

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 8, 2006

LB 57

like to see them line up, and he's going to say, you know what, I think the guy did it, but I can't prove it, there's just not enough there to prove it. And then he...

SENATOR CUDABACK: One minute.

SENATOR FOLEY: ...exercises his discretion as a prosecutor to say, I'm not going to take this case forward because there just isn't enough there to make the case convincingly, beyond a reasonable doubt. That's the key. It's got to be beyond a reasonable doubt. And if there is a reasonable doubt, he won't take the case. Prosecutors enjoy winning more than losing. So there's nothing new about what I'm offering here that isn't true already in all of our criminal statutes. With respect to every possible criminal act that a person might possibly commit, before he can be prosecuted successfully for that, that prosecutor has got to prove it beyond a reasonable doubt. And you get into this whole question of discretion, and there are many, many cases where the prosecutor knows darn well who did it and how he did it, but he doesn't have the facts, and he can't prove it beyond a reasonable doubt, so he doesn't pursue it. He drops it. That's the best answer I can give you,...

SENATOR CUDABACK: Time, Senator.

SENATOR FOLEY: ...Senator Johnson. Thank you.

SENATOR CUDABACK: Thank you, Senator Foley and Senator Johnson. Further discussion on the Chambers amendment to LB 57? Senator Chambers, followed by Senator Schimek.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Foley dwells in a Barnum & Bailey world, just as phony as it can be. He is not familiar, apparently, with the vindictive prosecutions brought by prosecutors who want to put women in jail because they drank alcohol while they were pregnant, and that was considered giving alcohol to a minor. See, you want to pretend you don't know how nutty these so-called pro-life politicians are, who will do anything to gain votes, anything, and everybody goes. But you know who the victim invariably is? The woman. They don't care about fetuses