

ed to meet subscriptions made, and for which the State, by subscribing, had pledged its faith to pay by borrowing. The subscription, therefore, according to the evident intent of the law, should precede any loans for these particular works; except the million for the Eastern Shore rail road, which, by the concluding proviso of the 8th section, is appropriated to other purposes, the particular purpose failing. This is rendered more manifest by the terms of the 11th section, under which the commissioners are appointed to negotiate the loan. The appointment is to be made, not at once or any specified period, but "so soon as the Chesapeake and Ohio canal company and the Baltimore and Ohio rail road company shall have respectively communicated to the Governor, &c., their assent to the terms of this act, in the manner herein before provided;" that is, in the manner provided by the first section, and by that section the communication of the assent makes it at once the duty of the Treasurer to subscribe for three millions of the stock of each. It cannot therefore be doubted that as far as these companies are concerned, no loan is to be negotiated until the State having subscribed, is under an obligation to meet the subscription; and it would be singular that such a restriction upon the authority to borrow, should be imposed in the case of existing companies in which the State was largely involved, diligently engaged in the prosecution of their respective works, and vitally interested in their completion; and that it should not be found to exist in relation to companies not only not organized, but which might never be organized, and who, if organized, might never prove able to comply with the terms upon which their stock was to be taken by the State, or if they did, with the additional terms upon which the subscription was to be paid.

No such inconsistency can be predicted of the Legislature. The authority given the commissioners by the 11th section to "negotiate and agree for a loan or loans, for the purposes of this act," gives further strength to this view of the law. It gives them the power and was perhaps so intended, to negotiate as many loans as may be necessary to accomplish the objects to be effected. The leading aim, as we have seen, was the finishing of the Baltimore and Ohio rail road and the Chesapeake and Ohio canal; and for that purpose they might make a loan or loans, notwithstanding the other three companies should never exist, or existing, should fail to perform the conditions upon which only the State was to become bound to negotiate a loan to meet her engagements with them. It being now uncertain, and the uncertainty perhaps to continue for years, whether the two millions of dollars appropriated contingently to the Eastern Shore rail road company, the Maryland canal company, and the Annapolis and Potomac canal company, will ever be so organized as to be entitled to the benefit of the appropriation; what doubt can there be that the commissioners may make a loan or loans exclusively for the use of the existing companies.

To them the subscription is already made and being made, it is to be met by loans to be negotiated "for the purpose." Nor is any injustice done by such a construction to the other companies, for the