

public use, and whether or not the use if public or private is a judicial question and not a legislative one." The court at that time went on to say, with regard to some case law that they cited in previous decisions of the court. "His property may not be taken from him against his will, except by the sovereign powers of eminent domain and taxation, both of which must be for public purpose. The improper exercise of the power of eminent domain is an infringement upon a citizens constitutional right to own and possess property. It is essential therefore that the exercise of the power of eminent domain be in strict accordance with the essential elements in order to protect the constitutional right of a citizen to own and possess property against the unlawful perversion of such right. The authorities are in agreement that a taking of property under the power of eminent domain must be for a public purpose, and that it may not be taken for a private one." They further go on with the case in point of Burger v. City of Beatrice, our court stated that it will, relative to this...this economic development activity: "It will furnish some employment and increase business in the area, but such a public interest does not constitute a public purpose under the power of eminent domain. If it did, there would be no limit to the exercise of the power for the benefit of private enterprises, and the constitutional right of the citizens to own, possess and enjoy property would be seriously infringed by its subjection to the growing demands of industries needs for water for industrial use. It does not...

PRESIDENT ROBAK: One minute.

SENATOR COORDSEN: ...support a finding that its use for such public purpose is for public purpose that it warrants the encroachment of the plaintiff's constitutional right to the ownership, possession, use and enjoyment of the property and toward the end of the decision, but where condemnation proceeding, under the power of eminent domain purports to take property both for the public use and for a substantial private use as distinguished from mere incidental private use, the right to proceed by condemnation must be denied." I think it's important that the body of the Legislature consider this and that the supporters of 830 consider the propriety of retaining the power of eminent domain within the context of 830. I would pose a question to you, what happens if a bid is made...

PRESIDENT ROBAK: Time.