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OPINION.

My opinion has been asked with reference to the effect of the act passed December session 1835, chapter 395, by which under the circumstances therein mentioned, the sum of one million of dollars was set apart, and directed to be applied to the exclusive purpose of internal improvement on the Eastern Shore; and with regard also to subsequent legislation on the same subject, and the provisions in the new constitution, restrictive of the power of the legislature to pledge the credit or apply the funds of the State, to the construction of works of internal improvement.

By reference to the 8th section of the act of 1835, chapter 395, it will appear, that a subscription on the part of the State, to the amount of one million of dollars was authorized to the capital stock of the Eastern Shore Rail Road Company, upon condition, "that the subscriptions to the capital stock of said company, including the subscription thereby authorized on the part of the State, at the par value thereof, be adequate to the construction of said Road"—and in a subsequent part of the same section, it was further provided, that in the event, "that the said stock of the Eastern Shore Rail Road, shall not be subscribed to an amount sufficient to commence the Road by individuals, or corporations, as provided for by the act, that then, and in that case, the million of dollars set apart for, and intended to be applied to said work, shall be held sacred, and the faith of the State was thereby pledged, and said million of dollars, should be applied to the exclusive purpose of internal improvements on the Eastern Shore, and for no other purpose whatever."

It may be observed, and is indeed quite obvious, that the word "commence" in the latter part of the section, was intended to mean "construct;" as used in the clause authorising the subscription on the part of the State. The subscription was not to be made until the Governor should be satisfied by estimates to be furnished him, that the State's subscription, together with the private subscriptions, should be adequate to the "construction" of the Road, and in the event that the necessary evidence was not furnished him of the adequacy of the means to complete the road, the subscription of the State was to be withheld, and the million of dollars reserved for purposes of internal improvement on the Eastern Shore. By this construction only, can the section be reconciled with itself—the subscription was made, the work commenced, and as shown by the report of the Comptroller for the year 1855, the sum of \$152,764 14 expended, leaving the difference between that sum, and the million of dollars, unexpended.

In this state of things, an act passed at December session 1839 chapter 323, by which under the circumstances therein specified, and with the assent of the stockholders, the further prosecution of the work on the Road terminated, and has been ever since, and is now wholly abandoned.