

May 8, 1981

LB 252

one of them. We understand that Senator Schmit is on his way to Omaha. Senator Newell is the only one we would be short. Your time is going to run out in five minutes.

SENATOR VICKERS: Okay, Mr. President, I will go ahead and close if everybody is here except Senator Newell, is that what you are telling me?

SENATOR CLARK: That is right.

SENATOR VICKERS: Okay. Mr. President and members, I think this is an important enough issue that everybody should be in this body and be aware as to what we are doing. I suggested a little bit ago and I will remind you again that I believe the issue in 252 is without a doubt the most important issue this Legislature is going to deal with as it affects future generations in this state this year or any other year, at least in any year that I have been here. Last summer the Supreme Court of this state overruled a decision that was made in 1936 based on the Constitution and indicated that transbasin diversion was in fact legal in the State of Nebraska. Senator Beutler had LB 252 drafted in response to that Supreme Court decision because of the language in the Constitution, and for the umpteenth time I am going to read you that sentence. It says, "The right to divert unappropriated waters of every natural stream for beneficial use shall never be denied except when such denial is demanded by the public interest." Now it is Senator Beutler's contention that since transbasin diversion suddenly became a big issue and was going to be allowed that this Legislature should set down criteria for the courts and the Department of Water Resources to use as to what the public interest was, and I compliment him for that. I agree with that. I think we should, too. But the problem is as 252 is drafted it is leaning it very much toward one side of the issue and I don't think that is our job. I think our job is to make the criteria as near as possible in the middle of the road and then let the Department, let the various arguments be made, let the courts in the end make the decision based on our criteria, based on the guidelines that we have put down. But I don't think it is incumbent on this Legislature to make those guidelines applicable to only one side. If we are going to write the rules of the ball game I think we should treat both parties fairly. Now in the bill, on Section 6, Section 5, excuse me, on page 6, subsections (1) and the committee amendment that made subsection (5) I will certainly agree are in favor of the basin of transfer. The other five are all in favor of the basin of origin. So 't is five against two. The amendment that I am offering, and I have a copy on everybody's desk,