

SENATE

MR. PRESIDENT: The meeting will come to order. A prayer by the Chaplain, Father O'Neill.

FATHER O'NEILL: Our prayer today is a prayer of Francis, the poor little Saint of Assissi. Lord, make me an instrument of your peace; where there is hatred, let me so love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope, where there is darkness, light; where there is sadness, joy. O DIVINE MASTER, grant that I may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love. For it is in giving that we receive; in pardoning that we are pardoned. It is in dying that we are born to eternal life. May the blessing of Almighty God, the Father, the Son and the Holy Spirit descend upon us, and remain forever. Amen.

MR. PRESIDENT: The Secretary will call the roll.

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| MR. FLAHAVEN: | Anderson, E. J. | here |
| | Anderson, J. C. | here |
| | Anderson, J. T. | here |
| | Arnold | here |
| | Ashbach | here |
| | Benson | here |
| | Bergerud | here |
| | Blatz | here |
| | Borden | here |
| | Brown | here |
| | Chenoweth | here |
| | Chmielewski | here |
| | Coleman | here |
| | Conzemius | here |
| | Davies | here |
| | Dosland | here |
| | Doty | here |
| | Frederick | here |
| | Gage | here |
| | Gearty | here |
| | Glewwe | here |
| | Gustafson | here |
| | Hansen, Baldy | here |
| | Hansen, Mel | here |
| | Hanson, N. W. | here |
| | Holmquist | here |
| | Holsten | here |

| | |
|---------------|------|
| Hughes, J. M. | here |
| Hughes, Keith | here |
| Jensen, C. A. | here |
| Jensen, V. K. | here |
| Josefson | here |
| Jude | here |
| Kalina | here |
| Kirchner | here |
| Krieger | here |
| Larson | here |
| Laufenburger | here |
| Mammenga | here |
| McCarty | here |
| McCutcheon | here |
| Metcalf | here |
| Moe | here |
| Novak | here |
| Nyquist | here |
| Ogdahl | here |
| Olson, A. G. | here |
| Olson, H. D. | here |
| Olson, J. L. | here |
| O'Neill | here |
| Overgaard | here |

MR. PALMER:

MR. FLAHAVEN:

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| Palmer is present. | |
| Parish | here |
| Perpich, A. J. | here |
| Perpich, George | here |
| Pillsbury | here |
| Popham | here |
| Purfeerst | here |
| Renneke | here |
| Schrom | here |
| Sinclair | here |
| Tennessee | here |
| Thorup | here |
| Ukkelberg | here |
| Wegener | here |
| Willet | here |
| Wolfe | here |

MR. FLAHAVEN: Quorum is present.

MR. HOLMQUIST: Mr. President.

MR. PRESIDENT: Senator Holmquist.

MR. HOLMQUIST: I just wish the president and the person calling the roll to note that there were 67 senators present.

MR. COLEMAN: Mr. President.

MR. PRESIDENT: The Chair recognizes Senator Coleman.

MR. COLEMAN: Mr. President, I wish to yield the floor at this

time to the distinguished senator from Goodhue, Mr. Conzemius.

MR. CONZEMIUS: Mr. President, members of the Senate, during the past three days we have sat and listened to much discussion in regard to the organization of the Senate. Yesterday, I did, as many of you, had the opportunity to listen to the Supreme Court, listen to the presentations to the Supreme Court, by representatives of both groups of this body. It seems to me, while I'm not a lawyer, that it ought not to be before the Supreme Court. This isn't why I stand before you today. It seems to me that this is the time that we have to sit down and we can resolve this matter in the Minnesota Senate. We ought not to and do not have to violate what we advocate when we encourage teachers and school boards, labor and management to get together and negotiate a settlement. I often wonder what would happen if the next session of the legislature ends up in a 33-33 tie, assuming that one man physically was not able to arrive here. Would we then, again, have to go to the Supreme Court, to organize the Senate? I think it is a dangerous precedent. I don't think the Supreme Court should rule upon a political question. I don't think this issue has any business before the Supreme Court. But this is not the question. The proposal I have, Mr. President, is that---

MR. JENSEN, C. A.: Point of order.

MR. PRESIDENT: State your point of order.

MR. JENSEN, C. A.: My point is, is there a motion that you are speaking to?

MR. CONZEMIUS: I will have a motion or suggestion just --

MR. COLEMAN: Mr. President.

MR. PRESIDENT: Senator Coleman.

MR. COLEMAN: Responding to that point of order, it seems to me that the distinguished Senator from Goodhue has risen on a point of

personal privilege which is in order at this time.

MR. JENSEN, C. A.: Mr. President, he had not stated so. What is your point of personal privilege?

MR. CONZEMIUS: I am stating the point of personal privilege, Senator.

MR. JENSEN, C. A.: Are you offended at something?

MR. CONZEMIUS: Mr. President, what I am suggesting here today is that at this time, the distinguished Senator from Meeker and the distinguished Senator from Ramsey, Mr. Holmquist and Mr. Coleman, immediately appoint a five man group from each of their respective caucuses and they sit down immediately after the adjournment of this session in a face to face, jaw-boning tactics so we can resolve this Senate problem. I think this is the way we ought to do it. I've talked to other members of this body and they are in agreement with me. This is not political. I think we can resolve this thing right here and now. We have the weekend coming up, and if we have to stay here the entire weekend, this ten man committee to do it, I think we ought to do it. Mr. Holmquist and Mr. Coleman, I call upon you to appoint these committees immediately after adjournment.

MR. POPHAM: Mr. President.

MR. PRESIDENT: The Chair recognizes Mr. Popham.

MR. POPHAM: Mr. President, I rise in response to the remarks just made. I think that it is very significant the reference here that has been made to the Supreme Court hearing yesterday, because despite representations made here on the floor about welcoming a decision of the court or the courts interpreting the statutes here, which it was believed would uphold the position being taken by the liberal group, in fact, when the matter reached the courts, the argument was made that the Court should not decide the matter. Now,

if that were to be true, and the Court were not to decide this matter, it would perpetuate the present state of affairs. And I don't think anyone really believes that the Minnesota Legislature is looking good the last three days to the public, and what we have been doing here has fostered public confidence in this institution. I don't think anyone can really argue with the fact that if there is a good faith, sincere dispute about what these statutes mean, that we should welcome a decision of the Court and whatever that is, we should live by it. That is if in fact there is a sincere difference of opinion about what the law here is. I think it would be much more appropriate, rather than suggesting that we should take the public business into a back room and wheel and deal and barter, that we should join together, all of us, and urge the court to make an interpretation here of what these statutes mean, with the understanding that we will all live by it. The consequences of the other, is really just simply to say that while other elected officials who differ on interpretations of the law, have to accept a decision of the court as to what it means, but we in the legislature, somehow, are different. I think that rather than the suggestion the senator has made, it would be much more appropriate for the liberal group to caucus on this matter. Mr. Berde is going to file a brief on Monday, as he indicated to the courts. I think that every member has a responsibility to consider whether or not he wants to advocate that his caucus through counsel, advocates perpetuating the present state of affairs, or whether they want to vote to ask the court here to interpret the law and get us off this spot. I really don't see how anyone can dispute the fact that we should have a decision of the court interpreting what these statutes mean, if that is all we are talking about. I don't think that anyone really can take the position that this is a decision where we are at here that is the result of

some steering committee. It is not an individual decision because I think it is quite clear that the entire caucus here has to support the position of the leadership and if the majority of the caucus feels that it would be right here to ask for the court decision, certainly the attorney can be so instructed. So, I think much more important than the suggestion made would be further reflection here on whether this present course of conduct is really in the interest of the Senate and whether we want to continue to go on with type of thing and where is it going to lead. I think, certainly speaking for myself, I have no desire to see any sign of smoke-filled room discussions over this kind of thing. If we've got matters to talk about, I think that here on the floor of the Senate, in a public place, is the place to discuss them. I think that is the way we should handle this matter until it has been resolved.

MR. CONZEMIUS: Mr. President.

MR. PRESIDENT: The Chair recognizes Mr. Conzemius.

MR. CONZEMIUS: Mr. President, just a clarification for the distinguished senator from Hennepin, that I'm not suggesting a smoke-filled room, Senator. As a matter of fact, I would have no objection if this meeting were open to the public. You suggest, but I did not. There is going to be no wheeling and dealing in my estimation. I would not make that suggestion in any way, shape or form. Would the Senator yield to a question?

MR. POPHAM: I would be glad to yield, Mr. President.

MR. CONZEMIUS: Senator, are you opposed or rejecting this proposal that the Senate resolve their problems with this five-man joint committee meeting?

MR. POPHAM: Mr. President.

MR. PRESIDENT: Mr. Popham.

MR. POPHAM: Mr. President, if the Senate had any problem other than an interpretation of some statutes and constitutional provisions, I would say that is something that should be worked out in the Senate but I don't see how the Senate can interpret a statute and that's supposedly is the only reason we have a dispute here and the only reason why a member of the Senate has been singled out for the treatment he has been receiving recently. So I don't see how a meeting to discuss interpreting these statutes will accomplish anything.

MR. CONZEMIUS: Mr. President, I assume then that you are rejecting and oppose this proposal.

MR. PRESIDENT: Mr. Popham.

MR. POPHAM: Mr. President. Perhaps the Senator could explain to me what he feels should be discussed here if it's something other than the legal interpretation of these laws.

MR. CONZEMIUS: Mr. President.

MR. PRESIDENT: Mr. Conzemius.

MR. CONZEMIUS: Senator, I believe that there are many things that could be discussed in this five-man or ten-man meeting. We have as you know one group that say we have organized the Senate, another group that has not organized. We have proposed a coalition. These are other topics that can be discussed before this meeting.

MR. JENSEN, C. A.: Point of order.

MR. PRESIDENT: Mr. Jensen, point of order.

MR. JENSEN, C. A.: My point of order is, is Mr. Conzemius making a motion on what we are discussing? What is he doing?

MR. PRESIDENT: It is my understanding that he is rising under a point of personal privilege and discussing the need to resolve the differences of the Senate. Mr. Conzemius.

MR. CONZEMIUS: I have no further comments at this time, Mr. President. My suggestion was that the distinguished Senator from Meeker and the distinguished Senator from Ramsey immediately appoint a five-man committee and they meet now and if necessary the entire weekend to resolve the differences of the Senate so then we can proceed with the matters before the Minnesota Senate in an objective fashion.

MR. PRESIDENT: The Chair recognizes Mr. Gage.

MR. GAGE: Mr. President, members of the Senate, I would like to respond not in behalf of the caucus but as a senator from the 11th legislative district to Mr. Conzemius's proposal and I think it's awfully important in considering this reasonable sounding proposal from the Senator, that we remember what the situation is here. To my right sits Richard F. Palmer who was elected by his constituents in the 59th legislative district of Duluth by a plurality of more than 3300. Mr. Palmer is physically imposing and very substantially, but he has been treated in this Chamber as if he were a wraith or a spirit and did not exist. He has not been permitted to vote in the affairs of the Minnesota State Senate. His constituents have been disenfranchised; not disenfranchised by the actions of a majority of this body but disenfranchised by the ruling of the President who under the Constitution of the State of Minnesota is not a member of this body. If the President can disenfranchise Senator Palmer, the President can disenfranchise me. Now somebody said once that a person who sacrifices freedom for a little temporary advantage deserves neither, and as far as I'm concerned, I am not going to be a party to negotiating from a position of misinterpretation and usurpation of power. I am not going to recognize that state of affairs. Rather it is for the Supreme Court, who is the ultimate arbitrator of the

meaning of the Minnesota State Constitution, to speak first on whether or not Mr. Palmer's office has in fact been usurped. If it has been usurped then we shall organize with Mr. Palmer's vote and all the consequences of that. The point is not that this body is evenly divided. It is not evenly divided. There are 34 conservatives and there are 33 liberals. The point is that the arbitrary, illegal and unconstitutional actions of the President have disenfranchised a member of this body.

MR. CONZEMIUS: Mr. President.

MR. PRESIDENT: The Chair recognizes Mr. --

MR. CONZEMIUS: Will the senator yield to a question?

MR. GAGE: I would yield.

MR. CONZEMIUS: Senator, if the Supreme Court refuses to take up this decision, what will your suggestions be then in the organization of the Senate?

MR. GAGE: If the Supreme Court refuses to rule in this matter, it will have to then be settled in the Senate but I do not intend to be a party to what I consider to be an attempt to subvert the role of the Supreme Court in arbitrating the meaning of the Constitution of the State of Minnesota.

MR. COLEMAN: Mr. President.

MR. PRESIDENT: Mr. Coleman.

MR. COLEMAN: Mr. President and members of the Senate, I would like to make one or two brief points not so much in response perhaps but just to indicate again the belief that I have in the power of the court. I did not respond yesterday morning when this point came up. I thought it had been made often enough but I see it arises again. Yesterday and presumably today I have been quoted as saying that I'm anxious to see this matter settled in court. I would like it per-

fectly clear to everyone here that I'm anxious to have the court make a determination on its jurisdiction if we get to that point. I was in the Supreme Court Chambers yesterday and I heard the arguments of both attorneys and I'm sure that the proponent of the particular argument thinks that was the more weighty one but it seemed quite clear to me from the citations that the proponent was making for their -- before the Court's not having any jurisdiction -- was clearly more persuasive. It went on at greater length, he was able to cite decisions not of some other body but of this court, as he so many times said, so I am confident that the decision of the Court will be that they do not have jurisdiction in this matter. Mr. President, I am somewhat offended that people are insisting that it was your arbitrary decision when the distinguished Senator from Hennepin pointed out clearly yesterday that had there been any opportunity or had anybody wanted to put a vote on it, that Mr. Palmer could have been seated by a majority of this body and we know why that opportunity was rejected. The fact is that the Lt. Governor, the presiding officer of this state, has not been the man that has kept Mr. Palmer from having a seat. The fact is there is not a majority in this body that says he should have his seat at this time; that he should not have his seat until after the contest has been decided by the Senate. The committee met yesterday afternoon and adjourned for lack of a quorum because no one was willing to come and sit down and discuss the case of Mr. Palmer. So I did want to make that point pretty clear that it was not the presiding officer but it is the Senate itself that at this point has refused to seat Mr. Palmer and I do also want to say that it seems clear to me that the Supreme Court lacks jurisdiction in this matter and that the point raised by the distinguished Senator from Goodhue -- what do you do if the court doesn't take jurisdiction? Now why should we wait and why should

we use that time? I think the suggestion made by the Senator from Goodhue is an extremely valid one. He is saying what we have been saying publicly and privately for several days. He is saying that it does not make sense to have one group walking out of the Senate three days in a row. I'm sure if we pursue the matter as we did yesterday, it will be four days in a row and if we met on Monday it would be five days in a row and if we met on Tuesday morning it would be six days in a row. Now whose credit is that to? I don't think it's to the credit of that group and perhaps it is not to the credit of the Legislature. What the distinguished Senator from Goodhue is suggesting is that a body that is supposed to be able to solve the problems of teacher negotiation, labor negotiations and is supposed to have the wisdom to solve the problems that come before it in of a 120-day session, should have the ability to solve its own problems. What will we look like if we are going to go to the court for all these decisions. Sixty-seven men who can't solve their own problems. I would like to point out that the suggestion of the distinguished Senator from Goodhue is not a new one; that the suggestion of some kind of a coalition, some kind of going together has been made for not just days but for weeks and the last time that offer was renewed was by the Presiding Officer of this Senate on Monday of this week. So certainly we have made that offer. The next time it was renewed was during my motion to recess several days ago. Mr. President, the continuing offer of the DFL caucus to sit down and do what we can is hereby renewed. I would like to point out, Mr. President, that I will be in my office, room 301, at 2 p.m. this afternoon awaiting word from the distinguished Senator from Meeker as to whether or not he and I are going to sit down and discuss this among ourselves, bring it to our individual groups, take it to the public and see if there

isn't something that we can do. Again I renew my offer. Mr. President, the motion will allow for debate on this or other points but I would like to now move that in order to expedite this that the Senate do now adjourn until 2 p.m. on Tuesday, January 12, 1971.

MR. DOSLAND: Mr. President.

MR. PRESIDENT: The Chair recognizes Mr. Dosland.

MR. DOSLAND: I believe one thing, Mr. President, should be made (inaudible) clear in this entire discussion. It is true that (inaudible) that the matter is before the Court. But, Mr. President, there are two matters before the Court. The first is the matter is whether Mr. Goodwin or Mr. Flahaven is Secretary of the Senate. The second matter which is before the Court is whether or not Senator Palmer is a member of this body entitled to vote and that, Mr. President, is Mr. Palmer's personal issue and the issue of (inaudible) and constituents in Mr. Palmer's legislative district. (inaudible) Mr. President, I feel strongly that the court should decide Mr. Palmer's rights. Mr. Palmer's rights cannot be negotiated. (inaudible)

MR. COLEMAN: Mr. President.

MR. PRESIDENT: Mr. Coleman.

MR. COLEMAN: The very distinguished Senator from Clay is sounding like he made a point he wishes he hadn't made. Mr. President and members of the Senate, just a very, very brief response. The issues are organizational and Palmer. I do not intend to offer to the distinguished Senator from Meeker any negotiations on Mr. Palmer. That is for the entire Senate on whether or not we can proceed with the public business. I think it is very fitting and proper and necessary that we meet. I again say I will be in my office at 2 p.m. and await and hope for some indication that we are going to be able to do this in the Senate.

MR. HOLMQUIST: Mr. President.

MR. PRESIDENT: Mr. Holmquist.

MR. HOLMQUIST: Mr. President, before I respond to the request of the Senator from Ramsey, might I make it crystal clear that in our opinion Senator Palmer has been seated. The proper motion would have been that he be unseated. There was no majority to unseat him. The Constitution is clear. It takes a majority to unseat a senator. He is here. He has taken the oath of the office. He is a member of this body. Now Mr. President, the second point I wish to make is my office is also open. I will be happy to discuss anything that is not relative to the issues that are before the Supreme Court of the State of Minnesota. The discussion this morning has made it crystal clear that they are clearly out of order for discussion but if the Senator in his genial, usually personable manner, would like to come to my office, I will be happy to discuss anything at all with him. I just say this in sincerity with no --- I'm not trying to be circumventive --- I just want to make it crystal clear to all of you that at no time will I discuss any items that in any way pertain to the matter before the Court, the highest court of the State of Minnesota.

MR. DAVIES: Mr. President.

MR. PRESIDENT: The Chair recognizes Mr. Davies.

MR. DAVIES: I wonder if Senator Holmquist would yield to a question.

MR. HOLMQUIST: Mr. President.

MR. PRESIDENT: Mr. Holmquist.

MR. HOLMQUIST: I will yield.

MR. DAVIES: Mr. President, I wondered if the question of who are to be members of the committees of the Senate and who are to be chairmen of the committees of the Senate is before the Supreme Court

of the State of Minnesota or if that is something we could discuss in your office.

MR. PRESIDENT: Mr. Holmquist.

MR. HOLMQUIST: Mr. President, I appreciate the question that is asked and the sincerity in which it was asked. Until the Court has made a determination, in my judgment, now this is my judgment, there are no committees before the State Senate. The State Senate has been organized as far as the election of a secretary of the Senate and that is all. I want to tell the distinguished Senator from Ramsey, Mr. Coleman, I intend to support his motion to adjourn until Tuesday at 2 p.m.

MR. A. G. OLSON: Mr. President.

MR. PRESIDENT: Mr. Olson.

MR. A. G. OLSON: Mr. President, it seems the discussion has ranged this morning to the extent that perhaps, whether I'm in order or out of order, I would be allowed to make just a brief comment that I have refrained from at any point injecting so far but the point has been raised about your ruling and I read from the journal of the Senate, printed on the first day prior to the administration of the oath, Mr. Coleman raised a privileged point of order requesting that the President direct the oath not be administered. In 1963, I was asked in the United States House of Representatives at the request of a member to stand aside and I did so. Yesterday we heard cases cited in regard to the United States House, United States Congress, following such procedure and I think that maybe the discussion of this issue is not without some redeeming merit. It would be indeed horrible to pretend that such could not be the case of any discussion of the Minnesota Senate. We often talk about state' rights in the federal government and I think maybe we should realize how incumbent it is

upon all of us to behave ourselves or to conduct ourselves in such a manner that we would be as far above reproach as possible in the conduct of our affairs and I say to you that I think there are some very distinguished precedents of other bodies in this nation and our federal government especially that would seem that we ought to be advised that we might follow their procedure and we might do so on the basis that they have had much more experience than we - that our experience in the past, though it may have been followed not in the same manner in each instance, may have been because it wasn't necessary that we come to this kind of point of trying to resolve it. I think that the question was properly raised by a member of this body in regarding the seating of another member or the swearing of another member in this body and I just wanted to add that at this point..

MR. COLEMAN: Question..

MR. PRESIDENT: Mr. Coleman.

MR. COLEMAN: Mr. President, as someone well known in the country said once upon a time I will go any place any time to see if we can't resolve this problem and I intend even though it sounds very much as though the distinguished Senator from Meeker has rejected this offer, I intend to be in his office at 2 p.m. and after we have deplored the weather and settled the shape of the table, I intend to start talking about the organization of this Senate and will renew our continuing offer to get down to the public's business.

MR. PRESIDENT: The question now is that the Senate will adjourn until 2 p.m. Tuesday, January 12, 1971. All in favor signify by saying aye; those opposed say no. So ordered. The Senate is adjourned until 2 p.m. Tuesday, January 12, 1971