

May 11, 1981

LB 548

found that the defendants, Parratt and Nance, had violated the plaintiff's due process rights since the plaintiff was held in the Adjustment Center for 69 days without a hearing. Now here is the policy issue. The court found that the defendants were deliberately indifferent. There was deliberate indifference to the plaintiff's complaint about being held in the Adjustment Center without a hearing and that contributed to the deprivation of plaintiff's due process rights. The policy question is this, at what point in time does the State of Nebraska not indemnify its employees who obviously are acting as employees for the state and it seems to me that when the employees demonstrate through their conduct deliberate indifference to people in their hands that the state ought not to indemnify them against judgments that ultimately are taken against them for their harms to the others. Now we have just dealt with the Joe Soukup claim, and in the Joe Soukup case what we have had operating here are state employees who obviously were indifferent to the well-being of a young man who spent a lot of time in regional centers in this state, who, as Senator DeCamp points out, was deemed to be a neglected child at the age of seven and over a twenty year time period was subjected to LSD experiments and other kinds of treatment. The end result was that he was left a different individual than he ought to have been. Our U. S. District Court has said that two of our own officials were "deliberately indifferent" to the rights of an inmate in our penal complex. Now I recognize that virtually everybody who is an inmate in our penal complex is a criminal. They would not be there but for the fact they got convicted of some offense and were sentenced to the penal complex, but just because they are in our penitentiary does not mean that they are devoid of rights and they do have rights. And, of course, our employees have got to protect their rights and they have got to be conscious of what their rights are. If you and I end up indemnifying our employees who are deliberately indifferent to the rights of our inmates, we, in a sense, condone, we, in a sense, condone mistreatment of persons who are held in our institutions because we are prepared to pay the piper when our employees do wrong. Now when I saw this in the handout, I went back to Senator DeCamp's LB 273, which we talked about a bit this morning, his risk management bill, because that bill sets a standard as to when we shall compensate and we shall indemnify employees who commit some wrong and a judgment is taken against them and that bill says that we shall compensate an employee if the employee was acting in the scope of the employee's employment and it says if the employee was not guilty of willful or wanton neglect of duty. There is the standard there, "willful or wanton neglect of duty".

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