

February 20, 1991

Landis's argument with his motion was to amend the motion to call for all of those ballots to be, in fact, counted. I don't know if his amendment is exactly worded properly to accomplish that or not. It is basically an amendment to the minority report and I don't know how well it can accomplish that. My suggestion is that the Legislature now has made a determination with the majority vote that we're going to go with voter intent. There really is no need to rush into a final judgment at this point. Senator Byars is seated as the representative from the 30th Legislative District. He will continue to exercise all powers, duties and responsibilities of that position until such time as the final determination is arrived at. My suggestion is that we refer this back to the Executive Board, that the intent of the Legislature in supporting this motion be that they do what they can to effectuate a recount of the absentee ballots, that they count the 95 votes that have never been counted and make a final determination. Now in my mind I suspect that that will not change the results of the election and my little calculation here would be if there are no change from the recount of the absentee votes, if Senator Byars gets 30 of the 95 votes in contention, he will still have the majority needed to be seated as a full member of the body. So my guess is it will not change the results. But I do think if we are taking the position that voter intent is the overriding principle, then we have an obligation to see that voter intent is, in fact, followed to its ultimate conclusion. Senator Wesely, yesterday, drew an analogy between the Nelson-Hoppner recount in the Democratic Governor's race and this situation. I think I'd like to tell a little anecdotal sort of thing about that race and it is kind of where my mind is finally coming down on this issue. There were a number of problems with votes in the democratic primary. There were ballots that had...there were overvotes, there were undervotes, there were votes counted by machine that were not hand counted. Some places they were doing it, some places they were not doing it and there was, it was my recollection it was Dawson County where none of the ballots had been properly initialed. And in Dawson County the, had all of those votes been thrown out, Bill Hoppner would have been the nominee. Ben Nelson would not have been. Bill Hoppner's position I think is one that maybe this Legislature ought to think of adopting, at least in a philosophic position. Bill's point of view in that recount was, he was not going to challenge the Dawson County votes because he felt that was a technicality and he did not want to win on a technicality. He did not want to see a whole county's votes thrown out. But he did pursue