

DELEGATE GALLAGHER: It would be my intention that this be a full-time position.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: Mr. Chairman, I rise to oppose the amendment.

THE CHAIRMAN: Let us have questions, first.

Delegate Mason.

DELEGATE MASON: Delegate Gallagher, do you know of any constitution in this country that has a similar position?

DELEGATE GALLAGHER: I have not checked other constitutions, Delegate Mason.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Do you believe that such a provision as this would create a built-in conflict between your constitutional attorney general and your constitutional governor's counsel?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: No, I do not. In those states in which the counsel to the governor is authorized and the attorney general's office is also authorized, I know of no conflict.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: But in those states he is not a constitutional officer is he?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I have indicated that I have not checked that point.

THE CHAIRMAN: Delegate Sickles.

DELEGATE SICKLES: Delegate Gallagher, we had language similar to this in Committee, and the problem we had with it—and that is why I want to ask your solution with respect to it—is we did not really know when you say “appoint counsel” what you end up with.

Apparently, if you put the word “counsel” in there without any authority for the legislature to qualify by law what the duties and functions will be, all his powers will flow from the constitution.

You said you have not researched the problem. We had that same thought, too. We had not researched it so did not know what we were putting in the constitution.

You you know what the powers and duties of this individual would be just by virtue of the word “counsel” in the constitution?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I would believe that the General Assembly could implement those powers and spell out with more definiteness the powers of the counsel of the governor.

THE CHAIRMAN: Delegate Sickles.

DELEGATE SICKLES: If they were spelled out in detail, they could reduce them down to a minimum so that they would mean practically nothing, too, could they not?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: That is quite true, but as long as the constitution provided language, as this amendment does, that the governor may appoint counsel, I think the very word “counsel” means that one provides legal advice to one's client, in this case being the governor.

THE CHAIRMAN: Delegate Sickles.

DELEGATE SICKLES: Not, however, restricting the area in which advice is being provided. Once you open the door to allow the legislature to condition the advice, it seems to me you could reduce it to a very small amount.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I have never known too many lawyers who have been circumscribed in giving advice to their clients.

THE CHAIRMAN: Delegate Sickles.

DELEGATE SICKLES: It seems to me there is no question but that those governors who have not had separate counsel by law or constitution have had the advice. All we are trying to do is see there is some dignity to the office and they get paid. Even with this, there is no guarantee this counsel would get paid.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I would expect the governor would fund the office in his budget.

THE CHAIRMAN: Delegate Sickles.

DELEGATE SICKLES: Which would have to be approved by the legislature, is that not correct?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Yes, that is correct, and to the extent that the governor felt that the office was vital or neces-