

than the man who has to borrow. For that reason I vote "aye."

Mr. PETER. I understand this proposition merely leaves it optional with the borrower whether he will pay the taxes or not.

Mr. CUSHING. No, sir; optional with the lender whether he will charge the taxes or not.

Mr. PETER. I vote "aye."

Mr. RIDGELY. I vote "no," for the reason that I think it very unwise for us to encumber our constitution with details of this kind, which belong more properly to the legislature.

Mr. SANDS. I shall vote against this proposition because it relieves the lender from the payment of any taxes either State or federal, and throws it upon the borrower. I vote "no."

Mr. STIRLING. This is law now. The code provides expressly that this can be done. And legal consistency will lead me to vote "aye."

Mr. RIDGELY. In order to make this section conform exactly to the provision in the present constitution, I move to add the words that were omitted in the amendment just adopted, viz:

"The legislature shall provide by law all necessary forfeitures and penalties against usury."

Mr. SCHLEY. I have not taken any part as yet in this debate; but at the proper time I will offer an amendment which I will now read for information. Perhaps the gentleman from Baltimore county (Mr. Ridgely) will accept it, to precede the amendment he has just offered. I propose to add the following to this section, as amended:

"Except in cases where a different rate, not exceeding seven and three-tenths per centum per annum, may be agreed upon or contracted for in writing."

Mr. RIDGELY. I cannot accept that amendment; but I will withdraw mine in order to let that take precedence.

The amendment of Mr. RIDGELY was accordingly withdrawn.

Mr. CHAMBERS. It may be necessary perhaps that I should explain why I omitted the words which the gentleman from Baltimore county (Mr. Ridgely) has indicated. I did so because they are perfectly useless. The legislature has that power already, and there it is not necessary to give it to them. They have all the necessary powers to inflict penalties for the violation of any law.

Mr. RIDGELY. I propose to make it mandatory that they shall pass such laws.

Mr. SCHLEY. I move the following as an addition to the section as amended:

"Except in cases where a different rate, not exceeding seven and three-tenths per centum per annum, may be agreed upon or contracted for in writing."

Mr. CHAMBERS. I did not offer the words

indicated by the gentleman from Baltimore county (Mr. Ridgely,) because it was perfectly idle, the legislature already having power to provide penalties for anything prohibited by the constitution.

Mr. RIDGELY. Allow me to say one word in reply to the gentleman from Kent (Mr. Chambers.) It may be true that the legislature has the power. But in the absence of any mandatory provision in the constitution, it is entirely discretionary with the legislature whether they will exercise that power or not. I propose to make it obligatory upon them to pass such laws.

The question recurred upon the amendment proposed by Mr. SCHLEY.

Mr. THURSTON. I merely wish to suggest to the convention that the substitute which I have offered accomplishes the same purpose in fewer words.

The CHAIRMAN (Mr. Pugh.) The first business before the convention is to perfect the proposition under consideration. A substitute therefore is not in order until the proposition is perfected.

Mr. THURSTON. I know it is not now in order. I merely wish to suggest that the substitute accomplishes the same thing in simpler language.

The question was then taken upon the amendment of Mr. SCHLEY, and, upon a division—ayes 21, noes not counted—it was rejected.

Mr. RIDGELY. I now renew the amendment which I offered a short time since, viz:

Add to the section as amended the following:

"And the legislature shall provide by law all necessary forfeitures and penalties against usury."

Mr. MILLER. I think that amendment is necessary, because if you leave the section to stand as it now is, prohibiting the taking or demanding any higher rate of interest than six per cent., then any contract by which more might be taken or demanded would be void *in toto*, and the whole amount, principal and interest, would be forfeited.

Mr. RIDGELY. Under existing acts of the general assembly?

Mr. MILLER. That provision of the constitution, providing for penalties and forfeitures has never been carried out. It is therefore important that this amendment should be adopted. If not, then we should have to go back to the old common-law doctrine, that any contract which is contrary to the provisions of the constitution is null and void, and you cannot recover even the principal.

The question being then taken upon the amendment submitted by Mr. RIDGELY, it was adopted.

Mr. CLARKE. I have one amendment to offer, in order to make this section conform