

one priority. It appears to me, and I don't know how much we can do this by statute but it seems to me we are clouding the issue here a little bit by statute saying domestic use doesn't always have the priority. We are putting in a cloud of reasonableness, whatever reasonableness means. Senator Kremer can't define it. I am not so sure anybody else can define it. It would appear to me in these contested situations that we are automatically throwing this into a legal situation, into a suit situation and it seems to me that we are kind of infringing upon the rights of the individual a little bit. In a court situation, we have a commercial operation probably opposed to an individual operation and I think we are doing something here that is very clear in the Constitution that states we shouldn't be doing. Now we don't have any precedent in this state of any abuses in this particular area. I don't know of one case at this point. In fact, I know of only one case that has been adjudicated by the courts. I haven't personally had enough explanation on this particular bill to change the concept that we seem to be operating under in this state. I don't think we can do it with this statute because it is in the Constitution, and if we can't do it within this statute, I can't really see the reason for this statute. And so until I get convinced differently, I am not going to support this particular measure.

PRESIDENT: The Chair recognizes Senator Cope.

SENATOR COPE: Mr. President and members, I think the bill has a great deal of merit. I think in answer to Senator Dworak's remarks, the domestic use still has priority but it is unfair if there is an irrigation well down and then a domestic well is drilled, a shallow well, and would have priority. Now as I understand it, the bill says that it has to be of reasonable depth and it certainly wouldn't hurt to go down a few more feet to get the water it needs. I think it has merit. I do have a question of Senator Kremer, though, that I would like to ask.

PRESIDENT: Senator Kremer, would you respond?

SENATOR COPE: Senator Kremer, now we can tell when irrigation wells are drilled because they have to be registered but domestic wells, that is, that have considerable age, now recently you could go to the driller and he would have the dates and that sort of thing but I am wondering how this would be accomplished. That is, will there be a grandfather clause so to speak or how will that be handled?

SENATOR KREMER: Of course, this issue will not have to be