

February 5, 1992 LB 291

be assumed to be true. That is not the system, and that is not the way we do business. What we make prosecutors do in this country is to prove the elements of their cases, and we allow them to be attacked by the defense. Senator Will makes a good point here, conviction rates are not low. They are high. Even though we have this now, we have a very high conviction rate. That is not the problem. But when we start building into our legal system presumptions that favor the state with its police force, with its Attorney General, its rabid Attorney General in the pursuit of criminal justice, all of the means that we have at our disposal of making cases, how many people there are that are out there trying to make cases in these situations that we are paying for, when you compare that to what the defense has, we do not need the additional benefit of a presumption of facts that favor the prosecutors. We are doing well enough on getting convictions. We don't need to presume facts that hurt not only the innocent but also just the playing field itself. We give lots of resources here and the deck is sufficiently, fairly apportioned now without making the presumption of guilt or the presumption of,...

SPEAKER BAACK: One minute.

SENATOR LANDIS: ...in this case, the regularity of a test in this situation. I support the amendment to the amendment. I intend to vote for it. I think Senator Will was quite right. I hope that we will do that, and then we can continue on and shape 291 into a piece of legislation that we can endorse.

SPEAKER BAACK: Thank you, Senator Landis. Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. Speaker, members. Senator Landis, Senator Will, I don't know where he went, but you are here and let me start with you a little bit. Senator Will talked about you can't attack that there would be presuming the test. Could I ask you some questions, Senator Landis? You don't want to answer. That's okay. No, that's fine. But I want to gather a little bit from your speeches because I think you tend to tell me things that aren't maybe in the practical world where it is at. Senator Will mentioned that this presumption would presume that the test was accurate. With this presumption, does the defendant have the ability to attack the way the test was given? He can do that, can't he?

SENATOR LANDIS: As a matter of fact, neither of us have claimed