

on the individual to prove. Then the court must oversee and give permission for the coming and going of the excused accused and ultimately set conditions at the release but I have always felt that at that trial, the original trial, the prosecuting attorney had an enormous burden in proving beyond a reasonable doubt that the accused was sane. I am sure there are doubts in all of our minds that someone who commits a violent senseless crime is sane. Psychiatric testimony of experts on both sides contribute to that indecision and doubt. I believe we should assume that all who come before justice are innocent and sane and I am not alone with that belief. Nebraska has a M'Naghten standard which many of you are familiar with and in that original trial of Daniel M'Naghten which determined and gave us that standard the judges pronounced that every man is to be presumed sane until the contrary is proven. Simply, now by entering an insanity plea the accused who we consider innocent and sane, automatically, suddenly, magically becomes insane at that point and at the time the prosecuting attorney must prove beyond a reasonable doubt that he or she is not. That is a heavy burden. LB 183 simply says, insanity is an affirmative defense. The accused must prove, and this is by a lesser burden, a preponderance of the evidence that he or she is insane, in other words, more evidence to support his insanity defense than on the other side. 27 states now require this and I have sent a copy of those states and their defense practices on your desks. This is the latest information of states which is now approximately...well which is 27. Five years ago when I first looked at this question there were only 24 states which had the burden of proof on the defendant. This is not a radical, earth-shaking, catch the crook, criminal change. I call it fine tuning the present law which I feel is good and which appears to be accomplishing both the treatment of criminally insane but most importantly, the protection of the public. I would just like to make that burden more even, more equal and put it on the defendant to prove with the preponderance of the evidence. Thank you.

SENATOR BEUTLER: There being no lights on, is there anybody that wishes to discuss the bill? Are there any further amendments, Mr. Clerk? There being no further amendments and seeing as there is no one that wishes to discuss the bill, Senator Pirsch, do you care to close? That seems