

SPEAKER WITHEM: Thank you, Senator Chambers. Your light is the next on.

SENATOR CHAMBERS: Thank you, Mr. President. And members of the Legislature, what I'm talking about now are things that are of a little more substance than my initial amendments, but I just wanted to accept Senator Landis's challenge and let him know that I would do on his bill what I was doing on 371. But now I'm getting down to issues which, to me, are matters of substance. On every bill that comes through where I see the term "intentional" and we're describing a criminal act, then I want to put "knowingly and" in front of the word "intentionally". There were a number of places in this wicked crime bill that some, in good faith, are trying to clean up where we're dealing with drug offenses. And in some parts of that bill, dealing with those offenses, they say intentionally. In others, they say knowingly and intentionally. I want every time I come to one of these places to put the words "knowingly and". You've heard Senator Landis say this that we have before us is the state of the law and the courts apparently see what needs to be seen there even though the word...the words don't exist in the law. I think it was Senator Pirsch who was reading earlier from one of the cases related to second degree murder, and if Senator Landis is listening to me, he knows that the word "malice" had been eliminated from the statute by the Legislature and courts had allowed convictions on second degree murder charges to stand. The Supreme Court had allowed convictions for second degree murder to stand even though malice, as an element, had not been included in the court's instruction to the jury or in the charge brought against the defendant by the prosecutor. Well, a wiser court came along, judges who read the law better said that if you don't have malice as an element of second degree murder, there is nothing that distinguishes second degree murder from manslaughter and that cannot be the intent in this regard. And when you study the law wherever second degree murder or its equivalent is found, malice is included. So even though the Legislature dropped that word, malice would be a requirement. So Senator Landis is saying that to date the absence of the words "and knowing", to go along with intentional, will not hurt anything because that's the way it's always been. But, Senator Landis, suppose a court looks at this language, especially this new language, and says you're getting kind of shaky here and you're diluting the soup just a little too much so if a person can be found to have committed this act,