

afterwards. I am decidedly in favor of making the governor, comptroller and the treasurer the board for the sale of the interest of the State in these public works, and let them go to work and make the sale immediately after the adoption of this constitution. The whole matter is left to their judgment and discretion, and they can take advantage of the high prices of stocks at this time.¹⁶

The convention evidently found this reasoning persuasive and opted to place the responsibility in the hands of the three executive officials. Having made that decision, it then turned its attention in earnest to what should be sold and how. The delegates considered such things as how salable the C & O interests would be; what effect it would have if the B & O acquired the state's interest in the C & O and closed the canal in order to eliminate the competition; what would happen if control of the B & O were acquired by New York capitalists; the economics of selling stock at a constitutionally required forced sale; the extent to which the proceeds of sale could, in fact, be applied to the state debt, which was not callable by the state prior to maturity and which might have to be bought in at a premium; whether the bank stock owned by the state should also be sold; whether the subdivisions should have some right to purchase the state's investments; whether the special 20 percent gross receipts tax on the B & O's Washington Branch was a state interest that would have to be sold; and a host of other particulars.¹⁷

The debate dragged on and on. The ultimate product was sections 52 and 53 of article 3, which provided:

Sec. 52. The Governor, Comptroller, and Treasurer of the State are hereby authorized, conjointly, or any two of them, to exchange the State's interest as stockholder and creditor in the Baltimore and Ohio Rail Road company for an equal amount of the bonds or registered debt now owing by the State; and, subject to such regulations and conditions as the General Assembly may from time to time prescribe, to sell the State's interest in the other works of internal improvement, whether as a stockholder or a creditor; also, the State's interest in any banking corporation, and receive in payment the bonds and registered debt now owing by the State, equal in amount to the price obtained for the State's said interest; *Provided*, that the interest of the State in the Washington Branch of the Baltimore and Ohio Rail Road be reserved and excepted from sale; and *Provided further*, that no sale or contract of sale of the State's interest in the Chesapeake and Ohio Canal, the Chesapeake and Delaware Canal, and the Susquehanna and Tide-water Canal Companies shall go into effect until the same shall be ratified by the ensuing General Assembly.

Sec. 53. The General Assembly before authorising the sale of the State's interest in the Chesapeake and Ohio Canal, and before prescribing regulations and conditions for said sale, shall pass all laws that may be necessary to authorize the Counties of Allegany, Washington, Frederick and Montgomery, or any one of them, to create a debt by the issue of bonds or otherwise, so as to enable them, or any of them, to become the purchasers of said interest.

The Constitution adopted by the 1864 Constitutional Convention did much more than merely restructure the state government, although it did make a number of important changes in that government. In addition to creating the first truly constitutional Board of Public Works, it provided for a lieutenant governor, who was to serve (as did his federal counterpart, the vice-president) as president of the Senate, and reestablished the office of attorney general, which had been abolished in 1851. But more important, the new Constitution carried forth the Unconditional Unionist platform to the letter by completely abolishing slavery in Maryland, without compensation from the state.¹⁸ This was, of course, an extreme but proud moment in the state's history. Equally extreme but much less proud, however, were the provisions of article

16. *Ibid.*, p. 904.

17. *Ibid.*, pp. 905-13.

18. Maryland Declaration of Rights (1864), art. 24. See also art. 3, sec. 36. The Constitution did, obliquely, leave open the possibility of federal compensation. Sec. 45 of art. 3 empowered the General Assembly "to receive from the United States any grant or donation of land, money or securities, for any purpose designated by the United States, and [to] administer or distribute the same according to the conditions of the said grant."