

admissible, then you take all those facts together and decide if they're guilty beyond a reasonable doubt. It is a real delicate balance. It is a give and take. It is not a give and take on the floor of the Legislature. Senator Lindsay sort of said to you, well, gee, if you pass this, we're going to kill something else that you like or we're not going to pass that, we are going to revisit it, so be it. So be it, you take each bill as it comes and this playing them off against each other I don't think is very good policy. You're going to make a substantial change in the process of a criminal trial here if you adopt this burden, and then what you're going to be able to do is maybe there is some other evidence that you don't, if you are defense minded or if you are in some other proceedings and you want to raise that burden of proof and make it more difficult for them to prove their case, you will just slip in this clear and convincing and say, well, gee, we do it in the criminal end, let's do it over here. It is a bad precedent to start. It is a real bad precedent to start, and I think that the Legislature would be better served to keep the law the way it is, and the Hohenstein amendment would do that. It would place in some restrictions in years, as I understand it, Senator Hohenstein. No?

SENATOR HOHENSTEIN: No, the...

SPEAKER BAACK: Senator Hohenstein.

SENATOR HOHENSTEIN: The years provision was removed by the committee amendments. The singular restriction that the bill would retain, which I think is an important feature, and I guess I would disagree with Senator Hall that it guts the bill, is that it's clear then that there should be a determination prior to presenting this evidence to the jury.

SENATOR KRISTENSEN: That's the in camera,...

SENATOR HOHENSTEIN: Right.

SENATOR KRISTENSEN: ...basically, motion eliminating proceeding. That's fine to keep that, and probably may prevent a few cases from being reversed in the Supreme Court if they get a chance to look at those ahead of time prior to, basically, going on uncharted waters in front of the jury, and I certainly support the Hohenstein amendment. It keeps the law as it is, and if that causes another bill to have some problems, I guess