

PRESIDENT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I do think that the first amendment had some significance in moving us towards making a distinction between the unknowing intermediary and the knowing manufacturer, but that aside, as we've reopened the debate on this question my understanding of this language, my prognostication as to how a court will interpret it is to say that holding up a chair and handing it to someone else and saying this is a controlled substance, do you want to buy it, isn't a crime. That's right. You have to have the representation and the appearance. In fact, if you separate the two all I have to do is hand you a book and say it is a controlled substance and it is a crime because all you have to do is say it. It doesn't have to be so, it doesn't have to logically have the appearance of being a controlled substance. All I have to do is say the words and, boom, that's the end of the story. That is nonsensical about what we are talking about and we shouldn't be drug to that end to show our distaste for pushers. Secondly, with respect to the matter of the representation on a piece like this, courts are not as unsensible as you might think. They look to what is called the totality of communication lots of times and I would expect a court to do the same, that a tiny little piece at the bottom that disclaims something that calls amphetazine when amphetamines are quite common and it is a controlled substance in which they talked about yellows and white crosses and some of the other phrases that are used here, clearly the court is going to look at the totality of communication to see whether the representation is made or not. And I, for one, would like to strike out the nonsensical possibility of somebody saying, this is a controlled substance and handling across a rock, and having us having to define that is a crime in the State of Nebraska because we're not able to draw our language any more particularly than that. That's why I'm in favor of this amendment.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, by leaving the word "or" there you're saying that the so-called reasonable person is drawing this conclusion, would arrive at it because of the appearance or