

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Not for an elected attorney general. It would certainly be a possible conflict for an appointed attorney general.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Where lies the difference?

DELEGATE MASON: Well, I think it is quite obvious. If I appointed an attorney general I certainly would have greater influence and control over his actions than if he were elected by the people.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: Whether appointed or elected, as he attempts to advise two opposing parties, is that not a conflict of interest situation?

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Not necessarily; as long as he gives them objective and impartial advice.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: And if that objective and impartial advice is contradictory, one to the other, is this not a conflict of interest situation?

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Well, at least they will all be aware of what the impartial objective advice is and if necessary then, the attorney general will, as he has done in other cases, appoint outside counsel to represent one of the other parties.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: And that would be his only solution?

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: I do not know if that would be the only solution, but that would be a solution.

THE CHAIRMAN: Delegate Clagett.

DELEGATE CLAGETT: But that appointed counsel is appointed by the attorney general who has found himself in a conflict of interest situation?

Is that correct?

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Well, I would not agree that the attorney general has found

himself in a conflict of interest position. If it happens sometimes that he might have conflicts within departments or perhaps one would want an interpretation of what the law should be the attorney general would have outside counsel appointed to bring the case to court so that they could have a determination of just what the particular law is. That has happened quite frequently.

THE CHAIRMAN: Delegate Byrnes.

DELEGATE BYRNES: I think you are familiar, sir, with the very recent judgment made in the attorney general's office to take on appeal a very sensitive and critical issue involving the applicability of certain tax laws of the country to state employees, the question of interstate commerce, and essentially involving millions and millions of state dollars.

The question I raise is similar to one I asked with regard to the comptroller: dividing the executive authority, who would have the final say as to whether or not that case would be appealed to the Supreme Court?

Would it be the attorney general or would it be the governor? I can see that in this case they might both agree it should go up, but who would have the final say and who should have the final say?

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: The attorney general as chief legal officer for the State has the final say and he should have the final say. In the case to which you advert, the attorney general had the agreement of the governor that they should intercede in this wage and labor case.

THE CHAIRMAN: Delegate Byrnes.

DELEGATE BYRNES: Moving on, sir, to another problem, in your amendment, if I may address to that, which was distributed to us recently, you attempt to freeze into the constitution what I think is really an administrative decision, in that the attorney general's office should handle the appeals of criminal cases, or the appeals of cases where the state has an interest.

Why do you want that in the constitution, if I may ask?

THE CHAIRMAN: Delegate Mason.

DELEGATE MASON: Well, I do not want to say it has been in there for 103 years, that is why I want it, but if you