

used in the courts and probably we don't even need to put that in this bill. So why are we taking the time to even put photographic evidence into the bill? The reason is very simply because half a dozen different county attorneys on the subject of using photographic evidence, particularly on shoplifted merchandise, did not know or were not convinced they could affirmatively do it. There are all the procedures in the court right now for how to use it once it is photographic evidence once you decide to use it but they did not know whether they could do it in this limited area. So what we're saying, yes, indeed on shoplifting photographic evidence is allowed and then you've already got in your law and I will read it to you here, Rule 1007, 27-1007, laws you passed in here. "Testimony or written admission of party, contents of writings, recordings or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission without accounting for the nonproduction of the original." And then we go to 27-1008. It is right there. "Functions of the judge and the jury when the admissibility of other evidence of contents of writings, recordings or photographs under these rules depends on the fulfillment of a question of fact or a condition of fact," and of course Senator Beutler was raising that very thing. He said how do we know that is a glass diamond as opposed to a real diamond? How do we know the real value? That is it. That is what we are talking about. It depends upon the fulfillment of a condition of fact. The question whether the condition has been fulfilled is ordinarily for the judge to determine so I think the standard we've got is probably even more strict than what Senator Beutler is trying to offer. I'm saying that only an absolute total fool who intends to absolutely lose would even attempt to use photographic evidence without having one heck of a well documented case establishing the value, proving the validity with backup witnesses to certify things with possibly...

SENATOR CLARK: You have one minute.

SENATOR DeCAMP: ...with possibly an affidavit or whatever from the defense that they have had an opportunity to examine. What I am suggesting to you is the system we have now is better than what Senator Beutler is even offering. So at the very worst we've already got everything he wants and at the best we've got more. So I would urge you to reject the amendment. Go ahead with the bill in its original form and I think even Senator Beutler, once he sees this probably will go ahead with his amendment.

SENATOR CLARK: Senator Landis.