

SENATOR GEORGE: Yes.

SENATOR CULLAN: Okay, thank you very much. Mr. President and members of the Legislature, I appreciate the time so that I understood Senator...that was allowed so that I could understand Senator George's amendment, and now that I do understand his amendment I certainly do oppose it. Senator George is saying that if an irrigation well exists today, and tomorrow someone drills a domestic well, that that individual who owns the irrigation well is still liable to drill...or to compensate an individual who owns a domestic well if there is damage done to the well. I think that's wrong. I think that destroys the entire intent of the bill, and I certainly oppose Senator George's amendment to Legislative Bill 27.

SPEAKER MARVEL: We're speaking to the George amendment, and the Chair will recognize next Senator Kelly and Senator Cope, then Senator Beutler and Senator Nichol, and Senator Kahle. So Senator Kelly.

SENATOR KELLY: Mr. Speaker and members of the Legislature, and particularly Senator George, in your statements you're concerned about a rapid drop in the water level that is known in the trade as cone of influence, and this is well covered in Senator Kremer's amendment, in that if a cone of influence is there, which it will be on any quantity of water being pumped out of an irrigation well, if a domestic user drills into that area, the cone of influence in the irrigation well comes on, and the water table drops below the suction level of the domestic well, because the cone of influence is understandable and predictable, there should be no damage paid to the domestic user, because he did not anticipate to drill his well below the cone of influence. I think that you can see that this is perfectly correct. On the position whereby you would have many irrigation wells in an area that would be drawing down and generally lowering the whole water table level, the constitutional provision of priority protects against this possibility in that, if the domestic well, not being able to identify which irrigation well damaged the domestic well, the NRD can take control of this through the priority use of the water where irrigation is second to the domestic use. So we're getting a confused issue in your statements and in your amendment, Senator George. The wording that's contained in the Kremer amendment is very concise, yet it's flexible enough to reach both areas in which you're concerned...is that the domestic user needs protection when he is damaged, but he should not be in a position to receive damages when he has damaged himself,