Mr. CHAMBERS. I believe I can give the history of the forty-fifth section of the present Constitution. Prior to its adoption, there was no charge whatever to be preferred against individual stockholders as such. If, as in the case of the Bank of Maryland, there was a failure of the bank, resort could only be had to the assets of the bank.

A distinguished member of the Convention of 1850, went to Baltimore to borrow some money. He obtained there such information, he thought, as to induce him to feel the necessity of making some such provision as this. He returned, and this proposition was introduced, for the avowed purpose, and none other, of making the individual stockholders of the bank liable to the whole extent of their subscribed capital. And it was added to that section as an additional barrier, prohibiting any but stockholders from being directors. That provision I believe has been wisely left out by the present committee.

The decisions upon this subject, if there have been any, I am not acquainted with. I confess I have not heard the construction imputed to this section by the gentleman from Baltimore city (Mr. Stirling.) I can say, with a perfect recollection of all the facts, that it was certainly designed by the last Convention to subject to the claims of the creditors of the failing bank the whole amount of the private funds of the stockholders to the amount of their subscriptions.

The present provision, I understand, is explicitly limited to such a sum as shall have been subscribed and not paid in. I believe there is one bank in Baltimore in which parties have had the privilege of paying up either the whole of the amount of the shares, or a portion of them. They, of course, receive dividends upon the amount they have paid in. In such a case, if the shares were $100 each, the party who had paid in the whole amount would be exempt in the event of the failure of the bank; while the party who had paid in but fifty dollars of his share would be bound to contribute fifty dollars to reimburse the creditors of the bank. There certainly ought to be some provision made so that the party who has paid in the whole amount of his subscription, has contributed $100 a share for the security of the creditors of the bank, shall not be placed upon the same footing with the individual who has subscribed $100 and has paid in but fifty dollars. I think the creditors are certainly entitled to the amount of his subscription.

I would suggest to the gentleman from Anne Arundel (Mr. Miller) whether his amendment meets the case, so as to equalize the condition of the two persons, the one having paid in the whole amount of his subscription, while the other has paid in but half of the amount he has subscribed. I submit to him the apparent justice of making the individual, who has paid in but half of his subscription, pay in the remaining half before he is placed upon a par with the individual who has paid in the whole of his subscription. It strikes me that this provision contemplates a principle perfectly unexceptionable as far as it goes. Gentlemen think it should go farther. If so, justice requires that some provision should be made by which the distinction between those two classes of persons shall still be preserved, and the extent of their liabilities be governed accordingly.

The question was upon the motion of Mr. MILLER to amend by striking out the words "subscribed for and not paid in."

Mr. STIRLING called for the yeas and nays, which were ordered accordingly.

The question being then taken by yeas and nays, it resulted—yeas 34, nays 20—as follows:

Yeas—Messrs. Belt, Chambers, Daniel, Davis, of Charles, Davis, of Washington, Dent, Earle, Galloway, Hatch, Henkle, Hoffman, Hollyday, Hopkins, Hopper, King, Larsh, Lee, McComas, Mitchell, Miller, Morgan, Nyman, Parker, Pugh, Ridgely, Sands, Smith, of Dorchester, Sneary, Stockbridge, Swope, Sykes, Thomas, Wickard, Wooden—34.

Nays—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Barron, Brooks, Carter, Cunningham, Cushing, Dail, Ecker, Harwood, Jones, of Somerset, Keefer, Markey, Mullikin, Murray, Russell, Schley, Stirling—20.

The amendment was accordingly adopted.

Mr. CHAMBERS, when his name was called, said: In the confidence that a further amendment will obtain to secure the liability in proportion to the amount paid in upon shares, so as to perfect the system designed by the gentleman from Anne Arundel (Mr. Miller,) I vote "aye."

Mr. PUGH. I move to amend this section by inserting after the word "stockholders" the words "and directors," so that it will read, "upon the condition that the stockholders and directors shall be liable," &c. I offer this amendment in order to make this section as strong as possible, although I believe there is at present a law providing that no person can be a director of a bank unless he is at the same time a stockholder.

Mr. STIRLING. I would suggest to the gentleman, that his amendment can add nothing to the effect of the section. If a man does not own any shares of the stock, even if a director, he cannot be liable for the debts of the bank; and if he does own any shares he is liable as a stockholder.

Mr. PUGH. I withdraw my amendment, for I perceive it will add nothing to the force of the section.

Mr. CUSHING. I move to amend this forty-second section by striking out all after the word "existence." If that is adopted the section will then read,