

that time is precious and that is this. If every employee has to pay out of his pocket every time he takes a chance, we are not going to have many employees or that employee is not going to enforce his duties or do his duties very illicitly and enforce them. I think we should pay the bill for the attorneys and I am usually not one to support attorneys too strongly or to pay their bills for them but here again, if we are going to start this business I certainly think it ought to have a hearing rather than quickly doing this just out of our hip pocket. I oppose the amendment.

SPEAKER MARVEL: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I think Senator Nichol totally misunderstands this issue or is totally misconstruing it. We don't have a situation where employees acted in good faith. We have a situation where the evidence proves that these, the warden and the then acting deputy warden knew that an inmate had been confined to the "hole" without a hearing, without following the rules of the institution itself. So what Senator Nichol is saying is that the warden and these others, and we have serious problems at the pen now and the Judiciary Committee is trying to deal with them. The Legislature should tell these officials, you can forge documents although you know you violate your own rules and the Legislature will pay any costs that that entails. You can put people in the "hole" without a hearing which your rules and the law requires and the Legislature will pay out of its pocket to subsidize that kind of misconduct. I can't understand this. Let me read you what the judge said. "The failure of the warden or the acting deputy warden to take any action for twenty-eight days after having knowledge of the plaintiff's complaints amounted to deliberate indifference and significantly contributed to the deprivation of the plaintiff's right to due process." They knew for twenty-eight days. This is Watergate except Senator Nichol is saying, reward the warden and the deputy warden. Pay the damages and pay the lawyer fees. The state should subsidize violation of the law by its employees. Here is another comment from the judge. "Where a prison official has knowledge of complaints of serious constitutional violations and neither investigates the complaints himself nor forwards them to appropriate subordinates, that official may be held liable for any constitutional deprivations which occur as a result of such deliberate indifference." Now those of us on the Judiciary Committee are always talking about obeying the law but Senator Nichol wants to say that because they work for the state and they are in charge of these people who have been sent there for violating the law, the example that should be given to these convicted people is that an employee