

because of the representation. There doesn't have to be both. So if I take some baking soda, and let's say I'm an unsavory character and I give the baking soda to another person and somebody sees it, and I, who give it, don't give it as a look-alike, the one who receives it does not receive it as a look-alike. The whole issue is determined not by the participants, but by this third mythical reasonable person who would look at this and say, could I be made to think that is a controlled substance? That is how you determine where it is a controlled sub...whether it is a look-alike, not by what it really looks like, but by what this mythical reasonable person could be lead to believe about it. So if I give the soda to Senator Vard Johnson, John DeCamp, I'm going to change it. I hope you don't mind because we understand these things. People would like to get rid of DeCamp and I in one fell swoop, so I give John a white pill and it is an aspirin or some soda because he's got an upset stomach. That is under this bill and I have delivered it. It doesn't say that the person who receives it has to think it is a controlled substance or had it represented to him or her as a controlled substance. If the appearance may lead a reasonable person to think that was a controlled substance, then it is. It doesn't say a reasonable person under the circumstances would believe that. It just says a reasonable person. All of us would like to believe we're reasonable. We don't know anything about controlled substances so all somebody would have to do is put some white powder out there, white powder is snow, maybe it is sugar that you see from a distance, anything, and that becomes a look-alike because we, as reasonable people, were led to think it is. I know this bill is going to pass and I know it is easy after we've discussed it for a long time to just throw up hands and say, well, it's not going to make that much difference, the courts will do our job. Some of us are meticulous, painstaking, careful legislators when it comes to criminalizing behavior and imposing punishments. For those of you who are interested in history, especially the history of the Constitution of this country, Patrick Henry whose name is well-known and others whose names were not so well-known emphasized that when it comes to crimes and punishments the legislatures in this country as Parliament did in England may criminalize any manner of conduct. They probably can do that. So you look at the punishments and you put a constitutional bar on what the state can do by way of punishing this behavior which it has said is undesirable. We can make anything