

its retention to the present time, so far as the record informs us, and that the stock has been voted, on two occasions, by an officer or member of the corporation of the complainant, are acts which pre-suppose the existence of the other acts, to wit : The authority to the president to make the subscription.

The other ground upon which the validity of this subscription is assailed, is that the ten dollars required by the eighth section of the charter to be paid at the time of subscription, have not been paid.

It may be remarked, upon this objection, that it is taken by a party who holds a certificate for the stock subscribed by him, and has held it for upwards of two years. That, in consequence of this subscription, and the conveyance of the property, made by such party, the other members of the corporation have advanced large sums of money upon their subscriptions, which sums have been expended upon the property now attempted to be affected by the vendor's lien ; and, that if the efforts of the vendors are successful, the moneys so expended may be entirely lost to the associates of the vendors. The attempt, therefore, as it seems to me, is destitute of any support in equity. It appears to be quite apparent, that if these vendors had not subscribed for the stock, and executed the deed of the 20th of August, 1846, the other members of the corporation would not have advanced their money. The subscription was not only made, and the deed executed, pursuant to the agreement of the parties, but there has been, so far as the record discloses, an entire acquiescence on the part of the vendor, from that time until this bill was filed, in September, 1848, and not only a passive acquiescence, but an active participation on the part of the vendor in the affairs of the corporation, by attending and voting at the corporate meetings. There do not appear to be any grounds for doubting, that until this bill was filed, the defendant considered the complainant a stockholder in the corporation ; and, that the money of the other corporators was expended upon the faith of that conviction, and my impression is, that conviction on the part of the defendant, was the natural result of the conduct of the complainant.