

March 7, 1989

LB 224

SENATOR CHAMBERS: Can you give me an example?

SENATOR LINDSAY: I believe there is a case involving a garbage truck, Watts Trucking, I believe, where a child saw his sister killed by a garbage truck.

PRESIDENT: One minute.

SENATOR CHAMBERS: But there was physical harm done to somebody in the transaction.

SENATOR LINDSAY: To somebody?

SENATOR CHAMBERS: Yes.

SENATOR LINDSAY: Not to the plaintiff, but somebody.

SENATOR CHAMBERS: Right, somebody was physically harmed. It is not a situation where you can go into court and say, somebody has done something that makes me very upset, I am unhappy about it, I am ill at ease, and I want to be paid for that. Let me ask the question specifically. How could an athlete who has lost eligibility get into court and recover a judgment when an athlete cannot even go into court and compel a school to allow him to participate in athletics, because participation in athletics has been ruled to be a privilege and not a constitutional right? So, if you (interruption)...

SENATOR LINDSAY: But the action is not against the school, the action is against somebody who by his or her violation of a particular statute prohibited him or her from ever getting the opportunity to participate.

SENATOR CHAMBERS: But on what would it be based if you don't have a constitutional right that has been violated anyway? It is not a right that you have anyway.

SENATOR LINDSAY: All legal actions are not based on constitutional rights.

SENATOR CHAMBERS: There is not a state right...

PRESIDENT: Time.

SENATOR CHAMBERS: ...that gives you...that you can use to