

per share was required to be paid upon each share of the capital stock of the Company, and the residue in such instalments as the Board of Directors from time to time might require. Every stockholder of the Company was put upon an equality in relation to the payments to be made on their respective shares of stock.

On the 3rd 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. Tension, both County Commissioners of St. Mary's county, at 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 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 amount of one hundred and seventy-three thousand dollars. 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* subscriptions 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 land or money, the Treasurer of this State shall be, and he is hereby authorized and 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 sub-