

February 19, 1991

Carpenter-Nichols election contest. I would like to read to you the last three lines of Senator Chambers' remarks. They're underlined. "Any time a statute becomes violate of the Constitution, the statutes can be disregarded." So I'm saying to you this morning that the statutes are in error. The Constitution is the leading force in our state and, if nothing else, we should follow the intent of the Constitution. I yield the rest of my time to Senator Schmit.

SPEAKER BAACK: Senator Schmit.

SENATOR SCHMIT: I would just like to say that I am happy that Senator Kristensen has pointed out, as I did earlier, that it is possible for us today to follow both the statute and justice by virtue of the fact that if any member of this body can tell me that anyone of those absentee voters did not follow all of the instructions to the letter, then I will stand corrected. There are separate areas of compliance. The voter must comply with certain responsibilities and they did so. The election officers must comply with certain responsibilities and in this instance...

SPEAKER BAACK: One minute.

SENATOR SCHMIT: ...in some cases they did not. How then can you penalize the voter for the error of the election official? We talked a lot about precedence here and I hope to talk about it a little bit more later on. But I want to emphasize this that if, in fact, we send a message to the election officials, of which there are thousands in this state, that you can disenfranchise a voter by an improper, illegal, or incorrect action on your part, that we will open a Pandora's box, that we will have a constant stream of such irregularities before this body in years to come and, yes, in some instances it may not make a difference. But, Senator Wesely, I wonder since I think I know a little bit about the voting procedures in Butler County. I know a little bit about who led the race out in Butler County and I know that in Butler County...

SPEAKER BAACK: Time.

SENATOR SCHMIT: ...the clerks did not sign the ballots. I suspect that had they thrown those ballots out we might well have a different individual in the Governor's office today. I would expect you, because you are very proficient to give us, at