

lating any provision of the constitution. They have only to exercise their discretion to sell.

It is too much power to vest in anybody. You cannot buy a whole legislature; or if you can, it is one of the things you cannot prevent. If you can corrupt the whole foundation of government there is, there is no use in making any provision. But to make it depend upon two individuals, because it names three, and any two can decide—is conferring a power I am not willing to trust in the hands of any two men that live between Maine and California.

Mr. EARLE. I do not like to interrupt the gentleman. I never have interrupted any gentleman but once—but I should like to ask a question. If the legislature should decide to sell these works, who would be the agents to make the sale? They must have agents, and will they not be as liable to be corrupted as those we appoint here?

Mr. STIRLING. I will answer that. There is very little discretion in merely putting up a thing and proposing to take bids for it. It is a mere matter of administration of details. But here is a question of policy to be decided, whether we shall or shall not sell. These men have the power of saying that it shall not be sold at all, or that it shall be sold. People who want the property of the State, can afford to pay a million of dollars for the purpose of obtaining a sale, knowing that if it is put up their chances for the purchase of it are certain. But there is not the same temptation or power in the exercise of the discretion of taking bids or receiving propositions. There is a publicity about that. Who can go into the breast of an individual and find out why he decided to do a thing or not to do it? It is a matter nobody can find out.

It is legislative discretion,—the power to sell public property. The details of selling it are executive matters. The question whether you shall sell or not, is a matter of legislative power. It is a matter which has no business in the executive department of the government. It is a violation of the provision in the bill of rights, which says that the executive and legislative functions of the government shall be separate. This is a question of legislative policy, which the convention confides to these executive officers. The convention expresses no opinion upon it at all. It does not say the governor shall sell. That might be defensible, because that decides the thing by the sovereign legislative power of this body, and leave the governor to administer the details. But it confides the whole question of legislative policy, the broad policy of the sale of public property, to the hands of two executive officers.

Mr. RIDGELY. Would the gentleman have voted for the proposition as reported by the legislative committee?

Mr. STIRLING. Yes, sir; because they authorized the legislature to do it. That puts the power where it belongs, in the hands of the representatives of the people.

Mr. RIDGELY. The proposition now is to drop the whole subject. I understand, from the argument of the gentleman, that he recommends to drop the whole subject. What would be the effect of dropping the whole subject? The end will be attained, that the legislature will have the power. The legislature then, free from all restriction, may put this property up at sale, and the lobbies will be filled with parties desiring to purchase it, unless you adopt the suggestion of the gentleman from Cecil (Mr. Pugh,) and impose a prohibitory clause in the constitution against their selling it at all. The object is attained by indirection which this house has refused to adopt by direction. By a large vote you have refused to confide the power to the legislature to sell this property. You are asked now by the friends of this proposition to do nothing, and therefore to confer a power upon the legislature by indirection which you have positively refused to grant.

Mr. NEGLEY demanded the yeas and nays upon the amendment, and they were ordered.

The question being taken, the result was—

yeas 30, nays 20—as follows:

*Yeas*—Messrs. Abbott, Annan, Audoun, Brooks, Carter, Daniel, Earle, Ecker, Farrow, Hoffman, Hopkins, Hopper, King, McComas, Miller, Mullikin, Murray, Negley, Nyman, Parker, Ridgely, Russell, Smith, of Carroll, Stockbridge, Swope, Sykes, Todd, Valliant, Wickard, Wooden—30.

*Nays*—Messrs. Belt, Chambers, Cushing, Dail, Davis, of Washington, Dent, Duvall, Edelen, Greene, Hebb, Hollyday, Lee, Mitchell, Morgan, Parran, Pugh, Smith, of Dorchester, Sneary, Stirling, Wilmer—20.

As their names were called,

Mr. PUGH said: As the question was not divided, I am obliged to vote "no."

Mr. CUSHING said: While I am in favor of the sale of the public works. I think the proposition that is before us, puts the sale of the Chesapeake and Ohio Canal within the province of three officers of the government, to be disposed of at any price they may think proper; while under the resolution that was offered by the gentleman from Kent, I think the legislature controlled, and that the governor and the treasurer would have had the power to have forced any corporation in our State that desired the control of the Chesapeake and Ohio Canal, to pay to the State the full amount of its investment in that enterprise. I think so far as regards the other unproductive public works of our State, they cannot be sold for any amount whatever at public sale. I think the question turns simply upon the sale of the Chesapeake and Ohio Canal, in the resolution we are now voting upon. While I do not intend to impute