

St. Mary's, Charles and Calvert counties, of which amount the sum of one hundred and seventy-three thousand dollars was for the purpose of aiding the construction of a railroad in St. Mary's county. At the same session an Act (chap. 310) was passed appropriating ten thousand dollars of the above amount to make a survey of a railroad from some point in Prince George's county, through Prince George's, Charles and St. Mary's counties, to Point Lookout. The Southern Maryland Railroad Company was chartered March 20th, 1868, (chap. 150,) for the purpose of constructing a railroad from some point in Prince George's county to Point Lookout. By Section 10 of this Act, the sum of "two dollars" was required to be paid upon each share of the capital stock of the Company, and the residue in such installments as the Board of Directors from time to time might require. Every stockholder of the Company was put upon an equality in relation to payments to be made on their respective shares of stock on the 3d day of January, 1873, the County Commissioners of St. Mary's county, (as authorized by the Act of 1868, chapter 454,) passed a resolution recommending the State Treasurer to subscribe "to the capital stock of the Southern Maryland Railroad Company to the above amount of \$163,000, in pursuance of said Act." Messrs. Asa A. Lawrence and A. C. Tennison, both County Commissioners of St. Mary's county, of the date of the recommendation, testified that the said County Commissioners were induced to make this recommendation from the fact that the Southern Maryland Railroad Company was then at work upon its road; that Samuel S. Smoot represented his ability to construct it, and further, because, under the safeguards of the Act of 1868, chapter 454, the Comptroller and Treasurer of the State, were lodged with the discretion to see that the provisions of said Act should be complied with by the Company before any money could be drawn from the State Treasury.

The provisions of the Act of 1868, chapter 454, are plain and unequivocal. The subscription could be made by the State Treasurer, only upon his being satisfied that *bona fide* subscriptions to the capital stock of the Company, by others than the State of Maryland, had been actually made to the \$173,000. The following is the language of the Act: "And as soon as it shall appear to the Treasurer of this State, by the affidavit of the President of any Railroad Company now chartered, or which may hereafter be chartered in such counties respectively, that *bona fide* subscription to the capital stock of any such Company, equal in amount to the sum by this Act authorized, and directed to be given to such county shall be actually made, either in bond or money, the Treasurer of this State shall be, and he is hereby authorized and