

mon law, it is necessary to prescribe his duties in the Constitution, or by legislative act. The Attorney Generalship, as known to the English law, is a very different office from that provided for in our system. In England, the King is the source of all judicial and executive authority. The judges and Attorney General who represent a delegated portion of his sovereign executive authority, are common law officers, because a parliamentary creation of the office of judge or Attorney General would have been a limitation upon the common law authority of the crown. But in Maryland the case is widely different. We have no common law officer whatever, and the Attorney General cannot exist unless the office is recognised by the Constitution or by some public law. He may have, if you please so to call them, *common law powers*, but these are but the general and necessary powers of every State, incidentally deputed, and not by the force of the common law a part of the office itself.

The first mention made of the office, the gentleman tells us, is in the time of Charles II. Certainly, no more conclusive answer could be afforded to an argument founded upon its existence as common law.

Much had been said about corruption which would result if counsel designated were left to make his claim upon the Legislature. He thought it certainly much wiser that the Executive should have the power, but it is wiser to trust to the general care and diligence of the Legislature in examining such occasional claims as may arise, and to the character of the person employed by the Executive, than for the fear of such abuse to continue such an officer in our State Government. Since, if their counsel is of their own selection, they will have no shelter from the effects of an improper decision.

Can it be said, that when such emergencies arise, proper counsel cannot be obtained, if the whole bar of the State is open to their choice? But the objection is taken that such counsel would not be subject to the responsibility of a sworn officer. In the usual relations of attorney and client, though involving large amounts of property, and even life itself, such checks have not been deemed needful; and it cannot be supposed that a higher guarantee would be required for the service of the State.

Some stress has been laid upon the extra fees which have been paid by the State during the past twelve years; and the argument is that it would be wiser to pay a certain salary than such irregular fees. The sum, though considerable, does not amount to an average of more than two thousand a year, which is about the compensation which some seem to think sufficient for the performance of the duties of an Attorney General. Yet, this system obtained while there was an Attorney General, and, yet it is alluded to as a consequence of the want of one. The argument is certainly extraordinary.

Mr. McLANE said, that he had been drawn into the discussion on yesterday. He would very gladly escape from it; but some remarks made by the gentleman from Prince George's, [Mr. Bowie,

required a reply. In saying that he desired to escape from the discussion, he would not be understood as entertaining any doubts as to the opinions he had expressed yesterday; because those opinions had been the result of a deliberate examination.

He believed there was a great principle at the foundation of this proceeding, and unless his objection was removed, he could never give it his assent. The Convention was assembled for the purpose of making a new Constitution for the people; and the public had a right to expect that the new Government would not be more expensive than the present. In the creation of that new Government, no officer would be continued who was not indispensably necessary to its wise and efficient administration. Unless it could be shown that the office of Attorney General was of this character, which had not been shown to his satisfaction—he should feel bound to resist the continuance of that office. The gentleman from Prince George's had referred to the amounts paid during the last twelve years, as stated by himself, (Mr. McL.) on yesterday. His object had been to show that the office of Attorney General was entirely useless; for otherwise this large amount of money would not have been paid for extra compensation. There had been twelve or fifteen cases to which, by the argument of the gentleman from Prince George's, it was the duty of the Attorney General to attend. The cases of special legislation were not included in that paper, in a single instance, because it was not the duty of the Attorney General by virtue of his office, to give his attention to these cases without any compensation whatever. Yet it would be found with that office, existing with all its rigor, that this large amount of money had been paid by those officers.

Was it not a fair deduction, to say that the office was useless, and that some other system ought to be adopted which would be of more advantage to the State? He had adverted to abuses, and did not think it necessary to do so. He had simply referred to the fact, that if while there had been an Attorney General, it had been necessary to employ officers at an expenditure of \$23,000 in twelve years, his services ought to be dispensed with. Unless it could be shown, upon grounds not hitherto brought before the Convention, that the office was necessary, he must continue to be opposed to its continuance.

What were the duties of the Attorney General, and upon what grounds was he to be retained? The reference of the gentleman from Prince George, to the acts of Assembly, explaining the duties of the Attorney General, had opened to his mind an entirely new consideration; and had satisfied him more than any thing else, that the office was now entirely unnecessary. The office was originally created under the Constitution; and the gentleman supposed that the Attorney General so created by the Constitution, was like the Attorney General under the common law in England. The case where the Attorney General had resided upon the Eastern Shore, without attending personally to criminal prosecutions at all,