

January 12, 1981

LB 81-91

since the death of one such as this, a certain amount of time must elapse before a commemorative stamp can be issued. It is also my understanding that this time has now passed and I would urge that the Nebraska Legislature immediately proceed with whatever action is necessary for the issuance of a commemorative postal stamp. Thank you.

PRESIDENT: Senator DeCamp, do you wish to speak on your resolution?

SENATOR DeCAMP: Mr. President, I think Senator Goll has said everything that needs to be said and I urge you to support the resolution.

PRESIDENT: Any further discussion on LR 2? Senator Goll, is there any closing then?

SENATOR GOLL: No, there is none, sir.

PRESIDENT: All right, the matter before the House is the adoption of LR 2 found on page 96 of the Journal. All those in favor signify by voting aye, opposed nay. Has everyone voted? Record the vote.

CLERK: 39 ayes, 0 nays on adoption of LR 2, Mr. President.

PRESIDENT: Motion carries and LR 2 is adopted. We are ready for agenda item #6, introduction of new bills and those of you who have not brought the bills up to the Clerk's desk might do so now so again we can process as many today as possible so, Mr. Clerk, you may proceed with the reading of the new bills.

CLERK: Mr. President, new bills: Read LB 81-86 by title for the first time as found on pages 113-114 of the Legislative Journal.

Mr. President, while we are waiting for bills, I have a new resolution, LR 3. Read LR 3 as found on pages 114-115 of the Legislative Journal. Mr. President, it is offered by Senator Beutler and that will be laid over.

Mr. President, Senator Fowler would like to have a meeting of the Retirement Committee upon adjournment underneath the North balcony, Retirement Committee underneath the North balcony, upon adjournment.

Read LB 87-91 by title for the first time as found on pages 115-116 of the Legislative Journal.

February 17, 1981

LR 17, 13
LB 15, 16, 55, 76, 83, 92, 136,
144, 170, 185, 187, 199, 217,
238, 244, 354, 434, 457.

Your Committee on Revenue gives notice of public hearing in Room 1520 for March 9, 16 and 18. (See pages 546 and 547 of the Legislative Journal.)

Mr. President, Senator Maresh would like to have the Business and Labor Committee meet underneath the north balcony upon adjournment.

Mr. President, LB 15, 16, 92, 170, 185, 187, 199, 238 and 244 are ready for your signature.

PRESIDENT: While the Legislature is in session and capable of doing business, I propose to sign and I do sign LB 15, LB 16, LB 92, LB 170, LB 185, LB 187, LB 199, LB 238 and LB 244.

CLERK: Mr. President, your Committee on Urban Affairs whose Chairman is Senator Landis to whom was referred LB 434 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 144 General File with amendments; 354 General File with amendments. (Signed) Senator Landis. (See pages 546 through 547 of the Legislative Journal.)

Your Committee on Judiciary whose Chairman is Senator Nichol to whom was referred LB 55 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 76 General File with amendments; 83 General File with amendments. (Signed) Senator Nichol, Chair. (See pages 548 and 549 of the Legislative Journal.)

Your Committee on Miscellaneous Subjects whose Chairman is Senator Hefner to whom was referred LB 217 instructs me to report the same back to the Legislature with the recommendation it be advanced to General File; 136 General File with amendments; 457 General File. (Signed) Senator Hefner, Chair.

Mr. President, two new resolutions, LR 17 by Senator Hoagland. (Read LR 17 as found on page 550 of the Legislative Journal.) That will be laid over. Mr. President, LR 18 offered by Senator Wagner and others. (Read LR 18 as found on pages 551 and 552 of the Legislative Journal.) That too, Mr. President, will be laid over.

PRESIDENT: The Chair also has an announcement from Legislative Services Coordinator, Harlan Johnson, who reminds all of you that pictures will be taken of all

February 27, 1981

LB 76, 83

as amended to E & R for review. All those in favor vote aye, opposed vote no. Senator Higgins.

SENATOR HIGGINS: I wanted to add an amendment to it, Mr. President. Evidently I am too late.

SPEAKER MARVEL: The easiest way to do it is a Select File amendment. When it gets to Select File, put the amendment on.

SENATOR HIGGINS: Thank you, sir.

SPEAKER MARVEL: Have you all voted? Clerk, record the vote.

CLERK: 30 ayes, 0 nays on the advancement of the bill, Mr. President.

SPEAKER MARVEL: The motion is carried. The bill is advanced. The next bill is LB 83.

CLERK: Mr. President, LB 83. (Title read.) The bill was read on January 12. It was referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments pending by the Judiciary Committee, Mr. President.

SPEAKER MARVEL: Senator Chambers, do you want to take up the committee amendments?

SENATOR CHAMBERS: Mr. Chairman, I was not present when this bill was heard so I am going to ask that you look in your book at LB 83 and I would like to ask Senator Stoney to yield to a question. Senator Stoney, are these your amendments? Did you offer them?

SENATOR STONEY: Senator Chambers, the amendments that are to the bill were offered and adopted by the Judiciary Committee. They are not mine. Yes, I would. Mr. Speaker, members of the Legislature, the committee amendments to LB 83 accomplish just one thing. They are more definitive than the bill was in its original form. The bill would provide for adding to Nebraska statutes a charge of felony arson and the committee amendments in defining this would indicate that these items are; when a burglary is committed; a robbery is committed; or felony criminal mischief. Now I have circulated to help you in better understanding what criminal mischief is a memorandum which is directed to my attention and it explains exactly what criminal mischief is, and if you will take the time to read that, I think it is fairly simplistic. I now have been provided with an aid by the Judiciary staff counsel and I will read for your edification more specifically what this amendment accomplishes.

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

for Research which reported on the arson information management systems conference in May of 1979. It has been defined at the national level that this crime, many people do not consider arson a crime, is virtually out of control here in the United States. It is not just a problem that affects the State of Nebraska but it universally affects all states in the United States. We are reminded of the fire that recently occurred in Las Vegas, Nevada where a number of people lost their lives as a result of arson. It doesn't appear that this is of much interest so I will at this time, Mr. Speaker, just move that the bill be advanced.

SPEAKER MARVEL: Senator Johnson, do you wish the floor?

SENATOR V. JOHNSON: Yes, Mr. Speaker, I think I have a question of Senator Stoney. I am looking over, Senator Stoney, if you will give me a little bit of your time, I am looking over your handout on criminal mischief.

SENATOR STONEY: Yes, sir.

SENATOR V. JOHNSON: Let me see if I have this right now, are we talking about criminal mischief or felony criminal mischief? Felony criminal mischief, aren't we?

SENATOR STONEY: Yes.

SENATOR V. JOHNSON: So a felony criminal mischief occurs when there is, what, a loss of more than \$300 in goods, substantial interruptions or impairment of public communication, transportation, supply of water, gas or power or other public service?

SENATOR STONEY: That is correct.

SENATOR V. JOHNSON: That is when we have a felony criminal mischief?

SENATOR STONEY: Correct, Senator Johnson.

SENATOR V. JOHNSON: I guess what I was really getting to, Senator Stoney, is this amendment with this bill would then elevate the felony criminal mischief penalty from a Class IV felony to a Class II felony, if in fact there has been a loss of more than \$300 caused by a fire in a building and there happens to be a person present in the building, is that what would happen?

SENATOR STONEY: That is correct.

February 27, 1981

LB 83, 217

SENATOR V. JOHNSON: Okay, I just wanted to make sure I understood it. Thank you.

SENATOR STONEY: Thank you, Senator Johnson.

SPEAKER MARVEL: Senator Cullan.

SENATOR CULLAN: Mr. President, members of the Legislature, I don't want to waste the body's time because I don't think that this is a very controversial proposal. I simply want to compliment Senator Stoney on his presentation and on bringing this issue to the Legislature. I think he has done an outstanding job of addressing one of the more serious crimes or potential crimes in the State of Nebraska and I rise to support his concept and express my appreciation for the very excellent work that he has invested in this effort.

SPEAKER MARVEL: The motion is the advancement of LB 83 as amended. All those in favor of that motion vote aye, opposed vote no. Record the vote.

CLERK: 31 ayes, 1 nay, Mr. President, on the motion to advance the bill.

SPEAKER MARVEL: The motion is carried. The bill is advanced. Now we go to LB 217.

CLERK: Mr. President, LB 217 was introduced by Senator Merle Von Minden. (Title read.) The bill was read on January 15. It was referred to the Miscellaneous Subjects Committee. It was advanced to General File. I have no amendments on the bill, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Von Minden.

SENATOR VON MINDEN: Mr. Speaker, members of the body, I introduced 217 so that you may have liquor on election day, not that you have to. I knew when I introduced this bill that there would be some people as soon as you mention the word "liquor", they cock their heads and say, "I am against it". If you will hear me out, I will try to explain to you why it is causing a harm to some of our businesses. Over a hundred years ago, in fact 1869, our lawmakers said that we shall not have liquor on election day, and for perhaps seventy-five or eighty years, that was a good bill. At that time, Senators, you could...you did vote in bars and saloons because perhaps there wasn't enough suitable places to vote. The saloons were probably the only place that had a floor in the building and I imagine at that time maybe some swaggering Senator like Senator DeCamp, I am looking, that

March 3, 1981

LB 5, 55, 76, 83, 128,
136, 144, 150, 217, 279,
354, 379, 457, 462

CLERK: Mr. President, Senator Kahle voting aye, Senator Wiitala voting aye, Senator Barrett voting aye.

SPEAKER MARVEL: Senator Goodrich, would you record your presence.

CLERK: Senator Vard Johnson voting aye.

SPEAKER MARVEL: Record the vote.

CLERK: 25 ayes, 13 nays on adoption of Senator DeCamp's amendment to the Beutler amendment, Mr. President.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. Do we have other amendments? Senator Beutler.

SENATOR BEUTLER: (Mike not turned on.) ...now, I would move the amendment be adopted.

SPEAKER MARVEL: All those in favor of that motion vote aye, opposed vote no. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the Beutler amendment as amended.

SPEAKER MARVEL: The motion is carried. The amendment is adopted. The motion is the advancement of the bill to E & R for engrossment. A machine vote is requested. All those in favor of advancing the bill vote aye, opposed vote no. Record.

CLERK: 27 ayes, 13 nays, Mr. President, on the motion to advance.

SPEAKER MARVEL: The motion carried. The bill is advanced. Items on the Clerk's desk before we go to the next bill. I would suggest to you that in ten or fifteen minutes we will move into General File as per the agenda.

CLERK: Mr. President, your committee on Enrollment and Review respectfully reports we have carefully examined and reviewed LB 144 and recommend that same be placed on Select File with amendments; 354 Select File; 55 Select File 76 Select File with amendments; 83 Select File with amendments; 217 Select File; 457 Select File; 136 Select File; 128 Select File; 462 Select File with amendments; 279 Select File and LB 5 Select File with amendments. (Signed) Senator Kilgarin. (See pages 728-730 of the Legislative Journal.)

Mr. President, your committee on Public Health and Welfare whose chairman is Senator Cullan reports LB 379 to General

March 4, 1981

LB 76, 83, 217

SENATOR KILGARIN: I move LB 76 be advanced to E & R for Engrossment.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. Motion carried, the bill is advanced. LB 83.

CLERK: E & R, Senator.

SENATOR KILGARIN: I move the E & R amendments to LB 83.

SPEAKER MARVEL: All those in favor of that motion say aye. Opposed no. The motion is carried. The E & R amendments are adopted.

CLERK: Mr. President, I now have a motion from Senator Stoney to add the emergency clause.

SPEAKER MARVEL: Senator Stoney.

SENATOR STONEY: Mr. Speaker and members of the Legislature, I have been contacted by the State Fire Marshal, Wally Barnett, who suggested and recommended that we add the emergency clause since it may be a tool to be helpful in them in passing it with the emergency clause. So I would offer that for your consideration.

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

CLERK: 29 ayes, 0 nays on adoption of the emergency clause, Mr. President.

SPEAKER MARVEL: The motion is carried and the emergency clause is adopted. Senator Kilgarin.

SENATOR KILGARIN: I move LB 83 as amended be advanced to E & R for Engrossment.

SPEAKER MARVEL: All in favor of that motion say aye. Opposed no. The motion carried. The bill is advanced. The next bill.

CLERK: Nothing on the bill, Senator.

SPEAKER MARVEL: Senator Kilgarin.

SENATOR KILGARIN: I move LB 217 be advanced to E & R for Engrossment. I also call for a record vote.

March 10, 1981

LB 32, 76, 83, 136, 144,
206, 206A, 354, 457, 492

respectfully reports and examined engrossed LB 76 and finds the same correctly engrossed; LB 83 correctly engrossed; LB 136 correctly engrossed; LB 144 correctly engrossed; and LB 354 correctly engrossed; LB 457 correctly engrossed. (Signed) Senator Kilgarin.

Mr. President, I have a message from the Governor. (Read. Re: LB 206 and 206A. See pages 818 and 819, Legislative Journal.)

Mr. President, I have an Attorney General's opinion addressed to Senator Vickers regarding LB 32.

Mr. President, Senator Kremer would like to have the Public Works Committee meet underneath the North balcony right now for purposes of an exec session, the Public Works Committee underneath the North balcony, Mr. President, right now if possible.

Mr. President, your committee on Government, Military and Veterans Affairs reports LB 492 to General File, (Signed) by Senator Kahle as Chairman.

PRESIDENT: The Chair recognizes Speaker Marvel for an important announcement. Speaker Marvel. Would the Legislature please pay some attention to the Speaker at this point.

SPEAKER MARVEL: I wish you would get out your paper and pencils because we are talking about deadlines for priority bills. You will find on page 137 of the Journal for the fifth day, January 13, 1981, Rule 5, Section 6 which talks about scheduling of bills and priority bills. Your individual priority selection as well as your committee selection, the deadline is March 13 which is Friday. The deadline for the Speaker is March 17 and the chairmen who met this morning, although the rule does create some misunderstanding, what would happen is that your bills designated by either yourself or the chairman of your committee or committees, those bills would be gathered in by the Speaker's office and we would set them up as priorities on the agenda. Now there is some discussion about a way to maneuver so you can get more priority bills than somebody else and I would assume that no one in this body would operate that way but March 13 is the deadline for priority bills individual and committee and March 17 is the deadline as far as the Speaker's office is concerned and we would implement this through the agenda. If anybody has any questions I will try to answer them, otherwise you can find on your worksheet for this morning the beginnings of a listing of priority bills. There are five listed this morning, 56, 245, 269, 290 and 404.

March 13, 1981

LB 13, 76, 83, 204A, 254, 309,
391, 427, 455, 472, 498, 136

CLERK: ...your committee on Education whose chairman is Senator Koch reports LB 309 to General File; LB 427 to General File; LB 455 to General File; LB 472 to General File; LB 498 to General File with amendments; LB 13 as indefinitely postponed; LB 254 indefinitely postponed; and LB 391 as indefinitely postponed, all signed by Senator Koch as Chair.

Mr. President, Senator Wagner would like to print amendments to LB 204A. (See pages 899 of the Legislative Journal.)

PRESIDENT: One more time, if everyone will be at their desks we will commence Final Reading. Would all members please get to your desks so we can start Final Reading. As soon as everyone is at his or her desk we will begin. All right, we will begin, Mr. Clerk. The first bill on Final Reading is LB 76.

CLERK: (Began reading LB 76 on Final Reading.)

PRESIDENT: Yes, for what purpose do you arise, Senator Chambers?

SENATOR CHAMBERS: This bill, Senator DeCamp and I had talked about it. Can we lay it over a day? There are some amendments that are going to be offered and we don't want to try to do it now and the other bills can go ahead and be read?

PRESIDENT: Mr. Speaker, what do you wish to do with...? Under these circumstances? Is that all right? All right, the Speaker says it is all right, Senator Chambers. We will just pass over the LB 76 and commence then with LB 83, Mr. Clerk.

CLERK: (Read LB 83 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 83 pass with the emergency clause attached. All those in favor vote aye, opposed nay. Record the vote.

CLERK: (Read record vote as found on page 901 of the Legislative Journal.) 44 ayes, 1 nay, 2 excused and not voting, 2 present and not voting, Mr. President.

PRESIDENT: LB 83 passes with the emergency clause attached. The next bill on Final Reading is LB 136.

CLERK: (Read LB 136 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 136 pass. All those in favor vote aye, opposed nay. Record the vote.

March 16, 1981

LB 83, 136, 138, 290, 310,
325, 354, 440, 457

SPEAKER MARVEL PRESIDING

DR. ROBERT PALMER: (Prayer offered.)

SPEAKER MARVEL: Record your presence.

CLERK: Mr. President, Senators Clark, Nichol and Hoagland would like to be excused for the day. Senators Newell, Cullan and Beutler...Beutler is here, Senators Newell, Cullan and Wesely...Wesely is here, too.

SPEAKER MARVEL: Record.

CLERK: A quorum present, Mr. President.

SPEAKER MARVEL: Have you got some items to read?

CLERK: Yes, sir. Mr. President, your committee on Enrollment and Review respectfully reports they have carefully examined LB 290 and recommend that same be placed on Select File with amendments; LB 138 Select File. (Signed) Senator Kilgarin, Chair.

Mr. President, your committee on Education whose Chairman is Senator Koch reports LB 440 to General File with amendments. (Signed) Senator Koch.

Your committee on Government whose Chairman is Senator Kahle reports LB 310 to General File with amendments. That is signed by Senator Kahle.

Mr. President, I have reports from the Department of Health, Bureau of Examining Boards pursuant to statutory section; and one from the Department of Administrative Services, State Building Division, both offered in compliance with statutory provisions. They will be on file in my office.

Mr. President, Public Works Committee will meet in executive session at one thirty on March 18, 1981 in Room 1517. That is signed by Senator Kremer.

Mr. President, LBs 83, 136, 325, 354, and 457 are ready for your signature.

SPEAKER MARVEL: While the Legislature is in session and capable of transacting business, I am about to sign and do sign LB 83, LB 136, LB 325, LB 354, LB 457. Okay, let's go to item #4.

CLERK: Mr. President, the first item under gubernatorial

March 17, 1981

LR 21, 30
LB 24, 38, 51, 55, 83, 114, 128,
136, 150, 154, 195, 217, 246, 250,
272, 275, 279, 288, 302, 325, 354,
388, 409, 434, 444, 457, 462, 515

SPEAKER MARVEL PRESIDING

REVEREND RON WASIKOWSKI: (Prayer offered. Microphone not on. See page 951, Legislative Journal.)

SPEAKER MARVEL: Record your presence. Record.

CLERK: There is a quorum present, Mr. President.

SPEAKER MARVEL: Did you have any other items?

CLERK: Yes, sir, I do. Mr. President, first of all, the Journal is without error this morning.

Mr. President, a communication from the Governor addressed to the Clerk. (Read. Re: LBs 55, 83, 114, 128, 136, 150, 154, 195, 217, 246, 272, 275, 279, 288, 325, 354, 388, 409, 434, 457, 462, 24, 38, and 51. See pages 951 and 952, Legislative Journal.)

Mr. President, I have a series of Attorney General opinions. One to Senator DeCamp regarding the Executive Board and the powers thereof; one to Senator DeCamp regarding payment of salary; one to Senator Nichol regarding LB 515.

Mr. President, your committee on Government, Military and Veterans Affairs whose Chairman is Senator Kahle reports LB 250 to General File with amendments; LB 444 to General File with amendments. Signed Senator Kahle as Chair.

Your committee on Public Works whose Chairman is Senator Kremer reports LB 302 to General File with amendments and Public Works reports LR 21 back to the Legislature with amendments. Signed by Senator Kremer as Chair.

SPEAKER MARVEL: From Senator Barrett's District in the North balcony it is my privilege to introduce 19 senior high students from St. Ann's Catholic School, Lexington, Nebraska. Mr. Roger Lucas, Government teacher; Dr. Phillip Vreeland, English teacher. Will you hold up your hand so we can see where you are and greet you? Okay, we will go to item #4.

CLERK: Mr. President, the first resolution is offered by Senator Dworak. It is LR 28. It is found on page 737 of the Journal.

Mr. President, while Senator Dworak is missing, LR 30 by Senator Vickers. It is found on page 787. (Read.) That resolution, Mr. President, is found on page 787 of the Journal.