

offense right now of theft and the law at this time reads that a person is guilty of theft if he or she takes or exercises control over movable property of another with the intent to deprive him or her thereof. I would have to assume, and I don't think this is a bad assumption, that if someone rented property from a lessor and failed at the end of the rental agreement to return that property, that that would raise an adequate question to the jury as to whether or not the person who failed to return that property had the requisite criminal intent to deprive the lessor of the property. In other words, I think the law is probably all right at this time in terms of penalizing somebody who does fail to return property to anyone who has rented it and what worries me the most, I believe, with the committee's amendment is that it raises the presumption of bad intentionality. It says simply, that once a notice has been mailed out by certified mail to the lessee and the lessee has failed to return the property within ten days thereof, then it shall be presumed that the lessee had the requisite criminal intent to deprive the lessor of the property. Now the misgiving I have with respect to the presumption is that it may in a sense work to the detriment of some criminal defendant where guilt as you know is required to be proved beyond a reasonable doubt and if we have a presumption at least of a guilty mind and one important aspect of the criminal conduct complained of which is what the amendment would do, then it may be that the jury will not be able to render its appropriate function of deciding whether or not the defendant is guilty beyond a reasonable doubt, at least in this particular area, to wit: the idea of the guilty mind. It is for that reason that I believe the correct thing to do in terms of this problem is to oppose the committee amendment.

SPEAKER MARVEL: Do you have any other comments on the second set of Judiciary Committee amendments?

SENATOR NICHOL: Were there no others that wished to speak on this, Mr. Chairman?

SPEAKER MARVEL: No.

SENATOR NICHOL: The only thing I would say in answer to Senator Johnson's request is that there has been a criminal offense before as he stated but prior to now it is difficult for them to prove so that this amendment would make it easier for those who are attempting to get their property back to prove that there was criminal intent. Now if you rent a mobile trailer to haul your paraphernalia, your