report which the government

MR. STIRLING: did not accept. The union accepted.

MR. NEARY: Which they appointed, by the way. They appointed a conciliation -

MR. STIRLING: Now, Mr. Speaker, on this side of the House, we truly support the free bargaining and the collective bargaining process. But if it fails, as it has now done - it has failed; you have gone through the whole process and it has failed - then you have to use the Collective Bargaining Act which gives this House of Assembly the authority to do what? To force everybody back to work, Mr. Speaker. That is what we want on this side of the House. We want the health care restored completely tomorrow, restored completely. Every person gets treated the same all over this Province. Mr. Speaker, it is not enough to concentrate on the problems of one hospital in St. John's. What about the hospitals in Labrador and the hospitals on the West Coast and in Central Newfoundland and all over this Province? What about those problems?

MR. WARREN: And the Janeway Hospital.

MR. STIRLING: And, Mr. Speaker, the people will not be fooled by this non-effort that we are going to go through here, this non-effort in which they are only trying to decide, in the middle of a debate, in the middle of a crisis in the middle of a strike, what are essential services. Mr. Speaker, they and only they decide it. So you had a choice. And we sat for three hours and discussed and debated this, Mr. Speaker, and we would like to be able to support the legislation. But, Mr. Speaker, we did not think that we would ever look at a patient again from the West Coast, or from Come By Chance, or anywhere else tomorrow if people were given the false impression that this was curing a strike when in actual fact it is only going to prolong it and antagonize it. So we, Mr. Speaker - in summary I want to say that if the Premier

MR. STIRLING: had brought in a resolution under the Collective Bargaining Act, which admits the breakdown in the process, forces everyone back to work, everyone in the hospital system back to work and then refer the whole question to compulsory arbitration, the strike would have been over, Mr. Speaker, We could have the strike over today, It would be finished today, this minute -

SOME HON. MEMBERS: Oh, oh.

MR. STIRLING: - as we finish up here. That was it, we could have finished the strike today -

MR. TULK: Do it now.

MR. PATTERSON: You are noted for doing that.

MR. WARREN: Listen to the anti-confederate.

MR. SPEAKER (SIMMS): Order, please!

MR. STIRLING: But, Mr. Speaker -

SOME HON. MEMBERS: Oh, oh.

MR. SPEAKER: Order, please!

MR. STIRLING: - this new piece of legislation does not do that, it does not end the strike. All it does is define essential services and embarrasses the union and makes it tougher and makes it harder and people will continue to suffer. Tomorrow morning, Mr. Speaker, the people who have been suffering and dying for the last five weeks will continue to be in that position because this government is going to pass this piece of legislation today. They are not going to accept our recommendation of using the Collective Bargaining Act. It should not have been required in the first place, if they had bargained in good faith. If the Premier had called people together they could have solved the strike.

MR. STIRLING: They are offering the same amount of money. There is not that much to settle the strike. So, Mr. Speaker, in summary then I must, with regret, say to the Premier, and to this House of Assembly, that when they brought that emergency piece of legislation in, if they had said to all of the people all over this Province, We are ending the strike because we could not find an agreement, we tried every way - if the Premier had met with them he could have resolved it. But he could not meet with them, he would not meet with them - if he had done that he could have resolved it.

But if he had to come here and confess to this House, I cannot resolve it, will you take it off my hands, members of the House of Assembly, we would have said, Yes, Mr. Speaker, we will take the problem, we will end the strike today, we will send this to compulsory arbitration so that we are being fair to the employees.

Well, Mr. Speaker, nobody has looked at it from the employees' point of view. What have they done that they did not legally have the right to do, that this House gave them the right to do? Nothing, Mr. Speaker. They did everything legally, under the act. They did not have to provide a single emergency person under the act. They did not have to, but they did. They have provided emergency services. They continue to provide emergency services. They went to conciliation, they accepted the conciliation board report. They went to mediation. They asked for meetings with the Premier. Now, Mr. Speaker, what they do not want to have, and what publicly I have heard NAPE say, is, Do not give us this guillotine kind of situation where nobody wins. If you must deal with us in legislation - they said, we believe in the collective bargaining process, but if it fails and you must have legislation, then let us take that

MR. STIRLING: · legislation that already exists. You do not need a new piece of legislation, you do not need to break new ground. They had said, Do not force twenty or thirty people, because we cannot make that kind of designation.

 It has been impossible to define essential services. The Labour Relations Board cannot do it. So what they have said publicly is that if the government really means to do this, let us use the act as it exists, let us force everybody back, and let us put it to binding arbitration, all provided in that act. Therefore, Mr. Speaker, that is what should have been done. And if you would like to withdraw the bill now and present another bill, we will support it. But at this stage, Mr. Speaker, in that kind of state, we cannot be a party to the cowardice and to the deception. Because the people of this Province, Mr. Speaker, should not be treated in that manner. The people who are the bottom line, the health care, the people who are sick, the people who are disabled, the people who need help, those are the people whom we are concerned about.

 Mr. Speaker, in fairness to those people, the people

MR. STIRLING: in the hospitals, the sick, the employees, this whole Province, labour relations, we cannot vote for this piece of legislation, but we will vote for an amendment, or we will vote for a resolution that puts everybody back to work, resolve the strike, resolve the dispute, and send it to binding arbitration, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Simms): If the hon. the Premier speaks now he will close the debate.

The hon. the Premier.

PREMIER PECKFORD: Mr. Speaker, it is too bad that the Leader of the Opposition (Mr. Stirling) does not understand the labour legislation of this Province.

SOME HON. MEMBERS: Hear, hear!

PREMIER PECKFORD: Number one, let everyone be aware, Mr. Speaker, if they have somehow forgotten, that it was the Liberal Party of Newfoundland that refused to give the workers of this Province the right to strike.

SOME HON. MEMBERS: Hear, hear!

PREMIER PECKFORD: And, as a matter of fact, in a couple of cases they took it away. It was in 1973 that this legislation was brought in. So here we have individuals on the other side of the House, the member for the Straits (Mr. Roberts), the member for LaPoile (Mr. Neary), some of the people from the old regime who are still hangers on, who are now trying to pretend that suddenly they are great white knights of the labour movement.

SOME HON. MEMBERS: Oh, oh!

PREMIER PECKFORD: Hey! Hey! Hey! Ho! Ho! Ho!

Mr. Speaker, who are they trying to fool? It was the PC Party of Newfoundland that brought in this legislation to provide the right to strike in the beginning. And we are not going to allow the Liberal Party to take it away from the workers either. Never!

SOME HON. MEMBERS: Hear, hear!

PREMIER PECKFORD: Never, Mr. Speaker! Over our dead bodies! Never! The member for LaPoile (Mr. Neary), the Leader of the Opposition (Mr. Stirling) -

SOME HON. MEMBERS: Oh, oh.

MR. SPEAKER (Simms): Order, please!

PREMIER PECKFORD: - the member for Port au Port (Mr. Hodder), the member for Grand Bank (Mr. Thoms), the member for the Strait of Belle Isle (Mr. Roberts), they can fight to try to take the right to strike away, Mr. Speaker, but they will not succeed, we will stop them, Mr. Speaker -

SOME HON. MEMBERS: Oh, oh.

MR. SPEAKER: Order, please!

PREMIER PECKFORD: - we will stop them from taking away the right to strike from the workers of this Province. Never will we allow it to happen. And I am astounded that the Liberal Party would take that kind of tack.

SOME HON. MEMBERS: Hear, hear.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear.

MR. SPEAKER: Order, please! Order, please!

The hon. the Premier.

PREMIER PECKFORD: Mr. Speaker, secondly let me say that the Leader of the Opposition does not understand the present labour legislation because he believes that section 27 can now be used when section 27 becomes applicable, when the normal collective bargaining process is in effect. And the normal collective bargaining process is not in

PREMIER PECKFORD:

effect in this Province right now because essential services have been withdrawn. So let the Leader of the Opposition get his facts straight. Let the Liberal Party of Newfoundland get their facts straight, that Section 27 of that legislation applies when the normal collective bargaining process is in place, and the normal collective bargaining process is not in place.

SOME HON. MEMBERS:

Oh, oh!

MR. SPEAKER (Simms):

Order, please! Order, please!

We will recess for five moments.

RECESS.

MR. SPEAKER:

Order, please! Order, please!

The hon. the Premier has twenty-six minutes remaining.

PREMIER PECKFORD:

Thank you, Mr. Speaker, very much.

I appreciate your intervention.

What I was trying to say,

Mr. Speaker, before the interruption or the altercation, or whatever you want to call it, was that apparently the Leader of the Opposition is under some kind of misapprehension about what the normal collective bargaining process is all about. And since 1973, until the last couple of weeks, the labour movement and government and everybody else involved have been co-operating to the fullest extent in maintaining essential services. It has become the established way to do business, if you will, that the right to strike is there for the hospital workers, for the lab and X ray people, but that there would never be a withdrawal of essential services. Now the normal collective bargaining process has broken down because withdrawal of essential services have been taken away. So Section 27, then, is not applicable to it. Section 27 and binding arbitration are part of

PREMIER PECKFORD: negotiation and you do not,
as I said, negotiate, Mr. Speaker, you do not negotiate -
and this is the principle that is guiding this piece of
legislation and why we are bringing it in today - you do
not negotiate while essential services are withdrawn.
You do not allow the withdrawal of essential services to
be a tool by which anybody can get a better deal or a
worse deal or whatever the case may be.

SOME HON. MEMBERS: Hear, hear!

PREMIER PECKFORD: That is the

PREMIER PECKFORD: principle that has to be established. When the essential services are put back into the system, then the normal collective bargaining process begins again. And whatever happens will happen, whether they are in the Premier's office or whether they are in the President of Treasury Board's office, or whether there is binding arbitration, then that option is available between both sides to negotiate out, whether they decide on binding arbitration, whether they decide upon the Premier's office in a last ditch effort or whether they decide on whatever, another mediation process or whatever. But that has to be done at the table through negotiations, and negotiations cannot proceed when one side has broken the contract, if you will, the understanding that is available, that everybody has gone along with since 1973, and that is that essential services would never be used as a tool in the collective bargaining process. Once essential services are put back into the hospitals, then the normal bargaining process is back into operation and then moves can be made by government, can be made by the labour movement, by the union or whatever. But we must establish, once and for all, that the withdrawal of essential services can never be used as a tool to get whatever it happens to be, the Premier involved, binding arbitration involved or whatever. That is after the normal negotiating process has started again. And after withdrawal of essential services that are not used as a tool, then section 27 is operative, or other mediation efforts are operative or whatever. But they are not operative as long as the withdrawal of essential services has been used as a lever in that process. That is wrong and I think most people realize that it is wrong.

PREMIER PECKFORD: Everybody has recognized that there are really two processes in; you can have no strikes and binding arbitration, or you can have strikes with essential services. We have chosen the second alternative. The labour movement supports that. They believe in the right to strike, we believe in the right to strike, the Liberal Party does not believe in the right to strike, and I am sorry and I regret that the Leader of the Opposition (Mr. Stirling), in speaking for his party, has taken that position.

A third point, Mr. Speaker, the Leader of the Opposition is under the mistaken notion that this only applies to the Health Sciences Complex, this legislation. This legislation can be made - it is enabling legislation, other facilities, other institutions can be designated to provide essential services. The Leader of the Opposition implied in his remarks that we were not concerned about Stephenville, we were not concerned about Bellevue district or Come by Chance, we were not concerned about the hospital in Grand Falls, we were not concerned about St. Anthony, we were not concerned about hospitals anywhere else, only the hospital here in St. John's. Well, that is wrong. That is totally wrong. The legislation allows for other facilities to have to provide essential services too. That is part of the legislation.

So, Mr. Speaker, the principle that the Leader of the Opposition would not address himself to, the principle that the Leader of the Opposition would not address himself to is: Does he believe that the withdrawal of essential services should be used as a tool in the collective bargaining process with the health care system? That is the question that the Leader of the Opposition has got to address himself to! That is the question -

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SOME HON. MEMBERS:

Oh, oh!

PREMIER PECKFORD:

- that all the members opposite

have to address themselves to.

Now, if the Leader of the Opposition (Mr. Stirling) and all the Opposition members

PREMIER PECKFORD: vote against this legislation, here is what they are saying, Mr. Speaker. Here is what they are saying - and let them know before they vote on the legislation - here is what they are saying, 'We believe that the withdrawal of essential services in the health care system should be allowed to be used as a tool in bargaining.'

MR. STIRLING: No.

PREMIER PECKFORD: That is what they are saying, Mr. Speaker. That is what they are saying.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER (Simms): Order, please! Order, please!

PREMIER PECKFORD: That is what the principle of this bill is all about. And we say, 'No.'

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

PREMIER PECKFORD: We say 'No.' And the labour movement since 1973 -

SOME HON. MEMBERS: Oh, oh!

PREMIER PECKFORD: Mr. Speaker, may I speak? I was quiet when the Leader of the Opposition was speaking and I demand the same courtesy, please.

MR. SPEAKER: Order, please!

Hon. members have the right to be heard in silence. Every member understands that, I am sure.

The hon. the Premier.

PREMIER PECKFORD: We believe in the principle, and the labour movement from 1973 until a number of weeks ago - I might say quite a few of them in the labour movement today still believe it and would support this principle, believe with us that the withdrawal of essential services in the health care system should not be used as a tool in the negotiating process and collective bargaining.

MR. HISCOCK: (Inaudible) that is what you are trying to do.

MR. SPEAKER (Simms): Order, please!

PREMIER PECKFORD: That is what has happened since 1973, Mr. Speaker. That is what has happened. The labour movement has, right on through the bit and piece, supported that principle, that essential services would never be used as a tool in collective bargaining. And now the Leader of the Opposition and his colleagues, if they vote against this piece of legislation - make no mistake about it - are saying as a group, are saying as an Opposition party, they are saying as an alternative government over there - dream on, dream on - they are saying that when they become the government of this Province in the year 2065 - when they become the government of this Province, that they are going to indicate to the people of Newfoundland, as one of the planks in their platform, that as far as they are concerned, the withdrawal of essential services should be used by the union movement to negotiate contracts in the health care system. And we say, as a government, as a matter of policy, as a matter of principle, that that is sacrosanct, that withdrawal of essential services should not be used to collective bargain in the health care system. And it is on that principle that this bill is based, it is upon that principle that we are willing to support this bill.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: This bill, "An Act To Provide Essential Health Services To The People Of The Province" (Bill No. 111) is now read a second time and I understand by earlier agreement, that it will now be referred to a Committee of the Whole House, so it is therefore moved and seconded that I do now leave the Chair for the House to resolve itself into a Committee of the Whole. Those in favour, 'Aye'.

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SOME HON. MEMBERS:

'Aye'.

MR. SPEAKER:

Contrary, 'Nay.'

SOME HON. MEMBERS:

'Nay'.

MR. SPEAKER:

I declare the motion carried.

COMMITTEE OF THE WHOLE

MR. CHAIRMAN (Butt): Order, please!

A bill, "An Act To Provide Essential Health Services To The People Of The Province". (Bill No. 111).

On motion, clauses 1 through 13, carried.

Motion, that the Committee report having passed the bill without amendment, carried.

On motion, that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER: The hon. the member for Conception Bay South.

MR. CHAIRMAN: Mr. Speaker, the Committee of the Whole has considered the matters to it referred, and reports having passed bill 111 without amendment, and asks leave to sit again.

On motion, report received and adopted, bill ordered read a third time, presently, by leave, Committee ordered to sit again on tomorrow.

On motion, a bill, "An Act To Provide Essential Health Services To The People Of The Province", read a third time, ordered passed and its title be as on the Order Paper. (Bill No. 111).

SERGEANT-AT-ARMS: Mr. Speaker, His Honour, The Lieutenant-Governor, has arrived.

MR. SPEAKER: Admit His Honour, The Lieutenant-Governor.

Please rise!

May it please Your Honour, the General Assembly of the Province has at its present Session passed a certain bill, to which, in the name and

MR. SPEAKER(Simms): on behalf of the General
Assembly, I respectfully request Your Honour's Assent.

A bill, "An Act To Provide
Essential Health Services To The People Of The Province".
(Bill No. 111).

HON. W.A.PADDON(Lieutenant-Governor): In Her
Majesty's Name, I give assent to this bill.

MR. SPEAKER: The hon. the President of
the Council.

MR. MARSHALL: Mr. Speaker, I move that
the House at its rising do adjourn until tomorrow,
Thursday, November 12, 1981, at 3:00 p.m. and that this
House do now adjourn.

MR. NEARY: What about emergencies?

MR. ROBERTS: There are emergencies.

MR. MARSHALL: The only emergencies are
on the other side.

MR. SPEAKER: Order, please!

On motion, the House at
its rising adjourned until tomorrow, Thursday, November
12, 1981, at 3:00 p.m.