

further, if I may. I assume, from what you're saying, that if the Supreme Court decides that it will have precedential value, that they would have to order it published.

SPEAKER BAACK: One minute.

SENATOR BEUTLER: In other words, it would not be your intent that they...that something that was not published could be...could have the status of precedence. Is that correct?

SENATOR KRISTENSEN: I think...

SENATOR BEUTLER: In other words, you're envisioning that any time...if they're making a decision about what is precedence, at the Court of Appeals level, that if they make the decision it should have some value, and it should be looked at by the lawyers of the state and by the district courts, that it would be then their obligation to publish it in such a manner as all lawyers in the state have notice of the matter. Right?

SENATOR KRISTENSEN: Yeah, I think that's correct, Senator Beutler. That is certainly what I believe to be the way it would work. The Supreme Court would say this is a precedential sort of an opinion, let's publish it and put it out. I suppose the question is, what happens if there is a written memorandum opinion of the appellate court, can that be precedential? Can some lawyer in a district court say,...

SENATOR BEUTLER: Yeah, it's not published, it's not published.

SENATOR KRISTENSEN: ...I've got this case right here.

SENATOR BEUTLER: ...it's not published, can they use that?

SENATOR KRISTENSEN: I think that they can use that, but I don't think that it...I don't think that it has any precedential value. And I don't...you know, and I believe that the Supreme Court rule,...

SPEAKER BAACK: Time.

SENATOR KRISTENSEN: ...which is done in other cases, could make some rule determination of that.

SPEAKER BAACK: Further discussion on the Kristensen amendment.