

said, Senator Hall said, it could have been 50 years ago. I say ten, but it could be any number of years ago. The person has no knowledge, no awareness of anything and maybe the sheer inability to recollect anything that related to the incident could be used by some people, judges, to indicate that you're not being honest. You can argue that you didn't do it, but you say you don't even remember anything at all so you're hiding something. This evidence is coming in and once the jury hears it, the damage is done because you can tell jurors all you want to that this evidence that we're allowing in cannot be used by you to prove that the person did what they're accused of today. That means nothing to them at all. The fact that the judge let it in and it has been argued that this is similar to what the person is accused of today and it can be used to show that there is a tendency to do this kind of thing, all that goes. All the jury knows is that the court is saying that it is satisfied that this person probably did something like this before so he probably did this and he's guilty. Under this bill the bad act could, the prosecutor could try to bring it in, but before he or she could bring it in they would go before the judge out of the hearing of the jury and they would have to prove by clear and convincing evidence that the act even occurred. That's what we're talking about. Did the act the person is accused of even occur? There ought to be some standard by which to judge and let's say the judge says, okay, I think there's enough facts here to say that the act occurred so I'm going to let the evidence in and in reality there is not enough factual basis for it. By having a standard in the law that will be there with this bill, the person so convicted could then on appeal show that the judge did not have a standard that would justify letting this inflammatory information in and it is inflammatory or the prosecutor wouldn't try to bring it in. You've got the standard laid out for everybody. The prosecutor knows what he or she has to establish before...

SPEAKER BAACK: One minute.

SENATOR CHAMBERS: ...the bad act can be used. The defendant knows what has to be offered to counter that and the judge knows the standard by which an appellate court will judge his or her decision. I don't think it's unreasonable when a person is accused of crime A to require evidence that act B had actually been committed before it can be used in the trial of crime A. I think the bill ought to be advanced.