

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

March 8, 2000

LB 929

And there is no obligation to witness the old X of the west. Then intent in contract law is determined by what's called the objective theory of contracts, which says intent is not my statement I really meant to do that, or I really didn't mean to do that. It's based on what a reasonable third party observing my behavior would conclude my intent was. Let me give you an example. You and I are sitting half court in a basketball gym. I throw you the ball and I say, sink this from half court and I'll give you 50 bucks. And you say, you're on. And you sink it and it's all net, do we have a contract for \$50 or not? Well, I might say, oh, it was a joke, I was kidding. You might say, no, no, I think it was serious. The objective theory of contracts would say my intent for forming the contract would be judged by a reasonable third party looking at my behavior. Now in that situation we're joking around, maybe it's not serious and the third person would conclude that. Put it in front of a television camera, and I've paid...I'm going to give you a million dollars if you sink that, and I've been running a whole lot of ads about, you know, here's the little guy who's got a chance to win a million bucks, and if you sink that, we got ourselves a contract. Why? Because a third party would say I was serious about that, which is why intent itself is measured by a set of behaviors that go into that as judged by a third party. That's always been the rule for signature, and it will be the rule for electronic transactions as well.

SENATOR VRTISKA: Well, I appreciate your explanation, because I didn't really have a problem, I just wanted to get your explanation, because, as you indicated, the X of the west was an old, old time issue that many people went by. And as you've explained it, it's really not necessary. With that, I thank you very much and turn my time back to the Chair.

SPEAKER KRISTENSEN: Senator Wehrbein. Senator Wehrbein.

SENATOR WEHRBEIN: Thank you, Mr. Speaker, members. Senator Landis, this has something to do with your bill, but nothing to do with the bill, in a sense. But on the news last night, on TV, I don't...if you have a comment, I'm just going to make some comments. If you have a comment, it's not a question, but on last night, it was interesting, electronic transfer of your income tax, and it was a story about a couple that had their