

required, in the name and behalf of the State, upon the recommendation of the County Commissioners of said county making such application, to subscribe for so many shares of the capital stock of the Company as shall amount to the sum, which, by this Act, is distributed and applied to said county."

So that the County Commissioners had a right to presume that the State Treasurer would require satisfactory evidence, that *bona fide* subscriptions, equal to the proposed State's subscription, should be made by others before he would subscribe in the name and behalf of the State.

Was the proper proof required by the State Treasurer? It appears from the papers on file in the office of the Treasurer of the State, that an affidavit was filed with the Treasurer on the 22d day of October, 1872, dated October 19th, 1872, and sworn to by Samuel S. Smoot, President of the Southern Maryland Railroad Company, to the effect "that *bona fide* subscriptions to the capital stock of the Southern Maryland Railroad Company, equal in amount to the sum authorized by said Act, has been made in money, and that the said Company is entitled to the benefits of said Act as soon as the recommendation of the Commissioners of St. Mary's county to that effect shall be filed in the office of the said Treasurer." On the 30th day of January, 1873, the State Treasurer subscribed for 1,630 shares of the capital stock of the Southern Maryland Railroad Company of the par value of \$100 per share, amounting in the aggregate to the sum of \$163,000 upon the faith of this affidavit. No other proof of any kind seems to have been required by the State Treasurer. The undersigned find that the officers of the Company have failed to show that this affidavit was true, and are of the candid opinion, from the testimony taken before the Committee, that said affidavit was not true. The Committee having refused to summon Mr. John W. Davis, (at the time of the transaction the Treasurer of the State) the undersigned are unable to say what representations, if any, were made to him other than those contained in the said affidavit; they feel it their duty, however, to say that if no other proof was required, the Treasurer either failed to exercise that careful supervision which the magnitude of the transaction called for, or else misconstrued the Act of 1868, chap. 454.

In relation to the warrants issued by the Comptroller, and the payments made by the Treasurer of the State to the various assignees of the Southern Maryland Railroad Company, the undersigned must report that the provisions of the Act of 1868, chapter 454, are so plain as to leave no doubt in their minds but that said warrants have been issued and paid