

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

February 7, 2000 LB 74

defense, and certainly cannot be compelled to testify against himself or herself. In a civil matter, a person can be compelled to testify. I hope I haven't confused the issue, but if I have, I'll be happy to unravel it. I hope that you will listen to the committee amendment because it will then become the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. On the committee amendments, Senator Bromm. (AM0740, Legislative Journal page 950, First Session, 1999.)

SENATOR BROMM: Thank you, Mr. Lieutenant Governor. I think Senator Chambers gave a good summary of why the bill was brought and what the court had said in the case that he alluded to, actually told about, the State vs. Knoles case. That was a case involving a double jeopardy where the defendant had made an illegal U-turn, I think on the interstate, had been found not guilty by the county court, and the prosecution appealed to district court and arguing that this was a civil matter and that it could be appealed, and if it were reversed by the district court, I think, then that he could be fined or treated the same as if he had been found guilty in county court. I think the Supreme Court said, no, that would be double jeopardy if you were allowed to do that prosecution because...and then they went through a description of the Rules of Road and concluded that these types of infractions were, in fact, in the nature of criminal for purposes of double jeopardy. And I haven't read all the cases since then that have referred to that, but I think the case still stands. The committee amendment does just what Senator Chambers mentioned. In Section 60-672, where the last several words of that section presently say, and it's talking about a traffic infraction, "which is not otherwise declared to be a misdemeanor or a felony and which shall be a civil offense." Now the words "and which shall be a civil offense" are stricken from the statute, and we put a period after "felony", so traffic infraction shall mean the violation of any provision of the Nebraska Rules of the Road or of any law, ordinance, order, et cetera, regulating traffic which is not otherwise declared to be a misdemeanor or a felony. Now there are definitely provisions in the statute which refer to certain violations of the law of the Rules of the Road being a misdemeanor and certain violations being a felony. So this