

Will you stand and be recognized, please? Senator Fowler. Senator Johnson...Vard Johnson.

SENATOR V. JOHNSON: Mr. Speaker and members of the body, I rise in support of the DeCamp amendment. When LB 38 was first introduced and I became aware of it, I became... I was quite troubled in my mind frankly about the bill and the trouble I have with this bill I guess represents a problem that I have had with the common law for many, many years. Right now under the tort law that operates in basically the English speaking world, if you and I are standing on the beach and we see somebody that is drowning, if we see someone out there that is drowning, if I make an attempt to help that person and I am careless in how I help that person, and that person drowns or somehow otherwise harmed, that person can turn around and sue me by virtue of my carelessness, and he can recover. By the same token, by the same token, if I just stood by on the beach and let the person flounder and drown, he has no action, or his estate has no action against me whatsoever, and the rule of the law for years and years and years has been simply when one goes to the rescue or to the assistance of someone else, then that person who does go to the rescue or the assistance of someone else must operate in a non-negligent manner, and if they are negligent, if they are negligent then the person who they attempted to help can sue them and recover damages. And you may recall we have had other good samaritan law. Doctors, for example, found themselves being sued by people who were injured, for example, in a street fight or automobile accident, and the doctor happened to observe it and went over to provide assistance and somehow and in some way the person was able to say later on that the assistance so rendered was rendered in a negligent manner and they can turn around and sue the individual. And so doctors were saying, well, we would never go to anybody's help because of that. We are not going to help anybody. We are going to stand by and let the sick and the lame and the halt go without the help. It's so funny that society places a duty of care on the person who goes to help but no duty of care on the bystander. We have no obligation whatsoever to go to someone's assistance, none. Now what troubles me I guess with the original concept of the bill, of LB 38, is that we are saying simply that the poor person who takes the food and who eats the food sacrifices virtually every kind of right that he or she might have against someone who prepared the food. Now you remember several years ago in New York State a number of people died of botulism from the Beau Viva consomme soup. Remember that? Now under LB 38 as it is written, if one of those had died from