

not guilty of any wrongdoing and we should all go ahead and pay them. But you and I have already set a policy decision in this area and I think it is a good policy decision that we are not going to reimburse employees whose activities amount to a willful or a wanton neglect of duty. We happen to know what the facts are in this case. Judge Schatz elucidated those in his opinion. He said that he found, he specifically found incidentally, that the warden and the deputy warden had notice of Mr. Robinson's plight twenty-nine days earlier than the release date. Mr. Best does not mention that in this letter. Judge Schatz says, in a footnote in his opinion he says, "Their conduct was a lot more than simple negligence." Mr. Best does not mention that in his letter. The truth of the matter is he says, "These gentlemen had a duty. The duty was to ensure the constitutional rights of an inmate and not only did they neglect to carry out the duty, they were deliberately indifferent to the duty." They were deliberately indifferent to it which in my book is the equivalent of willful neglect of duty and you and I have decided that we are not going to reimburse, we are not going to hold harmless state employees who go that far beyond the pale and these two gentlemen went that far beyond the pale and they ought not to be reimbursed. It is a sound policy decision that you and I made when we approved 273 the other day and the Governor signed it into law. It is a sound policy decision that you and I made not to allow this claim and it will be a sound policy decision that you and I make when we reject the Nichol amendment.

SENATOR CLARK: Senator Vickers.

SENATOR VICKERS: Mr. President and members, I also rise to oppose the Nichol amendment. If you will notice in the letter that Senator Nichol is referring to and passed around, excuse me, Senator Maresh I guess passed it around, it indicates on the second page that there is probably going to be an increase in the number of litigations, that more and more of these people are being named as defendants in lawsuits and that is supposedly a reason for us to honor this claim. Now I am a member of the committee that heard this claim at the outset and if I remember correctly the largest majority of the dollars that are being paid in this claim goes to the attorneys. Now it seems to me that if, in fact, the penitentiary is going to be in a position where more and more of their employees are going to be named as defendants, then they certainly should have an attorney either on the staff or use the Attorney General's office or something but I don't like the idea of us paying for attorneys willy-nilly that are supporting people that fail to do their duty and their jobs. I think this body, as