

November 17, 1989

But I do feel that it is important that the Legislature attempt to maintain its prerogative to deal with these individuals. So I would urge, in closing I would urge you to approve the committee report.

PRESIDENT: Senator Schmit, your light came on before I called on...Would you like to speak about this?

SENATOR SCHMIT: Mr. President and members, I have a motion similar to the one which is proposed by Senator Withem. And the...I believe the statutes refers to action by the Legislature. I believe that what Senator Withem is proposing is action by the Legislature, that's what we are attempting to do also because of a problem not identical to his but similar to his, and I think it gives us some control over the situation, and I'll explain in more detail when I have my own motion up. But I support the Withem action.

PRESIDENT: Thank you. Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, because I made a representation as to a position articulated by the Clerk, I'm not trying to inject him into the middle of the discussion. I would like him to restate what he indicated the other day when the question arose as to whether or not these nominations, and if I'm not correctly...if I'm not phrasing the question, Mr. Clerk, so it's clear what I'm asking, then I'll restate it. But, if nominations are made by the Governor, is it true or is it not true that the Constitution would require the Legislature to either confirm or not confirm at the next meeting of the Legislature, whether it's a special session or a regular session? And you can answer that any way you want to so that it's a complete response to the issue, and you won't be restricted by the way the question is framed.

PRESIDENT: Yes, he was requesting of the Clerk.

CLERK: Senator, by that particular provision of the Constitution, as interpreted by the Attorney General in Opinions I shared with you, I'm not sure whether...The Opinion would seem to indicate that, if the Legislature took no action, the appointee would stand confirmed. I'm not sure it addresses the situation that is being proposed right now, which is where the Legislature takes an action, as Senator Schmit has talked about. But the affect of that action is to defer consideration. I