

SENATOR JOHNSON: Maybe it is more of a comment than a question but if Senator Newell could respond to it. The thing that I noted, Senator Newell, in looking at your bill is that it would criminally punish a merchant or some other person who advertises when his advertisement contains a representation of fact which is untrue, deceptive or misleading. It might well be that when the merchant places that ad he doesn't really realize that that statement is untrue, deceptive or misleading and yet he would be criminally punished for his conduct. So, it would seem to me the right thing to do would make certain that he is penalized only when he has knowingly placed that kind of an ad in the news media. I see that your amendment was designed to take care of that problem, but you have just withdrawn that amendment. Would you be offering another amendment putting the knowing expression back in?

SENATOR NEWELL: Well, Senator Johnson, I will certainly work with you and Senator Simon. I thought, it has been awhile since I have looked at this, but I thought that that that we had, it wasn't a very controversial piece of legislation if it is knowingly the knowing intent, we can do that. Senator Simon has a concern that we are going to mess up the consumer and I am sure that collectively we can work out some sort of arrangement if we want to do that.

SENATOR JOHNSON: All I was trying to do, Senator Newell, was to make your bill constitutional.

SPEAKER MARVEL: Senator Cope.

SENATOR COPE: Mr. President, members, I believe that is one reason why we need that amendment. I know, but I would like to speak then...well just general principle, how about that, on what the amendment would have been. I think that the argument, Senator Simon, I believe that the argument that you are putting up for not wanting an amendment is simply this. The merchant has items that he must close out at the end of the season. The way the bill is written now it would be pretty hard to advertise and that is a very much of a necessity, believe me, if you are a retailer. For that reason I...it would be very questionable if whether you could even vote for the bill the way it is unless it does have the amendment on it at the present time. From a retailing standpoint you really are in a bad spot.

SPEAKER MARVEL: Senator Murphy.