

The issue had political, economic, regional, and philosophical overtones; indeed, so many of the delegates and so much of the political establishment had ties of one sort or another with the canal company, or its chief competitor the B & O, that the precise motives of the various functionaries are not altogether clear. What is clear is that the opponents of the "giveaway" won. Not only was the proposed language rejected, but there was added to section 2 of the proposed article a specific nullification of chapter 359.<sup>5</sup>

There was virtually no discussion in the convention of the other internal improvement companies, except in the context of the C & O issue. The committee had made a number of changes in the language pertaining to them, however, which were adopted without question or debate.

Sections 52 and 53 of article 3 of the Constitution of 1864 drew a careful distinction between and among the B & O, the C & O, other internal improvement companies, and the banks. As to the B & O, the board was authorized, without any further action by the General Assembly, to exchange "the State's interest as stockholder and creditor" for "an equal amount of the bonds or registered debt now owing by the State." Its authority to sell the state's interest in other internal improvement companies and in the banking corporations, however, was "subject to such regulations and conditions as the General Assembly may from time to time prescribe." That was one distinction.

Another concerned the manner of sale. In disposing of bank stock, the board was authorized to exchange it for state bonds "equal in amount to the price obtained for the State's said interest." Interests in the other improvement companies had to be sold for cash, however, and as to the C & O the Constitution envisioned a sale to the four counties bordering the upper Potomac. The sale of any canal securities had to be ratified by the General Assembly.

The new Constitution, in section 3 of article 12, (1) limited the board's authority to exchange the B & O stock to the 6 percent preferred, thus precluding an exchange of the common stock and bonds owned by the state, (2) required that the exchange be at not less than either the par or the market value of the stock, (3) excepted the state's interest in the Washington Branch of the railroad from any sale, and (4) by subtle punctuation changes, empowered the board to exchange the state's interests in other improvement companies for state bonds. The requirement of legislative ratification of the sale of canal securities was continued.

As in the 1864 Constitutional Convention, there was hardly any discussion about public works in any context other than the railroad, canal, and bridge companies. The authority of the board to "hear and determine such matters as affect the Public Works of the State, and as the General Assembly may confer upon them the power to decide" was continued, but it received no attention and elicited no debate. As section 2 of article 12 makes clear, it was the works of internal improvements that were considered to be the "public works" of the state. The board never concerned itself with anything else—not in 1825-28 and not since 1851—and, aside from the added responsibility to rid the state of its investments in the various companies, there was no suggestion by the 1867 delegates that it would.

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The 1867 Constitution, which was approved by the voters in September 1867 and took effect on 5 October of that year, did not change the structure of the board, and there was no interruption in its routine. The traditional, and limited, view of the

5. This was a remarkable amendment, representing an almost unique example of a Constitution nullifying a specific statute. As adopted, it read, "And the provisions of the act of the General Assembly of the year 1867, chapter 359, are hereby declared null and void." *1867 Debates*, p. 488.