

and to vote for the bill at this stage and to continue to discuss how this process can best and most usefully be done. The line of questions that I'm using here is a basic inquiry as to whether or not we've made the system more technical than what it might need to be and that's what I'm trying to get with this line of questioning. John, we moved off one of the first questions a little quickly. I understood your theory that attorneys, in fact, should not be people with conflict of interest, doctors, employees of doctors, people who have 10, 15, 20 of these cases hanging around. It is true, is it not, that a spouse would be an appropriate attorney in fact? And yet the spouse, in the event they were to be one of the devisees under a...or a legatee under a will could not serve as a witness. And that, too, is a carryover probate code, an interesting dichotomy to me. I think the better list is the agent list, by the way, because I think the attorney, in fact, being a loved one makes perfect sense and I'm glad that you allow it to be the case. I'm interested in why that would also not be an appropriate person to witness such a document but is specifically as our siblings, parents and others who are mentioned in the will excluded from witnessing this durable power of attorney. I think the better list is the one for the attorney in fact. Why the difference in the lists?

SPEAKER BAACK: Senator Lindsay.

SENATOR LINDSAY: Thank you. The reason is that some of those, if you look at it, for example, presumptive error, a known devisee at the time of the witness saying those, again, go to the financial interest. Generally, and I think in large part, people who would be named as...as heirs in a will, or I shouldn't say heirs, as devisees in a will would be coming from the list that is set forth in Section 5, the spouse, parent, child, etcetera. The...so the purpose, again is there is a presumption if they don't know who the...or what has been set forth in the will, which is again generally the case, you don't know what's included on a will until after death, at least many parents are not comfortable...many people are not comfortable with letting people know. So there is...generally though, assets are left to those individuals, so there is...at least they've presumed a pecuniary interest in each of those individuals. Second, at law, if there is no will, those would be heirs at law and would, by virtue of statute, take in the case there was no will.