

the Committee of the Whole for the purpose of resuming consideration of Committee Report EB-1.

THE PRESIDENT: Is there a second?

(Whereupon, the motion was duly seconded.)

THE PRESIDENT: All in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

(Whereupon, at 4:47 P.M., the Convention resolved itself into the Committee of the Whole.)

(The mace was removed by the Sergeant-at-Arms.)

COMMITTEE OF THE WHOLE

NOVEMBER 28, 1967—4:47 P.M.

**PRESIDENT H. VERNON ENEY,
PRESIDING**

THE CHAIRMAN: The Committee of the Whole will please come to order.

The next item for consideration under the debate schedule is Recommendation No. 4.

The Chair recognizes Delegate Morgan for the purpose of presenting the Committee Report.

DELEGATE MORGAN: Mr. Chairman, the Committee on the Executive Branch recommends Recommendation No. 4 of Committee Report EB-1, that the office of the attorney general not be provided for in the constitution.

Article V of the present Constitution creates the office of attorney general, and provides that he shall be popularly elected. Section 3 of that article sets forth the duties of the office as follows:

(1) to represent the State in all cases in the Court of Appeals of Maryland or in the Supreme Court of the United States; (2) to give his opinion in writing whenever required by the General Assembly or either branch thereof, the governor, the comptroller, treasury, or any state's attorney, on any legal matter or subject pending before him; (3) when required by the governor or General Assembly, to aid any state's attorney in prosecuting any suit or action brought by the State in any court of this State; (4) to commence and prosecute, or defend any suit or action in any of said courts on the part of the State

which the General Assembly, or the governor, acting according to law, shall direct to be commenced, prosecuted, or defended; (5) to perform such other duties and appoint such number of deputies or assistants as the General Assembly may by law prescribe.

Section 3 also provides that the governor cannot employ any additional counsels unless authorized by the General Assembly.

Under Article 32(A) of the Maryland Code, the office of attorney general is charged with the supervision and direction of the legal business of the State and the representation of all boards and commissions of the State except the public service commission.

Hence, the Committee conceives that under the present Constitution and laws, the office of the attorney general does not fit neatly into any particular branch of the state government, although the Committee does contend that most of the attorney general's duties are performed for the executive branch of the state government.

The Committee on the Executive Branch feels that a necessary part of the governor's position as the chief executive of the State is the ability to appoint the lawyer for the executive branch of the state government. This is a principle applied in private business and at the federal and local levels of government, and the Committee can see no good reason why an exception should be made at the state level of government.

The Committee, therefore, recommends that the office of attorney general not be constitutionally created.

There is one additional reason for the Committee's recommendation: The Committee feels that Maryland has had a heritage of fine attorneys general, but at the same time, the Committee feels it clear that the requirement that the attorney general run for popular election has materially narrowed the field of outstanding lawyers who are willing to serve as attorney general, because of their reluctance to go through the rigors of a political campaign.

Today, attorneys general are actually selected by candidates for the office of governor to run on the governor's ticket. By making the attorney general an appointee of the governor, the governor would be able to select from among a much larger field a fine lawyer to serve as his attorney general, without taking into account his