

Thomas B. Finan, Associate Judge of the Court of Appeals of Maryland; William B. Walsh, former Associate Judge of the Court of Appeals of Maryland; C. Ferdinand Sybert, delegate to this Convention, and former Associate Judge of the Court of Appeals of Maryland. All of these distinguished citizens were elected attorneys general of this State, and they opposed to a man the recommendation that the office of attorney general not be provided for in this constitution.

I might add that their opposition was based on their experience in the office, and not on personal considerations, since all of these men are far removed from the political arena.

Interestingly enough, not a witness who appeared before the Committee on the Executive Branch in opposition to an elected attorney general offered a scintilla of evidence which intimated or suggested that the office of attorney general as presently constituted has ever disrupted, impeded, frustrated or interfered with the authority of the executive branch of the government. In fact, Governor Agnew in his address before this Convention, and in his address before the Executive Branch Committee, acknowledged that he had received maximum cooperation from the office of the attorney general.

Dr. Jean Spencer, a highly respected political scientist who is heading the Governor's Task Force on the Reorganization of the Executive Department, testified that the attorney general as a quasi-judicial official should have some degree of independence, and she would not quarrel with his being elected.

To the credit of the majority, after reviewing all the evidence with respect to the varied duties of the office of attorney general, it was found as a fact that the office of attorney general did not really fit into any particular branch of state government.

It is obvious that this finding by the Committee on the Executive Branch completely destroys and deprives of vitality the arguments advanced by the Commission draft, the political scientists and others who advise that the office of the attorney general not be provided for in the constitution because it is an inappropriate check and balance within the executive department.

Page 8 of the Majority Report, beginning at line 22, reads in pertinent part as follows:

"Under the present Constitution and laws, the office of the attorney general does not fit neatly into any particular branch of state government. For example, the office serves a legislative role when the attorney general acts as counsel for the General Assembly; the office serves an executive role when the attorney general acts as counsel for the governor and when he acts as counsel for the administrative agencies of the State."

In amplification of the duties of the attorney general I invite your attention to page 3 of the Minority Report, where the duties of the attorney general are set forth in more detail and particularity.

I might also add that in addition to acting as counsel for the legislature and counsel for the executive branch, the attorney general acts as counsel for the judicial branch.

At present in the federal courts, the supreme bench of Baltimore City is being sued for the way the juries are constituted in Baltimore City, and there was a case in which the Court of Appeals was sued with respect to their rule-making powers. In both of these cases, the attorney general represented the courts.

It is manifestly clear that since the office of attorney general is counsel to all three branches of government, it cannot be pigeon-holed solely within the executive branch.

Now, although the majority report conceded, as it must, that the attorney general is not an elected official within the orbit of the executive branch, it attempted to bring this office within the executive branch by the simple expedient of claiming that the governor should have a right to hire his own lawyer.

The majority report at page 8, lines 34 to 37 reads as follows: "The Committee on the Executive Branch feels that a necessary concomitant of the governor's position as chief executive of the State is the ability to hire his own lawyer."

Now, with respect to the right of the governor to hire and appoint his own lawyer, the minority does not disagree, as long as the lawyer the governor hires and appoints is not the attorney general.

In many states, including New York and Michigan, where the attorney general is elected, the Governor has his own private counsel, and rightfully so. However, the duties performed by the governor's private