

LB 83 presented to the Judiciary Committee is a new concept in prosecution of arson cases. This concept has come to be known as felony arson. As many of you may be aware, at the present time a person can be prosecuted for murder even though such killing was unintentional, if the defendant was in the perpetration of another felony, such as, first degree sexual assault, arson, robbery, kidnapping, hijacking or burglary. Now this concept in criminal law is known as the transferred intent doctrine. The theory is that a defendant engaged in a criminal act should be held responsible for all the consequences of that act. At the present time, murder is the only crime to which the transferred intent doctrine applies. What LB 83 does is to allow prosecution for arson even if the arson itself was not intentional, if the person was engaged in other criminal conduct. The committee amendments limit that other criminal conduct to three specific felonies, those being defined as robbery, burglary and felony criminal mischief, which is defined in the memorandum I referred to earlier. It was felt by the Judiciary Committee that by limiting this transfer intent doctrine to the three felonies mentioned, that this concept has a better chance of withstanding any constitutional challenge. So that, ladies and gentlemen, defines the committee amendments and I would ask that you adopt these amendments.

**SPEAKER MARVEL:** The motion is the adoption of the committee amendments to LB 83. All those in favor of that motion vote aye, opposed no. Record the vote.

**CLERK:** 26 ayes, 0 nays on the motion to adopt the committee amendments, Mr. President.

**SPEAKER MARVEL:** Senator Stoney. The Chair recognizes Senator Stoney.

**SENATOR STONEY:** Mr. Speaker, members of the Legislature, the amendments have been explained and I would like to give you a little additional background information on this particular proposal. For those of the members who are newly elected, I introduced during the 1980 Session LB 979 which was the model arson penal law but we found when holding the hearing on this particular bill that the major portions of this bill were already included in the criminal code law here in the State of Nebraska. Subsequently, LR 244 was introduced and was studied by the Judiciary Committee during the interim. The provisions and the intent of this bill has fairly well been explained so I will not bore you with that but I would like to give some general information on the issue of arson. I will read from a publication from the American Institute