

February 22, 1979

LB 26

that the people are the ones who are paying for the entire issue and we are not resolving issues. We are financing court costs, attorney fees and we are resolving nothing. It is amazing to me and I want to ask Senator Kremer a question. Would he yield, please?

PRESIDENT: Senator Kremer, will you respond?

SENATOR KREMER: I will.

SENATOR SCHMIT: Is Senator DeCamp substantially correct, that a principal portion of this money will be used for litigation purposes or is planned for litigation purposes?

PRESIDENT: Proceed.

SENATOR KREMER: Senator Schmit, your question was, do I agree with the statement that Senator DeCamp made when he said that probably the most of this money would be spent for litigation? Is this what you asked me?

SENATOR SCHMIT: Yes, that is right, Senator Kremer. I am concerned about it.

SENATOR KREMER: Yes, this is right. We need to talk a little bit about that very question. I understand that in the NRD where they are having a problem of severe depletion of water they feel that they simply must go to some type of control. In order...Nebraska today, the courts have generally adhered to the doctrine of reasonable use. In other words, we do not in Nebraska have a doctrine of absolute ownership and some people think we do but we do not. The courts have long thrown that out where anybody can do as they want. Okay, that works real well until we come to a time of shortage. Then California, other states who are having the same problem that we are having, have gradually leaned over toward the doctrine of correlative rights which means in Nebraska we have kind of a cross between the doctrine of reasonable use and the doctrine of correlative rights. When we talk about the doctrine of correlative rights it means then, if it is a time of shortage, we share and we share alike. That means an appropriation of water out of the groundwater system just like in the stream system, we now have laws on and not on the groundwater. If we go to that which we are going to have to in an area like we are talking about, it means we are going to have measuring devices, call them meters, whatever you want. All right. The NRD's as well as some state officials are quite sure that someone is going to challenge the right to demand a measuring