

you don't seem to understand that these victims have already been through the criminal justice system many times. One woman had successfully accused and her stalker was convicted of 20 misdemeanors, 20 misdemeanors on separate occasions of property damage, of personal threat. These people are that small, small in numbers but a horrible type of victim, or a victim who has been victimized by a horrible type of crime. They've already tried to stop these people. They have had evidence. This evidence always adds up to a misdemeanor. They have no problem in proving, either through witnesses or other testimony or physical evidence. They've already jumped these hurdles. You always have to prove intent in any criminal case. In many cases, these have been done by the victims, by the prosecuting attorneys who have tried to help them, who have come before us in support of this change in the law. I don't see where just making assault in the third degree a Class IV felony is going to help this in this instance. We need to have the course of conduct and the definition of stalking and of harassment. They won't have any problem, these victims, of proving these points. They need our help in coming through with something more than a misdemeanor which adds up to just more horror when the stalker is again released after a slap on the wrist. We need this extra protection in the law for that small segment, and it usually is women, who have to live with this horror. And, Senator Beutler, if you want to make assault in the third degree on second and subsequent offense a Class IV felony, that's very meritorious and I would support that, but I do not support it when it comes in place of this bill which has had ultimate testimony and, I might add, has had many chances to be amended before this point.

PRESIDENT MOUL: Thank you, Senator Pirsch. Senator Wickersham.

SENATOR WICKERSHAM: Thank you, Madam President. I'll try to be brief. There were some issues raised here that I'm not quite sure what the people were thinking about when they raised them. First of all, I think Senator Chambers raised some question about how you prove intent. Well, intent is oftentimes an element in criminal prosecutions that is most "oftenly" proven by circumstantial evidence. We're very seldom able to burrow directly into someone's mind or to have them expressly say, I intended to do that, I intended to shoot you, I intended to take your life. The fact that something is accomplished is oftentimes proof of the intent, is done by circumstantial evidence. Some of the other concerns that were raised about the definition of willful or malicious, those are terms that have