

DELEGATE BOYLES: May I suggest that the two sections be made the same, that the qualified voter be put in both.

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: I think the Committee on Style and Arrangement can do that.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Chairman Morgan, in your recommendation in the last sentence where it states that the attorney general shall upon his request give his opinion on any legal matter in the General Assembly, is that provision in the existing Constitution?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: It is.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Are you familiar with the effect that courts give to those legal opinions with respect to legislation passed by the General Assembly, where if the attorney general gives an interpretation of a particular law that has been enacted and that opinion constitutes the official interpretation which the courts give credence to unless the law itself is reversed by the General Assembly at succeeding sessions.

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: What is your question?

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: I was asking whether you were familiar with that interpretation?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: Well, I think an attorney general's opinion is certainly entitled to great weight.

THE CHAIRMAN: Delegate Gleason.

DELEGATE GLEASON: Do you consider that with these powers that you are giving the attorney general's office, that the attorney general's office if it is approved by this Committee and by the people at large, will constitute a fourth arm of the government?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: As a matter of fact, under the Constitution, there are only three arms of the government, the legislative, executive and judicial. The attorney

general, as the Committee pointed out in its previous report which was discussed last week really does not fit particularly into any particular branch. In advising the General Assembly, he is performing really a legislative function; in advising the governor in the parlance of the executive branch he is performing an executive function. In some respects, he also performs a judicial function. He may give advice where there is a dispute in the judicial branch of the government. So he really does not fit into any particular branch of the government.

Now, I suppose you can say that he is, in effect, a fourth branch, except that I do not think a fourth branch of the government is known to American government.

THE CHAIRMAN: Are there any further questions?

Delegate Gleason.

DELEGATE GLEASON: Well, I agree with you, these are powers delegated once again to the people —

THE CHAIRMAN: Delegate Gleason, this is not time for debate, only time for clarification.

DELEGATE GLEASON: Mr. Chairman, I am asking a question if you will permit me.

THE CHAIRMAN: You may.

DELEGATE GLEASON: To the extent that we take an executive power and a legislative power and a judicial power away from one of the three branches of government and give it to another, whatever you want to call it, it is a delegation of that power. Therefore, I am asking again if this does not really constitute a fourth branch of government. If it does, when we get to the Committee Recommendation SR & P-2 where they specifically state that the legislative, executive and judicial powers of government shall be forever separate and distinct, should we not amend that section to include the attorney general's office?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: I really do not think that is necessary.

The attorney general, while he does have executive powers, also has powers to advise the General Assembly and also to advise in some respects the judiciary but he does not except in one respect carry out any executive programs. At the present time, he has jurisdiction over the consumer protection program and the security program of the