

and should be continued as an elective officer of the State.

I might mention three respects in which I think he performs unusual duties, and duties which do not neatly fit into the category of the executive branch. One is the fact that he represents all state departments and renders written opinions which are published. These opinions are not only highly regarded by the courts, frequently cited, but they are relied on as evidence of administrative practice, aside from the worth of their legal reasoning.

A second thing is that the attorney general represents the legislature and performs a most useful function there. It is of great advantage to the legislature to have the advice of the man at the formative stage of legislation who must defend it in the courts. His opinion is worthwhile, not only as to constitutionality, but I know from experience that in many instances without getting into the policy field at all the attorney general or his aides are able to advise the legislature as to the deletion of a certain clause which might cause legal difficulties without the change in language, or that proposed legislation may cut across some existing statute or other part of the Code.

That is of immense value, and if the legislature had its own counsel who would not have to defend his opinion in court, it would present an entirely different picture.

The office of attorney general was set up in its present form in 1916 by Attorney General Ritchie and it has continued without change in substance, although it has enlarged, of course, with the development of the State. I believe that the influence of attorneys general in an advisory capacity has been of great value to the State.

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: Mr. Chairman, I yield five minutes to Delegate Bamberger.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Mr. Chairman and ladies and gentlemen of the Convention: I wish to point out to the Convention that in this debate we are in what seems to me to be an unusual position. The debate as presented by Delegate Mason for the minority was directed to the issue of whether the attorney general should be elected or appointed. He directed the debate to that point, and quite properly, because the amendment which he proposed to offer not only provided that the attorney

general would be included in the constitution as a constitutional officer, but also that the attorney general would be elected rather than appointed.

However, the amendment before us does not include that language, because as a matter of procedure of this convention, we may not now vote upon the issue of whether the attorney general is elected or appointed.

It seems to me that we are in a type of "Alice in Wonderland" situation where we are going to debate whether the attorney general should be elected or appointed, and then are going to vote not on that issue, but on whether it is a constitutional office or not.

I think they are very separate issues. I personally do believe that the attorney general is a constitutional office, that it should be included in the constitution. But once I know what the duties of the attorney general are, and what his relationship to the executive, to the legislative and to the judicial branches is to be, then I would be prepared to consider whether he should be an elected or appointed official.

I would request the Chair, before this debate is concluded and the vote is taken on this issue, to advise the Committee of the Whole whether or not, despite the results of this vote, if it is decided that the attorney general is a constitutional office, that some amendments must be offered to Committee Recommendation EB-1, not only to put the office in the constitution, but to state the duties of that office, and to state whether the office is an elective or appointive one.

I should like to be assured that when I know what the attorney general's responsibilities will be, that I will have an opportunity to vote on the issue of whether he is to be elected or appointed, despite this issue.

However, let me address myself to the issue which is now before us, which is the issue of whether he is to be elected or appointed.

The attorney general's principal function is to be the legal adviser, the legal counsellor, the legal policy maker for the governor and all of the executive branch. That is his principal function, as proven by the division of work within the office. The Committee Report shows that there are now 60 assistant attorneys general, ten of whom are engaged in criminal work, appeals of criminal cases to the Court of Appeals, and habeas corpus and post-convic-