

Nebraska, and they are in the south balcony. Would you folks please stand and be welcomed by the Legislature. Thank you for being here. Discussion now on the second half of the amendment, Senator...on the first half of the amendment, Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, I would like to ask for a clarification s'nce I'm very ignorant in terms of criminal procedure, but a thought occurred to me and I wanted to ask both Senator Hohenstein and Senator Hall whether this was something that ever happened. Clearly, this particular bill is used apparently most all the time by the prosecution and perhaps it's always used by the prosecution. Certainly, the language on page 3 talks in terms of use by the prosecution if the prosecution proves to the court, et cetera, et cetera. My question is this, is it...does it sometimes happen that this particular provision would be used by the other side, not the prosecution?

SPEAKER BAACK: Senator Hohenstein.

SENATOR HOHENSTEIN: Yes, the original...the law in 27-404 does contemplate the use of other...evidence of other crimes, wrongs, or acts with other people. It doesn't specifically limit that just to the defendant, and you could have a case, oh, let's say an assault case where you have self-defense as an issue, you certainly could have a case where the person other than the defendant, the person who was allegedly assaulted, might want to use some other evidence of other bad acts to...or the defendant may want to use evidence of the person who was assaulted activities, other bad acts. Yes, it could be utilized against other than just the defendant, although the language here specifically deals with just the accused.

SENATOR BEUTLER: But the defense would never use it with respect to the accused to show a method of operation that was not, which was not apparent in the current case, for example, or do something like that? I mean I am getting to the question I guess of whether it's clearly appropriate to state only that it's the prosecution that is using this new language, or should it be neutral language just saying the...I don't know what you would say, the offering party or whatever? And maybe that's not relevant, it is just a question.

SENATOR HOHENSTEIN: The only thing, Senator Beutler, and I just mention, and Doug Kristensen indicated to me earlier, when you