

to speak, followed by Senators Wehrbein, Beutler, and Bromm.

SENATOR KRISTENSEN: Thank you, Mr. President and members of the Legislature. Of course, the ruling that Senator Lindsay refers to is a rather unfortunate ruling, in my opinion. I think it certainly strikes a blow for people who want to participate in the court system with some...some sense of what they can do and what they can't do, based on what courts rule, and whether we call that security or we call that precedential value. It's tough to talk about precedent in lay terms but, basically, when you have someone that comes and talks to you and they said, what's the law in this area. And you look at the statute and you say, well, the statute's not real clear, we don't know how this has been interpreted, let's look at what the Supreme Court or what our courts have said. And when we set up the Court of Appeals, I think it's rather plain that we intended the Supreme Court to be the court of precedent. In other words, they were going to determine what the precedent was in this state. I don't think in anyone's dreams that we thought that the Supreme Court would say that the Court of Appeals had no precedential value because the Court of Appeals, day to day, deals with the nuts and bolts mom-and-pop issues, that all of us have. They're the court of first review, and they see a lot of things on first impression. They see the nuances in the divorce cases about double incomes, what do you do with those? What do you do if somebody gets overtime? Does that count towards child support or doesn't it? What do you do about somebody that's in the military and has vested pension rights that don't occur until after they get discharged? A variety of these first-time issues that our Supreme Court hasn't had a chance to look at yet because the case isn't there. And so the Court of Appeals looks at it. And when they make a ruling, then lawyers and other litigants can say, well, now, here's a case right on point with what we have, and here's the answer. And so it's a very useful tool, this precedent. The trouble is, and I...we could tell the court to write their opinions in red ink, blue ink. We could tell them to write them upside down. We could tell them to put them in all capital letters. We can tell them...in fact, we do tell them, that they've got to sign their opinions. And probably we don't have the ability to tell them to do that because of the separation of powers. And that, Senator Lindsay has correctly outlined that that...that is a major issue with his amendment. However, I have real mixed emotions, and probably will wind up voting for Senator Lindsay's amendment,