

March 27, 1991

SENATOR WESELY: Thank you. Madam President, members, I just...just would ask Senator Withem to...what is the status of the situation? I'm trying to recall. There was an AG opinion, or something on this particular appointment, or can you describe...

SENATOR WITHEM: Yeah, I could respond to that. Senator Crosby did ask a general question of the Attorney General stating, when the Legislature creates commissions, boards and other similar committees to be housed in the executive branch of state government is it a violation of the State Constitution for a member of the Legislature to serve on that commission or board? They answer, in a generalized sense, that there may be some constitutional questions. They state, we believe that members of the Legislature cannot serve on boards or commissions of the state government which exercise primarily an executive or administrative function. The School Restructuring Commission, in my opinion, is not primarily an executive or administrative function, it's to create generalized goals. It does not spend money, supervise personnel, establish rules and regulations. It is a law of the state that there will be two senators that serve on this. Until such time as the law is changed, we need to comply with the law. So the question is somewhat in limbo. I don't think there is a problem in this one, in my personal opinion.

SENATOR WESELY: Okay. So it's a particularly focused question raised, and that that focus is a different one than this particular appointment would seem to fall into. Is that your...

SENATOR WITHEM: In my opinion, the Attorney General indicated, you know, and I have problems with him answering a generalized question and then going on and saying, in essence, beings we cannot discuss existing legislation we can't comment on any specific commission that exists. So they're kind of leaving us in limbo. It's a problem that we, as the Legislature, are going to have to address. I would suggest that at this point we need to comply with the law, and the law says that there will be two senators that serve on this. I think they...in my opinion, they continue to serve until such time as that law is changed, or a more specific judicial type of determination comes down.

SENATOR WESELY: Is there another appointment that we've approved this session, or is pending this session that would