

lature make a report to the general assembly and recommend such legislation as they shall deem necessary and requisite to promote or protect the interests of the State in the public works, and perform such other duties as may be hereafter prescribed by law; the governor, comptroller of the treasury and treasurer shall receive no additional salary for the services rendered as members of the board of public works."

(In the printed report, in the phrase—"it shall be the duty of the said board of public works to review from time to time the rate of tolls" &c.—the word "review" was printed "receive.")

Mr. STOCKBRIDGE. The sentence—"it shall be the duty of the said board of public works to receive, from time to time the rate of tolls," &c., appears to be a little vague, or rather to confer a duty upon the board without any authority to enforce or carry out that duty.

Mr. HABB. It is misprinted in the printed report; it should read "receive" instead of "review."

Mr. STOCKBRIDGE. Well, I will submit the amendment I have written. I move to strike out these words—"it shall be the duty of the said board of public works to receive from time to time the rate of tolls adopted by any company," and insert in lieu thereof the following: "said board of public works shall require the directors of all said public works, from time to time, and as often as there shall be any change in the rates of toll on any of said works, to furnish to said board a schedule of such modified rates of toll and shall."

I probably should not have offered this amendment, if the report had been printed correctly.

Mr. SCHLEY. The commissioners of public works have the power now to require that the rates of toll shall be submitted to their inspection.

Mr. STOCKBRIDGE. It is implied, I know, in the section as corrected.

The question was taken upon Mr. Stockbridge's amendment, and, upon a division—ayes 29, noes 21—it was adopted.

Mr. MILLER. I would ask whether those officers who are to constitute this board are in all cases required, by this section, to act unanimously upon any matter that is before them? We know that in the history of these boards of public works, there has been hitherto a disagreement, and provision has been made to call in an umpire; the treasurer is made an umpire to decide matters in dispute. As this section now reads, I should suppose it would require unanimous action on the part of these officers before they could reach any conclusion. I would ask if that is the intention of the committee. If not, I would suggest that it would be better to insert the

words, "or any two of them," after naming the officers.

Mr. PURNELL. In the absence of the chairman of the committee (Mr. Clarke, of Prince George's,) I will say that I was not aware that this matter was discussed at all in this committee. I presume it would be the necessary construction of this section from its phraseology that the majority of the officers should decide all questions before them. The matter was not discussed, nor was any action, so far as I recollect, taken upon the matter before the committee.

Mr. DAVIS, of Washington. My impression is that it was the understanding of the committee that the majority of this board should control.

Mr. PURNELL. I have no objection to the amendment suggested by the gentleman from Anne Arundel (Mr. Miller.)

Mr. SCHLEY. I would say that the operation of this section, is to constitute a board by the appointment of the governor, the comptroller and the treasurer. The present commissioners of public works do not constitute a board in the legal acceptance of the term. At least that opinion is held by prominent lawyers in the State, as I know to be the fact. This report has made a wise alteration in that respect; it has constituted these officers a board of public works in express terms. Being a board, there is no doubt in my mind that a majority is competent to act. Under the old rule it was only supposed that commissioners of public works were competent to act because they were actually a majority; although a case once occurred, in which the action of two of them was held to be valid, as being a majority of three. It was held good, however, only by the ratification of the directors of the Baltimore and Ohio railroad company; but was never put to legal test and adjudication. But as a board, the same counsel to which I have referred, once advised me that a majority of that board was competent to act.

Mr. MILLER. I know there has been some difficulty, and some legal opinions have been given upon the constitution of the old board of public works. Therefore it was for the purpose of making this explicit that I suggested this amendment to the committee. I suppose the gentleman from Frederick (Mr. Schley) is perfectly well aware that if a deed is executed in which two parties are named and they are required to do any act, the act of one of them is not held valid; or when three parties are appointed as trustees and required to do any act; the act of two of them would not be valid; there must be the concurrent act of the three before the title could pass under such a deed as that. Now, if they were constituted a corporation under the law of corporations, the difficulty might be got over. And even in such cases, in charters of banks, or works of internal