

January 24, 1979

LB 187, 27

PRESIDENT: LB 187 is advanced to E & R Initial. Next bill on General File is LB 27.

CLERK: Mr. President, LB 27 was a bill introduced by Senator Maurice Kremer of the 34th. Read title. The bill was first read on January 4 of this year. It was referred to the Public Works Committee. It was advanced to General File, Mr. President. There are no committee amendments pending.

PRESIDENT: The Chair recognizes Senator Kremer.

SENATOR KREMER: Mr. Chairman, members of the Legislature, LB 27 actually is the first step in providing some guidelines for settling disputes that may arise between the owners of domestic and irrigation wells. It is true that this issue has not become acute, but on the other hand, it is kind of a sleeping dog sort of thing and first came to light when the Madison case came before the courts which was somewhat different than most disputes that may rise between the owners of domestic and irrigation wells in that it related to an artesian aquifer and that, of course, is the case where the water is under pressure, and when an irrigation well is installed, it takes away the pressure and you can identify immediately who the irrigation well operator was. The courts in our state, like in other states have long said that it is time that the Legislatures in the states start to giving some guidelines with respect to the ownership of water and rules and some guidelines that would help the courts in making determination. If you will read the explanation that is in your book on the bill, you will note that it has to do with the drilling of an irrigation well and the irrigation well owner would not be responsible for the operation of a domestic well if the irrigator was there first and follows up by saying that the domestic well, in turn, needed to be drilled to a depth that is reasonable at least. I guess the best way to explain that is that it is possible to sink a domestic well and hang it in the first eight or ten or twelve inches of water in the present water level, and then when the irrigation season comes on, the water level drops a little bit and the domestic well goes dry. The way the bill is written it would protect the irrigator to the extent that he was there first and that the domestic well was drilled to a reasonable depth. Now that word "reasonable", of course, has long been a problem. What do we mean by it? And I would expect that the courts would have to determine that based on the circumstances around it. This bill in no way changes the preference system. I will make that real clear. The preference system as established by statute still says domestic is number one, and then agriculture number