

February 10, 1995 LB 222

CLERK: Senator Chambers would move to amend the committee amendments, Madam President. (Chambers amendment, AMO350, appears on page 710 of the Legislative Journal.)

SENATOR CROSBY: Senator Chambers, on your amendment.

SENATOR CHAMBERS: Madam President, members of the Legislature, a copy of this amendment is coming around to you now. As Senator Hudkins pointed out, the day that this bill was heard we had a couple of others dealing with the same subject. One of the bills, which she in her modesty did not inform you of, I don't think, was hers. There was a provision in her bill which I'm going to offer as an amendment to the committee amendments to Senator Hall's bill, that way we will not have two bills dealing with this item. And I will tell you, as the amendment is coming around, what it is designed to do. Under the current law if either party files an appeal, based on the award that was given, the condemnee or the property owner is the one who will always be designated as the plaintiff, even if the condemner or the agency taking the property files the notice of appeal. What this amendment would do is require this procedure to be the same as that in every other instance where an appeal is filed. The one filing the appeal is the one who must go forward. That's all that this amendment does. And on the chance that it may be on your desks now, I will read what is going to be done. First of all, we'll be amending Section 76-717. The filing of the notice of appeal shall confer jurisdiction on the district court. Current language says, regardless of which party appeals, the condemnee shall file a petition on appeal in the district court within 50 days. This new language would say, the first party to perfect an appeal shall file a petition on appeal in the district court, meaning that if the condemner is the one that files the appeal, then the condemner will be the one to have to go forth, as should be the case. Furthermore, this language would be stricken, the proceeding shall in all cases be docketed in the district court showing the condemnee as the plaintiff and the condemner as the defendant. Well, if I am the plaintiff, I am the one who has to make out the case. If I am the defendant, I can just sit back and really don't have to do anything. So, if the one taking the property is the one who is filing the appeal, then the one taking the property should have the burden of establishing the case based on why he or she is appealing. So, I think this amendment is eminently fair. I don't think it's a complex issue. I have tried to explain it as