

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

February 7, 2000 LB 74

an application and a query is made as to your criminal history or lack thereof, it generally will say, have you been convicted of any crime other than a traffic infraction, or have you been convicted of a violation of the law other than traffic, or something along that line. When the Legislature enacted the law that allowed a citation to be given in lieu of arrest, when a person is stopped and given that citation, that is an arrest and the Supreme Court has said when you're stopped for a traffic violation that is an arrest. Now there might be staff members who haven't read the cases, don't know the law, and they talk about how it seems to them, but I can cite the Supreme Court decisions. Now, if Senator Engel thinks that not passing this bill is going to change anything, then Senator Engel has been misled about the law. If Senator Engel has not been shown the case by his staff, then he can be misled. But the Supreme Court has been explicit. There have been other decisions citing the Knoles case, and they all come to the same conclusion. And in one such case the Nebraska Supreme Court made reference back to the Knoles case, saying that in that case is found a discussion of the nature of an infraction. In some stops that have been made of individuals there had to be an underlying criminal offense first, and the infraction that was charged served that purpose. So if Senator Engel has a question he'd like to put to me, I'm willing to answer it now, unless he wants to wait until his time is up, because I don't have anything else on my time that I would say right now. So, Senator Engel, would you like to ask me a question or two?

SENATOR CUDABACK: Senator Engel.

SENATOR ENGEL: (Microphone malfunction)...to argue the law with the attorneys, especially the senior member here. But I do have these questions, they weren't all brought up by my staff but by myself also because, as you said, the Supreme Court doesn't pay any attention to what laymen think, and that's true. And, of course, I am a layman as far as the law is concerned.

SENATOR CHAMBERS: So am I, because I'm not a lawyer.

SENATOR ENGEL: (Laugh) Yeah. Okay. Well, I took business law and I know what a tort is and that's about it. (Laugh)