

In times such as we are experiencing at present, it seems to me that the duties of the attorney general certainly should not become a permanent part of the basic document of the State of Maryland.

It would seem far more preferable to allow the General Assembly to determine what those duties should be, because we know that particularly in the field of crime, as well as in the civil field, genuine massive efforts are being made to attack the problem.

Consequently, it seems to me that Maryland would be far better off to provide a flexible office of attorney general so as to be able to allow the General Assembly to address itself to specific modes of conferring jurisdiction and duties and powers upon its chief legal officer.

A second point occurs to me, and that is this, that we are anxious to strengthen the executive, and the questions this morning would indicate that there is a very hazy line here between whether or not the proposed language for the constitution would confer executive powers upon the attorney general, thereby depriving the governor, to some extent, of the power over the area which we have heretofore decided shall be exclusively his own.

In answer to some of the questions propounded to Chairman Morgan, it seems to me quite obvious that the attorney general would be exercising some executive functions and that, furthermore, this constitutional language would confer upon the General Assembly power to add to the attorney general powers which are in fact not legal in nature, having nothing to do with carrying out the law, enforcing process of the law, interpreting process, but would confer upon him policy discretion and policy decision.

I submit that we do not want to do this. We have demonstrated that by the vote we have taken with respect to the executive article Recommendation No. 1, which has already been approved overwhelming by the Committee of the Whole.

I say to you in all sincerity that if the powers which we desire in the Majority Report to confer upon the attorney general are necessary that the next session of the legislature can well take the identical language and put it into the public general law. If these powers need to be changed or modified, subtracted from or added to, the General Assembly, it seems to me, can do this and do it quite well.

It would be a great mistake, in an area which requires such flexibility, to put these powers in the Constitution. We make the office of the attorney general a far more efficient office, one responding more adequately to the needs of the time, by providing that all powers shall be legal in nature and shall be put in the public general law of the State.

I urge the adoption of the amendment.

THE CHAIRMAN: Are there questions of the sponsor of the amendment?

Delegate Hardwicke.

DELEGATE HARDWICKE: Delegate Gallagher, first of all, by the adjective "legal" which precedes the words "powers and duties", you do not mean the word "legal" in the sense of lawful, but you mean legal in the sense of attorney-type duties?

DELEGATE GALLAGHER: Yes, that is correct.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I tried to make the distinction here between duties which are of the legal nature and duties which are of the executive nature and to draw the line between those two, and that is the primary purpose of the use of the word.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: I gather from your general remarks, Delegate Gallagher, that you intend that the attorney general shall exercise no duties other than those of an attorney?

DELEGATE GALLAGHER: Yes, I believe that the Attorney General is the legal officer of the State, that he is not an independent, self-propelled entity to make decisions which affect the State without the concurrence, at least, of his client, and I think that is quite important.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE HARDWICKE: You do not intend that he exercise exclusively all the legal duties and powers?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: No, as a matter of fact, I believe that when we left the duties of the state's attorney by and large to be defined by the General Assembly that we set up an area there where there will be either concurrent jurisdictions, per-