

1 any discretion in whether or not as a matter of public
2 interest the person should be at that time granted the
3 right of bail.

4 This amendment attempts to take the two points
5 of view and bring them together; first of all to raise
6 to constitutional dignity the right of a person not to
7 be incarcerated. There was ancillary discussion on
8 whether or not this was a constitutional or statutory
9 matter. There were people advocating the right was already
10 inherent; the people suggesting we maintain the constitu-
11 tional dignity and some maintained it was not inherent.
12 The argument then based itself, however, primarily on a
13 deeper issue and that is the unwarranted incarceration
14 versus the question of the protection of the public.

15 This amendment simply takes what the Committee
16 Report said, that there would be a constitutional right to
17 bail, except in the capital cases, and that there could be
18 no interference with this, with this one exception, that
19 if public peace would require otherwise. Public peace is
20 a well defined and well understood legal concept. I bring
21 to the Committee of the Whole's attention several citations