

constitutionality, that is what this bill is meant to deal with, not with a particular minuscule performance of one or another of the functions of government. Mandamus relates to almost every office in government and does not address itself at all to the subject matter of this bill. I would prefer that this amendment not be incorporated in it. I am afraid we're going to muddy the waters on mandamus in a Section that doesn't relate to it. I would say it is not germane to this issue.

PRESIDENT: Senator Frank Lewis.

SENATOR F. LEWIS: Mr. President, I would like to ask Senator DeCamp a couple of questions.

SENATOR DeCAMP: Okay.

SENATOR F. LEWIS: Can we develop a simple, legal process on this situation, Senator DeCamp? Let me refer to a couple of issues. Can the Legislature, once an official fails to enforce the laws, and let's take the malpractice via meat cutting bill we had last year. When that wasn't enforced can the Legislature simply provide a process for the Legislature to instigate a writ of mandamus to force compliance?

SENATOR DeCAMP: We already have it. It's already in the law. That is what it is all about. That is exactly what is occurring in the case of the malpractice. You might be able to refine it, you might be able to place....

SENATOR F. LEWIS: No, let it come from the Legislature, Senator DeCamp. You missed the key point there.

SENATOR DeCAMP: Well I see what you're saying. You mean whether we would, as a Legislature, have some deal where we forced an action.

SENATOR F. LEWIS: That's right.

SENATOR DeCAMP: I can't say that we could without research. My initial impression would be that we couldn't, that it is not our job to go out testing laws. Our job is to pass laws. We are the Legislative Branch. That is not our function.

SENATOR F. LEWIS: It would not be legal for us to employ an attorney.... Of course, I've always supported the idea that the Legislature ought to have its own attorney, and that is another issue. But we could not employ an attorney. When the laws of the Legislature are challenged, and if there was some state agency, some local political subdivision, anybody did not comply with the law because they said it was unconstitutional. In discharging the law we could not almost have an automatic process to immediately take that person to court either as malfeasance of office, or whatever it is.

SENATOR DeCAMP: We have that attorney, it is the Attorney General. It ranges from the Attorney General right on down to all the persons affiliated with the enforcement of the laws. They're supposed to file action.

SENATOR F. LEWIS: I understand that. But the question that, I think Senator Murphy, this is the heart of the question. The question is, and the Attorney General who is an excellent man, and I have discussed this situation a number of times, when we've talked about having our own attorney he says "Well I am your attorney". I said "Then if you're our attorney you act on our behalf". He said "I won't act on your behalf if I think you're wrong". Well that is a judgement part on him. I think, and certainly Senator Murphy I support 45. I have some