

February 13, 1991 LB 88

SENATOR LINDSAY: Thank you, Madam President. Members of the body, I think before we go too far, I should point out one thing that attached to Senator Schellpeper's amendment is the Nebraska Jury Instructions. We should be aware that the Nebraska Jury Instructions are nothing more than a suggested jury instructions that are proposed by a board of lawyers and judges that get together and try to interpret what the Supreme Court has done in the past, and what they would suggest jury instructions should be used. So when we refer to the...when you see NJI, Nebraska Jury Instructions attached to that amendment, I suggest that you not confuse that and believe that that is the state of the law necessarily. The state of the law is that body of law that the Supreme Court has decided in the various cases that come before it. I think that's what the Schellpeper amendment is attempting to do, it's just to preserve, as we move, I think as Senator Kristensen said I believe, as we move from this case law standard of negligence and moving more into a statutory standard, that some of those things we need to preserve. With that, I would...if Senator Schellpeper would respond to a couple of questions.

SENATOR SCHELLPEPER: Be glad to.

SENATOR LINDSAY: Senator Schellpeper, is the intent of your amendment here to just preserve, as we move from one standard to another, to preserve the assumption of the risk defense as it exists today?

SENATOR SCHELLPEPER: That's right, it is.

SENATOR LINDSAY: And that's all we're trying to do with that.

SENATOR SCHELLPEPER: That's right.

SENATOR LINDSAY: And with that, I don't think that there is anything unreasonable on it. All we're trying to do is we have assumption of the risk right now in today's...when we handle negligence cases today. All he's trying to do is preserve that. I don't see any problem with it, and I'm going to vote for the amendment.

PRESIDENT MOUL: Thank you, Senator Lindsay. I'll now recognize Senator Wesely. Okay. Does anyone else wish to speak on the Schellpeper amendment? Seeing none, do you have a close,