

February 19, 1991

Separate from the question of the Byars-Korslund race, we need to follow our rules and the Chair needs to be rejected in this definition. Then, if you don't like my motion and it happens to come up, vote against it. That's the way to separate the rule from the application of the rule. But, secondly, I'll make you an offer. Overrule the Chair, let's move after that time to adjourn for the day, I'll be happy to sit down with the attorneys for the Korslund and Byars camps and draft the kind of ground rules that Jerry Conway says we ought to have, if we go after all the ballots. Maybe we don't have the authority and I just don't know it. Maybe the ballots don't exist and I just don't know it. And maybe a day we'll find out. But if we can resurrect the uncounted ballots, I can bring you back a ground rule, set of ground rules and a way to do that. Senator Schmit said that I was, I think his word was creating doubt by my original motion. I'm not creating doubt. Have any of you read the minority report? Because those of you who voted against the majority report should live by the language in subsection (b), which says, the Nebraska Supreme Court has held on numerous occasions that a substantial compliance standard be used to determine whether votes should be counted. That's what you're voting for, right. When the election laws are considered in whole, along with their intent, purpose and spirit, the members state, this is all of you now, state that in order to comply with the law the ballots should be counted to avoid disenfranchising any voters and uphold the State Constitution. Not 555, this subsection says that we, in the spirit of all the law, will count to avoid disenfranchising any voters, the votes in the 30th District. I am asking you to do exactly what the minority report purports to say to do. I am saying don't make it an empty promise. But, if you've gone with voter intent as a theory, as opposed to following the law, fair enough, but go with it consistently. The reason voting for the majority report made sense was it was consistently following the law all the way through. The obverse of that is voter intent, fair enough. The logical way to do voter intent all the way through is to count all the ballots in the 30th district. Maybe there are problems, let's work out the ground rules. First, I ask that we overrule the Chair. I would suggest that we adjourn for the day. I'll be happy to meet with the attorneys on both sides, or perhaps the principals and try to draft whatever ground rules that gives the Executive Board this opportunity, and probably submit a substitute amendment tomorrow which would say, basically, refer to Executive Committee with these kinds of standards, and do our work seating Senator Byars, provisionally, until we carry this