

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

February 11, 2000 LB 1004

and what the court's decisions have been in construing that law, which means it's not taken judicial notice of, it becomes a part of the case that must be presented by the prosecutor. People drafted this language who did not understand the way the law operates. But anyway, this is the provision that my amendment seeks to strike.

SENATOR COORDSEN: Thank you, Senator Chambers. Your light is next to speak to the Chambers' amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, not only must the court know about that for the laws and amendments to those laws in any other state, but also all the laws of the United States. So who's going to do the research to find all the laws of the United States that might have a bearing on this and see how they have been amended during the last 12 years to see what changes have been made and to see what court decisions have been made construing those laws? What some of my legal friends on the floor may not realize, because they may not practice law, they're lawyers but they don't practice in the court in the way of litigating. Court decisions, decisional law is the law, just like a statute. And when the court interprets a statute, the court will sometimes interpret it in a way that seems not to go along with the written language in the statute. And that's why some people say the Nebraska Supreme Court is legislating. So it's not enough to just read the words of the statute. There are provisions in Nebraska statutes which have been modified by rulings of the Nebraska Supreme Court. Let's deal with that definition that we changed the other day of infraction to comply with the ruling by the Nebraska Supreme Court. Suppose in Kansas the Legislature had been as slothful or inattentive as happened in Nebraska, and something is written in the statute books which is not valid based on what their court ruled, well this says what's taken judicial notice of are the statutes. So you go to the statutes and you read something there, and it may be one of those dead letter provisions that their court has already said is invalid. They don't say the valid statutes, they don't say anything. They are so eager to spread a net that catches everything, and this is written because some guy did have an atrocious record in Sarpy County or in Nebraska, and he went up to North Dakota or someplace, South Dakota, and then came back here, and they couldn't use