

stitutional provision that the office of the attorney general shall represent the state in all criminal cases in the Court of Appeals, the intermediate appellate courts and the courts of the United States.

There has been a considerable discussion in recent years of the feasibility of having the state's attorneys or some other attorneys from the local subdivisions represent the state in criminal proceedings before the intermediate courts and the Court of Appeals and as I read this, this provision would foreclose that possibility without a Constitutional amendment.

Did your committee consider whether it would be advisable to delete that provision and to leave it to the legislature to determine who would represent the State in criminal proceedings before appellate courts?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: We did and we were advised by the attorney general, a member of our Committee, who is head of the criminal division in the attorney general's office, that while the attorney general is a formal lawyer for the state in criminal proceedings, that if a state's attorney wants to write the brief, wants to be on the brief, wants to argue the case, there is nothing to prevent him from doing it.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: You simply make that statement on the strength of the advice of the attorney general's office?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: That is correct.

THE CHAIRMAN: Are there any further questions of the Committee Chairman?

Delegate Chabot?

DELEGATE CHABOT: Delegate Morgan, in the event that there is a dispute between the governor and the attorney general as to whether or not the State should appear as an amicus in a Supreme Court case, who is to make the final determination?

I realize that this question had been asked when E. B. Wood was before us, but there seems to be some differences in the memory of the delegates as to what the answer was.

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: I believe the answer is that the attorney general decides

that. It is purely a legal question and he is the chief legal officer of the state.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: As to whether the State should appear as an amicus, I am not talking now about whether there is merit in taking an appeal in a particular case, but rather whether the state's policy should be affected by a determination of a case otherwise before the Supreme Court, in which way the State should jump in announcing its policy.

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: I should guess that it would be the attorney general who would make that decision.

Now I do not know, but that is just my guess.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: Did I understand correctly in your answer to some of the questions of Delegate Clagett that notwithstanding the first sentence of the second section before us, that the General Assembly may create some legal offices or the governor may create some legal offices which are not subordinate to the attorney general?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: That is correct.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: May I button down some small points in section 1?

Does the language appearing in line 8 of section 1 mean that if there is, in the unlikely event that there is a tie vote for attorney general, the same procedure shall be used for resolving that tie as is provided for the governor?

THE CHAIRMAN: Delegate Morgan.

DELEGATE MORGAN: I think that is probably the intention. There is some question in my mind as to whether the language actually accomplishes that.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: Just as the governor may continue to serve until his successor is qualified in case there is some delay in the inauguration of the new governor, so the attorney general may continue to serve until his successor is qualified?

THE CHAIRMAN: Delegate Morgan.