

political attractiveness or willingness to stand for election.

That, in essence, is the report of the Committee in support of its recommendation that the Constitution remain silent as to the attorney general.

Are there any questions?

(First Vice President James Clark, assumed the Chair.)

DELEGATE J. CLARK (presiding): Are there any questions of the Chairman of the Committee?

Delegate Rybczynski.

DELEGATE RYBCZYNSKI: Mr. Chairman, to what portions of the state government, or the local governments, does the attorney general presently act as legal adviser? Is it just to the administrative section, or does it cross over various lines?

DELEGATE J. CLARK (presiding): Delegate Morgan.

DELEGATE MORGAN: I think he acts sometimes for all branches. As a matter of fact, on occasion he acts for the judicial branch, where there are disputes between judges or matters of that kind.

DELEGATE J. CLARK (presiding): Are there any other questions?

*(There was no response.)*

If not, Delegate Morgan, the next thing is for Delegate Mason to come forward with the Minority Report.

Delegate Mason.

DELEGATE MASON: Mr. Chairman, Ladies and Gentlemen of this Committee: As you perhaps know, the Committee on the Executive Branch voted 11 to 9 not to recommend to this Convention the office of the attorney general. A Minority Report was filed, and I appear here as representative of that minority.

I assume that all the delegates have read it, and, therefore, I will not impose upon you by rereading the report.

However, I will review with you briefly some of the reasons stated in the Majority Report for the abolishment of the office of attorney general in the constitution.

If there is one thing that I have read and heard more than anything else since I have been a delegate to this Convention, it is the theory espoused by most political scientists and theorists to the effect that there should be no checks and balances within any branch of the government, but

only checks and balances between the branches of the government.

It is significant to note that every witness who appeared before the Executive Branch Committee in opposition to the election of an attorney general relied principally, if not solely, on this doctrine, that there should be no checks and balances within any one branch of the government.

In fact, the Commission draft echoed the same doctrine and premised its recommendation on the fact that an elected attorney general would be a check and balance within the executive department.

We all know what the Commission's recommendation was, but do we know the reasons the Commission had for supporting this recommendation?

I think it will be of interest to this Committee to know what the reasons were the Commission based its recommendations upon.

Governor Tawes, Governor Lane, and Governor McKeldin appeared before the Commission as witnesses, and were asked if the attorney general should be elected or if the attorney general should be appointed.

Governor Lane expressed no preference. Governor McKeldin, before the Commission, favored election, and Governor Tawes, although the record is not too clear, also favored election.

Now, based upon this testimony, and this testimony alone, and one casual comment from a 1953 Soboloff-Stockbridge Report, the Commission, without any other evidence, recommended that the attorney general not be provided for in the constitution.

I am sure that you will agree with me that I would not be indulging in understatement if I were to suggest that the evidentiary support for the Commission recommendation was less than overwhelming.

I am also sure that you will agree that the Commission, in considering whether to abolish or retain the office of attorney general in the constitution should have had the benefit of at least one person who had held the office of attorney general.

In marked contrast to the consideration given the office of the attorney general by the Commission, the Committee on the Executive Branch heard the testimony of many knowledgeable and distinguished citizens, including Hall Hammond, Chief Judge of the Court of Appeals of Maryland;