

April 9, 1996

LB 1296

SENATOR CHAMBERS: And we'll have a situation where the appellate court has said that its decisions, even those that predated the Supreme Court's opinion, had precedential value. They relied on that precedent and resolved an issue before it on that basis.

SENATOR LINDSAY: Right.

SENATOR CHAMBERS: Now what the Supreme Court is going to look at...what is the Supreme Court going to look at?

SENATOR LINDSAY: Well, at that point, I think, that's where you've shown where the court would, would...might be a way of getting the question of constitutionality in the statute before the court.

SENATOR CHAMBERS: Would they have to reach the question of constitutionality?

SENATOR LINDSAY: They wouldn't have to, no.

SENATOR CHAMBERS: Now they could...could they say that the appellate court was in error by relying on one of their cases as a precedent and using that as a basis to resolve this issue and take it back and process the appeal?

SENATOR LINDSAY: Oh, sure.

SENATOR CHAMBERS: And then suppose the appellate court said, but we can't do that because we have to abide by the statute.

SENATOR LINDSAY: Well,...

SENATOR CHAMBERS: And the statute...

SENATOR LINDSAY: ...they have to give them a reason,...

PRESIDENT ROBAK: One minute.

SENATOR LINDSAY: ...by that you can also...I mean they can send it back for proceedings consistent with their opinion, if that's what you're saying.

SENATOR CHAMBERS: And would the appellate court be bound to