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findings, which I opened with in my first segment. We began in the case of State v. Simants, which was before the 1978 adoption, where the court stated that it would compare each capital case under review with those previous cases in which the death penalty has or has not been imposed under the 1973 statute. And the 1973 statute is when we brought the death...when we endeavored to come into compliance with the last United States Supreme Court case, which is widely referred to as having reinstated the death penalty. So our Supreme Court, in State v. Simants, in 1977, said that it would implement the proportionality concept by undertaking a review of all cases in which the death penalty had been given and it had not been given. Then the Legislature adopted the five findings, which I've quoted to you. Then in State v. Welsh, in 1979, the court construed the application of proportionality to only apply to cases...they would only review cases in which the death penalty had been imposed. Please do focus on that, because that is no proportionality review at all. Comparing a death penalty case to a death penalty case always means that it's in proportion, because the defendant dies. Later, in State v. Williams, which was a 1979 case, the court found that our statutes, as I've shared them with you, would be construed to require the Supreme Court to review and analyze only cases involving a conviction for first degree murder committed on or after April 20, 1973. And then in State v. Moore, the court said the consideration of first degree murder convictions excludes from determination a large group of homicides in which defendants avoided death by being charged with lesser crimes than the first degree murder or by pleading to lesser charges, or by other acts of prosecutorial discretion in interpreting the charging facts. In response, this court delineated the reasons why a literal application of those sections would unconstitutionally encroach upon the judicial function. Then we move to State v. Reeves, when the court reviewed 58 cases wherein convictions of first degree murder had been imposed, of course, proportionately. And then finally, in State v. Palmer, in 1986, the court said that holding comparison review should include only those cases in which the death penalty was reviewed and the dissent points out that that makes all of our law here, which we've discussed, a nullity. It's for naught, it means nothing.

PRESIDENT MAURSTAD: One minute.