

January 31, 1989

motion.)

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Mr. President...

PRESIDENT: Senator Warner, excuse me a moment. (Gavel.) Could we please have it a little quieter so that we can hear the speaker. Thank you, Senator Warner.

SENATOR WARNER: Mr. President, I would move adoption of a motion that's filed by the Credentials Committee. In doing so, I would like to go through the findings as they are outlined in the Credentials Committee report to the Legislature. It's found on pages 3 and 4 of the document. Incidentally, also handed out this morning was other material or information on file in the Clerk's office relative to the election contest. For those who might wish to look at any of those or get copies of any of those, they would be available. The committee findings are six in number. The first finding states that the contestee, Gerald Conway, does meet the eligibility requirements of the Legislature as prescribed in Article III, Section 8, which is the constitutional requirement as to age, residency and so forth and that, in fact, was certified as receiving the majority of the votes at the election. That was, to my knowledge, never contested but nevertheless that is the finding. The second finding is one which states that the Legislature has the sole and exclusive authority, under Article III, Section 10, to decide whether a person elected to the Legislature may be seated. And that is not only based upon reading of the Constitution but numerous court cases would give a similar conclusion for that finding. The third finding, and this starts to become substantive in nature, was the Legislature has enacted statutes providing for a procedure and a basis for an election contest. That section cited is 32-1001, and the finding was that both contestants should comply with these statutes. The fourth finding was that the contestor, Mr. Nelson, had met those jurisdictional requirements, including the posting of bond and giving timely notice to the contestee, Mr. Conway. One of the themes that runs throughout the document as present to you was that the Legislature...and it's expanded on further, but that the Legislature ought to follow statutory provisions where they have been established by this body. We recognize and the report contains the information that under the Constitution the Legislature could ignore some of those statutory provisions, if