

not be required at any time to pay any more per share on its subscription than any other stockholder.

The Company could not assess the State on its subscription any greater instalments per share than the assessment per share on the other stockholders. The assessment must be equal. And yet it appears from the testimony, that the State has paid 100 per cent. in money, whilst the private stockholders, if any there be, have paid little, if anything, and never claimed to have paid more than 50 per centum. From all the evidence the Committee could find in the office of the Comptroller and State Treasurer, it appears that on the 3rd day of February, 1873, the County Commissioners of St. Mary's county passed a resolution, by which the Treasurer of the State was recommended "to pay over to the Southern Maryland Railroad Company, the first and second instalments now due on last share of the capital stock of said Company, heretofore subscribed by the said Treasurer in the name and behalf of the State of Maryland, as recommended by this Board by its order of the 3rd day of January, 1873, the amount of said instalments being fifty per centum on each share as subscribed as aforesaid."

On the 5th day of February, 1873, two days after the passage of this resolution, the same was filed with the State Treasurer, together with an affidavit of the 5th of February, 1873, sworn to by Samuel S. Smoot, President, Hamilton G. Fant, Treasurer, to the effect "that fifty per centum on each share of the capital stock of the said Southern Maryland Railroad Company, has been duly paid to the Treasurer of said Company in two separate instalments."

These instalments are stated by Smoot, in his testimony, to have been the instalment of two per cent. (\$20,000) required to be paid at the time of the original subscription in 1868, and an additional instalment of forty-eight per cent. which Smoot and Fant claim to have paid by a bogus certificate of deposit, of which we will speak hereafter.

The above resolution of the County Commissioners, and the affidavit were filed with the State Treasurer on the 5th day of February, 1873, together with a letter from Smoot to the State Treasurer in which the latter was requested as follows: "should these papers be sufficient, please have a warrant issued for the amount, and if the Treasury is not in funds, please write me an official letter stating the money will be paid to the Treasurer of said Company when in funds."

Smoot says, in his testimony, that the State Treasurer did not regard this affidavit as sufficient, and accordingly we find another affidavit dated the following day, (Feb. 6th, 1873,)