

Fowler amendment?

SENATOR MURPHY: Senator Fowler, I have a problem in that if we eliminate the ability to levy a fine or issue a ticket, a warrant for breaking the laws of Lincoln, and then say there is nothing we can do about it the man who parked the car there lives in Topeka, you might just as well throw away the book because there is no way in the world that you are going to collect that fine from a non-resident who is elsewhere in this country. I think that the car rental people as a part of their business, certainly they can not sign away their liabilities otherwise and I don't think that they should be permitted to say that if my car that I own is illegally parked you go ahead and go to China and find who did it and tell him about it but don't tell me about it just because it is my car. I would have to oppose that amendment.

SPEAKER MARVEL: Senator Chambers, your light was on. Do you wish to speak to this amendment?

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Murphy there are not many times we agree on an issue but he took almost everything that I was going to say, including the, and I have it written here, it should be the cost of doing business. That they are entitled to no privilege. That all nonmoving violations are attached to the vehicle, and the owner is the one that you always count upon. If you are going to say that if an owner of a vehicle is not the one to be levied against then it should apply across the board and not just to those in business of leasing cars and they should anticipate that one of the hazards is that traffic violations will occur and these violations will be assessed or made the responsibility of the owner of the vehicle if the driver can not be found. So, that part has been taken care of but I have this to say. I presume that since this amendment was given by the rental car people a lawyer, a lawyer, probably drafted the amendment and in drafting this amendment in line 6 the lawyer put the word "presumed". Now a lawyer certainly knows that there are different types of presumptions in the law. There are rebuttable presumptions, there are conclusive or irrebuttable presumptions and a rebuttable presumption means that the one accused of something has against him or her immediately all of the scales tipped, but you are allowed to offer countervailing evidence to balance the scales and then tip them the other way. Irrebuttable presumption means that when a certain situation is found to exist the law concludes that you were guilty and that is it. Now, this lawyer, just put the word "presumed" and we don't know what that means. That is an ambiguous term. So, even if you took