

is perhaps true, but in other cases I think it is quite not likely to be the case.

Independent of what? Independent of whom? This is the essential argument.

The statement that a person is independent is not something that hangs out in space by itself. It is of what he is independent that becomes the matter of greatest importance.

Attorneys general, as I understand the process of politics in Maryland, do not run independently of other officers of the State; thus they are not independent of a political organization or a political team designed to get attorneys general, along with comptrollers and governors, into public office. The only time that an attorney general is politically independent, it would appear to me, is at that point when an attorney general is elected and the head of his ticket is not elected to office; then he is independent of the party of the governor, but he may find himself in another difficult political position, difficult in some ways and rewarding in others, rewarding in that he may be the highest elected official of his party in his State.

This places on him a series of political burdens which can seriously interfere, it seems to me, with the conduct of his office in giving legal advice to the governor and to the agencies under the control of the governor.

I find it very difficult to distinguish between legal and political advice when it comes to the operation of the government, because the legal advice is very often necessary to pursue the political objectives of an administration.

This does not mean that the attorney general must somehow pervert his oath of office or pervert the canons of his profession. It does mean that he has to be an intimate adviser of the chief executive of the State.

In the colloquy which occurred on this floor yesterday between Delegate Mason and myself, my central concern there was to find out why an elected attorney general would do a better job in giving advice to a governor in the development of legal opinions necessary to a furtherance of the program of the governor, and to the implementation of legislation and rules necessary to the carrying out of the law and the carrying out of the policy in the State.

I must say that I got no satisfactory answer to that question. I think there is

no satisfactory answer to that question, because I think that a governor, just as the president, just as the mayor, is entitled to a chief legal officer, an attorney general, if you please, but a chief legal officer who is an integral part of his administration.

There are other problems, of course, in the office of the attorney general. There is the question of advising the legislature. This, it seems to me, is the basic reason why one could argue for election of the attorney general; but it also seems to me that advice to the legislature can be given and can be given frankly by an appointed attorney general. This frequently occurs at the federal level. It certainly occurs in the other states in which attorneys general are appointed. It certainly occurs at the local level of government.

It seems to be workable in those jurisdictions which use it.

I think, Mr. Chairman, that in examining this problem we should take great care, as I think we should when we get to the language dealing with the comptroller, that we understand we are dealing here with the executive department of the state government. It is important to have a coherent executive department. We are not a parliamentary regime operating with a cabinet government. We are a system of divided powers. We have a governmental system which needs to have authority clearly organized and simply stated, not with a governor for fiscal affairs, a governor for legal affairs, a governor for school affairs, a governor for something else, and then another person whom we will call the governor for miscellaneous affairs. There is no aspect of state government that does not involve legal relationships, legal problems, and the need for legal advice. Because of this close relationship and thorough need for a chief legal officer who is an integral part of the overall administration, I support and urge this Convention at the point when we get a chance to vote on it, to support an appointed attorney general.

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Mr. Chairman, I yield five minutes to Delegate Mitchell.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Mr. President and fellow delegates: As I listened to the questions asked of Delegate Mason yesterday, it was apparent that there is a basic difference of philosophy among the delegates of the Convention.