

that an irrigator, or a domestic...an individual who puts down a domestic well, and does not anticipate a substantial drop when a substantial drop may, in fact, be likely, should be compensated by an irrigator.

SENATOR BEUTLER: He should anticipate some drop, but the question, of course, will be to interpret the word "substantial". If you do not have this amendment, then you're stuck with interpreting the word "reasonable". The qualifying amendment gives the court a little more...sets up a little more criteria for the court to consider. It doesn't eliminate all questions. The court's still going to have to interpret the words "substantial drop". I don't see any way of getting away from some hedge word such as reasonable or substantial, but at least it gives another factor for the courts to look at, and that factor is the drop in the water level as opposed to simply the cone of depression problem.

SENATOR CULLAN: Okay, I understand...I thank you for the clarification, Senator Beutler. I do understand your position. Still, I am opposed to Senator George's amendment, which I believe that an individual who does drill a domestic well after an individual has drilled an irrigation well, should be responsible to anticipate substantial drops, especially when you're talking about existing irrigation wells. Now, it's a different story if you come in and you drill a number of additional irrigation wells. Then, those people who drill the new irrigation wells, under this bill without Senator George's amendment, would have some responsibility, but I cannot support Senator George's amendment, which would place that liability back on an individual who had a well in existence prior to the time that the domestic well was drilled, and I think it's unfair, and I hope that we do reject Senator George's amendment.

SPEAKER MARVEL: Senator Kelly, do you wish to be recognized?

SENATOR KELLY: Yes, Mr. Speaker. I talked to the members of the Nebraska Unicameral Legislature, and to Senator Beutler. I understand your example perfectly, and your concern, I believe I also understand quite well, and it is covered in the Kremer amendment in Subsection 2, which I shall read. It has to do with the defining of reasonableness. "Consideration of whether the depth of a domestic well or pump is reasonable shall include, but not be limited to, whether the depth was such as to anticipate potential well interference from those irrigation wells in use when the domestic well was drilled". With this platform trying to determine whether the domestic driller attempted to protect himself from the cone of influence,