

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: That is correct.

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: Possibly so, but we are faced with something that might have to be construed by the Court of Appeals unless we clear it up in this present constitution. When the Convention proposes a judicial article saying all judicial power is vested in the judiciary and all executive power is vested in the governor, unless precise powers are vested to the comptroller in the constitution, either directly or by necessary implication, the question could be raised that any comptroller established only by statute could not exercise any powers which would encroach or derogate from the powers of the judiciary or derogate from the powers of the public. That is one reason why the minority thinks the comptroller should be provided for in the constitution and his powers spelled out.

THE CHAIRMAN: Delegate Grant.

DELEGATE GRANT: This would apply whether the comptroller was to be appointed by the governor or elected by the people.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: Judge Sybert. Did I understand you to say that if the comptroller did not serve on the Board of Public Works, that would change your judgment as to whether or not he should be elected?

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: No, sir, I made no such statement.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: One of the reasons you feel he should be elected is because of this powerful position he holds, is that not correct?

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: I think it is an added reason why he should be provided for in the constitution.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: As a purely fiscal officer, he does not have as much policy-making powers. He is not one of the wielders or the leaders of power as much as a number of other officers, like the head of the State Department of Education or the chairman of the Roads Commis-

sion or president of the University of Maryland. Would those not be officers of greater stature unless he served on the Board of Public Works?

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: They are officers of an entirely different character, different functions and different character. The minority submits that since for one hundred sixteen years it has been found to work very well to have an elected comptroller as the watchdog of the state's money, meaning the taxpayers' money, the minority does not feel that there is any reason for making a change.

THE CHAIRMAN: Delegate Bennett.

DELEGATE BENNETT: One last question. You just now said that the comptroller should be in the constitution and his powers spelled out specifically. Would that include service on a Board of Public Works?

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: That is what the minority proposes, of course, but the ultimate result will depend on what this Convention does with respect to the Board of Public Works, I say.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Judge Sybert, I was rather surprised, you referred to the quasi-judicial powers of the comptroller. That is in connection with his decision on tax matters, is it not?

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: Yes, sir.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: Is that not the exercise of such powers? Is it not true that every one of his decisions are reviewable by an appeal to the Tax Court which is an appointive court which owes nothing to the constitution at all, and that that court also handles the appeals from assessors who are not constitutional officers?

THE CHAIRMAN: Delegate Sybert.

DELEGATE SYBERT: Yes, sir, that is quite correct. They have a further appeal to the courts.

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: You still maintain in order to give him that quasi-judicial power, you have to put the comptroller in the constitution?