

March 2, 1981

LB 38

have the charitable organizations that are going to distribute the food and they are dealt with in Section 2 of the bill. The way the bill is currently written, both of them are virtually immune from liability if some elderly person gets ahold of some food that appears to be okay but, in fact, isn't, and I think that is a dangerous situation. Now what Senator DeCamp's amendment does is it goes into Section 2 of the bill and makes it possible to hold the charitable organizations liable, but the problem is that in many cases the charitable organizations aren't going to have the assets or we don't know from this bill that they will have the assets to satisfy any judgment in case somebody is injured and has a legitimate claim or a legitimate cause of action because of difficulties with the food. This amendment would make it so that the charitable organizations can be sued but is there going to be anything there to be sued, number one, and number two, do we want to have a situation where those charitable organizations might be put out of business? Now my feeling is that it improves the bill because it does give a cause of action at least against the charitable organizations, but it doesn't reach the people who are really going to be responsible, that is the manufacturers of the food and the large scale distributors of the food. I think my preference would be to pass the bill with normal liability against everybody involved and then if, as Senator Kahle indicates, nobody is willing to donate the food, why then we could come in at a later time and amend the bill to give them the kind of liability guarantees that they want. But in any event, I would urge that we support this amendment and give serious thought to whether we don't also want to amend Section 2. Thank you, Mr. President.

PRESIDENT: Any further discussion on the DeCamp motion to return LB 38? Hearing none, Senator DeCamp, do you wish to close?

SENATOR DeCAMP: Mr. President, I would and I don't think a closing is necessary but in this case I am going to do it so that we have on the record an understanding because several Senators have asked me how this really would work. We have got two separate entities, and just for example let's use the Labeledz chain store. They are grocers. They have a lot of excess food. At the present time what they do with their excess food, perfectly good food, turn it over to the dump, throw it away for garbage. Why? Because they are under strict liability and they say, why be a good samaritan, so to speak, why take our Labeledz chain store food and give it to Senator Haberman's nonprofit