

January 31, 1989

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, it must be understood that the Legislature is not defining words as a Legislature for the purpose of determining what the definitions of those words will be in any other setting. Cases were referred to and the principles that were put in the report that relate to what constitutes an office were based on the findings of various courts. So, regardless of how we would attempt to define the word, should there be a legal proceeding of any kind, that term "office" would not be based...the definition would not be based on what we say but what traditionally and generally has been considered to be a definition of a public office as opposed to public employment. So all that the committee did was to review the cases that have dealt with the distinction between employment and office and since the stronger arguments are based on these principles that went into the report, we adopted those bases to distinguish an office from employment. Now, I am going to make a succinct comment. A distinction has been made by the courts between employment and office. We would be remiss if we attempted to enlarge upon what those courts have said and give a listing of what constitutes an office, what positions we feel are offices as opposed to those which may not be. There is court bases for ruling that a position such as Senator Conway holds with a state university or college is not a public office and that's as far as we went. And I would not attempt to make a listing of what constitutes offices as far as specific examples. We're trying to let the report speak for itself and I don't want to go outside of that and offer additional things that might seem to change it because I do agree with the distinction that has been made and articulated in the report.

PRESIDENT: Thank you. Senator Warner, there are no other lights, do you wish to have this as your closing? All right, fine, thank you.

SENATOR WARNER: Mr. President and members of the Legislature, to expand on the question of Senator Hannibal somewhat, there is contained in the report on page 15, at the top of the top paragraph on that particular sheet, some of the criteria that has been generally required to distinguish between an office and an employment. And that is outlined to give you a clearer definition as to why the committee accepted the position they did. One other thing I think though that you should also keep in mind on these, at least from my perspective of having read a great deal, is that most cases it is a specific position