

March 6, 1980

LB 680

SENATOR SIECK: Yes, I am wondering what he is pertaining to when he says a two year extension as far as a condemnor coming in and taking property. I can't quite gather what he is trying to get a hold of here.

SENATOR SCHMIT: Yes, I will be glad to answer that, Senator Sieck. For example, if there is a public subdivision, such as, a Natural Resource District, that has instigated condemnation proceedings against a landowner and the original bill provides that there shall be...that attorney fees may and court costs may be paid if the NRD did not negotiate in good faith or if there was no public purpose involved in taking the property in the first place, if the appeal was made to district court and the court finds in the favor of the landowner. Then the landowner may get attorney fees and court costs. That is the original bill. The amendment which I have offered here also, first of all, adds the emergency clause and, second, says that, for example, a Natural Resource District could not instigate condemnation proceedings again for a period of two years after they had first lost their case in court. Now I think that you might want to say it will be one year, you might say...someone might say three years. I think that in the event the court has ruled that the action was not for public purpose or was not...the negotiation did not take place in good faith originally, that a reasonable period of time should take place before the condemnation could be enforced again because where public funds are involved it might be very easy to go back into condemnation proceedings immediately and it isn't a situation where you and I might be in litigations. It is a question of where taxpayer funds are used and there is no really mitigating factor to delay a subdivision from enforcing or going back into court again.

SENATOR SIECK: Okay, Senator Schmit, I also wonder, now is this on the individual property or would it be on the total project?

SENATOR SCHMIT: It would be an individual condemnation proceeding.

SENATOR SIECK: On the individual property?

SENATOR SCHMIT: Yes.

SENATOR SIECK: Not on the total project of that particular project that we are talking about.

SENATOR SCHMIT: It would be the proceeding that was involved, that is all.