

January 24, 1979

LB 27

SENATOR LAMB: A question of Senator Kremer.

PRESIDENT: Senator Kremer, will you respond?

SENATOR LAMB: I apologize for missing part of the debate, too, Senator Kremer, but I guess the word "reasonable" in there troubles me a bit. I wonder if there is any way to more closely define that in terms of distance into the aquifer that a domestic well might have to be drilled in order to be called "reasonable"?

SENATOR KREMER: Senator Lamb, you are aware that the thickness of an aquifer varies throughout the state and I suppose that would have a bearing on determining what we mean on the word "reasonable". Let's use another example. I think our law says when it comes to speed limit under icy conditions that the 55 mile an hour speed limit does not necessarily relate but you are to travel at a reasonable speed under the circumstances. I don't know what the word "reasonable" means. I would think it would be something that is sensible and does not invite a dispute simply because a person would put down a domestic well in the upper part of a water level and use that as a reason to sue his neighbor saying that you took the water out from under me and, consequently, you are going to have to pay for the deepening of this well. To me that is unreasonable. I would feel that I have a responsibility in drilling my new domestic well to a depth where I knew I was not going to be injured because of the use of water, irrigation water, in my area. I don't know what the word "reasonable" means and it is applied many, many times in our statutes and I guess it causes a problem every time it is used.

SENATOR LAMB: Thank you, Senator Kremer. I guess my concern is that maybe this does not exactly clarify the situation. It would still take a court test in order to determine what is reasonable and it would be my hope that possibly the bill could be amended in such a way to give those of us who might be drilling a well or any people who might be drilling a domestic well a little more, a little better guideline in determining how deep the well should be in terms of the surrounding aquifer conditions in order to minimize lawsuits. Thank you.

PRESIDENT: The Chair recognizes Senator Reutzel.

SENATOR REUTZEL: Mr. President, Senator Kremer, I think, we have only got five minutes left here before we have to adjourn for committee, but I think Article XV, Section 6 of