

as they were nearly two centuries ago when this nation was formed. When my good friend Judge Adkins presented the majority report of the Executive Branch Committee last night, or the night before last, he proclaimed the philosophy of Hamilton. I say if this majority report is adopted, it will be the crowning apex of the destruction of Jeffersonian democratic government, which has existed during the last 100 years under the old Constitution.

The wisdom and the experience of the past 100 years refutes the Hamiltonian principle that the electorate is not to be trusted. Just to mention a few of the great men who have occupied the office of the attorney general in this State, I will name Albert C. Ritchie, Herbert R. O'Connor, William Preston Lane, and the Chief Judge of the Court of Appeals in Maryland, Hall Hammond—and not to overlook our associate here, Judge Ferdinand Sybert, who has retired from the appellate court.

I say, Mr. President, that the history of this nation demonstrates that the electorate of Maryland can still be trusted with the election of candidates to this high office, and I hope that the amendment will prevail.

THE CHAIRMAN: Does any delegate desire to speak in opposition to the amendment, in favor of Committee Recommendation EB-1?

Delegate Byrnes.

DELEGATE BYRNES: Mr. Chairman, I would like to ask Delegate Henderson if he might yield to a question.

THE CHAIRMAN: First, does anyone desire to speak in opposition to the amendment? If not, Delegate Henderson, will you yield to a question?

DELEGATE HENDERSON: Yes.

THE CHAIRMAN: Delegate Byrnes.

DELEGATE BYRNES: Delegate Henderson, yesterday in response to a question from me Delegate Mason responded very disturbingly when I asked him about the division of authority between the governor and the attorney general. I asked him with specific reference to the wage and hour case which involved first of all, a question of philosophy, and second of all, a question of relations between States, and third of all, the relation between this State and the national government, and fourthly, millions of dollars of tax money.

I asked Delegate Mason whether or not the governor or the attorney general would

have the final authority on whether or not that case would be taken on appeal to the Supreme Court. He responded that the attorney general and not the governor would have the final authority.

I asked that question because I think regardless of what the Committee of the Whole decides on this issue, I think that statement in the record is very disturbing to the future. I would ask whether or not you would concur in that judgment, and if so, why; and if not, why not?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I find it a little difficult to answer that question. If it is a matter of legal advice, the governor, of course, could not control what the attorney general said, could not control his opinion; but insofar as it is a matter of policy to take the appeal or not, I would suppose that authority would rest with the governor.

I do not think that any state official is bound to abide by the opinion of the attorney general. They usually do. I do not know of any instance in which they have not.

Those matters are worked out usually by agreement, but certainly, if it were a question of appealing a criminal case, the attorney general would have the authority there and not the state's attorney, although they are both elected. But if it is a question of policy on whether a test case should be made, I would think the governor rather than the attorney general would have the final say on that.

THE CHAIRMAN: Delegate Finch.

DELEGATE FINCH: Mr. Chairman and members of the Convention: I rise to support our minority report and to urge this Committee to continue the office of attorney general. A little over 100 years ago a group of Marylanders, not too dissimilar from ourselves, framed a Constitution which created the constitutionally elected office of attorney general, an office to be filled by a qualified citizen chosen by and directly responsible to the people of our State.

This office has endured ever since. It has served our people diligently and well, and I believe that its preservation is vitally necessary to the maintenance of orderly, stable, honest and efficient government in Maryland. With complex governmental affairs, it is imperative that certain phases of governmental action be separate and free