

March 6, 1980

LB 680

SENATOR SCHMIT: First of all, Senator Wagner, you have to remember that the court has to find that there was no reason to take the property in the first place. That is one reason. Or that they did not negotiate in good faith. That is the second reason. Now I think that bearing in mind, bearing in mind, that there may be some instances where this would occur. I think we have at least as great a right to protect the rights of the individual as we do of the subdivision of government. I think it is beholden upon the subdivision of government to, first of all, give an equitable settlement. That is the first thing. Secondly, that they negotiate in good faith and, third, that there was a public purpose for taking the property in the first place. Now if any one of these three conditions are not there, then certainly I think we are going to find the rights of the citizen to be stepped upon from time to time. I don't think there is any question in our minds about wanting to hold up the highway project or a public project of any kind but I think that those employees of government ought to respect the rights of the property owner to the extent that we have outlined in the legislation. The right of eminent domain is necessary but the right of the individual citizen, an individual citizen's rights, should not be subservient to the rights of public purposes.

SENATOR WAGNER: Senator Schmit, I just checked with the highway department and they really can't see any reason for this provision and they feel like it is unnecessary and for that reason I sure can't support the amendment.

SPEAKER MARVEL: The motion is the adoption of the Schmit amendment to LB 680. Senator Newell.

SENATOR NEWELL: Yes, I had my light on and I would like to ask Senator Schmit a question if I could. Senator Schmit, where did this amendment come from?

SENATOR SCHMIT: It is my amendment, Senator.

SENATOR NEWELL: And basically the purpose is to penalize government if they don't in your words "negotiate in good faith"....

SENATOR SCHMIT: No, I think the purpose is to protect the rights of the citizen where eminent domain is used. I believe that the right of eminent domain should be used only when absolutely necessary and that the rights of the citizen should be protected.

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