

on their part. It was not as though it was an act of negligence. And as we all recognize, our employees are going to be negligent from time to time in the way they conduct state business just because it is almost human from time to time to be careless and a little sloppy and the like but deliberate indifference is a far more serious breach of rights and protocol and treatment than is a simple act of negligence. Now by the same token, I guess the court didn't find that the warden and deputy warden themselves, personally, committed an act such as an assault on an inmate or brutalize an inmate or what have you, and I think if he found the direct act, you would say that was a very egregious act, but when I saw the deliberate indifference concept in here, it just, in my opinion, raised a serious question as to the propriety of the state allowing the claim, and then when I went back and looked at Senator DeCamp's bill, 273, on those kinds of indemnifications that the state was going to allow with respect to state employees and saw specifically that we were not going to allow for indemnification those claims that were the product of willful or wanton neglect of duty by an employee, willful or wanton, it seemed to me that the deliberate indifference reached that standard and we wouldn't allow the claim under a bill that you and I probably are going to pass. So I think that Senator Fowler is right. We ought to disallow the claim at this time. I assume if on reflection we conclude that maybe deliberate indifference is still within the area that we ought to allow..ought to protect our employees later on, we can go back and repossess the claim and the Legislature can allow it. But in my opinion, the better part of caution at this time is to disallow this particular claim. It is better for us to be cautious about those employee claims that we are going to pick up than for us to be extravagant because along to the extent that we are extravagant we continue to countenance and condone acts that are unconstitutional, that are improper, and that have a detrimental effect on the people in the care of our employees. I, therefore, move the amendment.

SENATOR CLARK: The question before the House is the adoption of the Johnson amendment to the bill, to the committee amendments. All those in favor vote aye, all those opposed vote nay.

CLERK: Senator Clark voting yes.

SENATOR CLARK: We are voting on the adoption of the Johnson amendment to the committee amendments. We are doing pretty good, we have got half of them voting anyway. We are voting on the adoption of the Johnson amendment to the committee