

executed by Smoot, Fant and Winder in Baltimore city, filed the same day in Annapolis in which they swear, "That fifty per centum has been actually paid in money to the Treasurer of the said Southern Maryland Railroad Company, by other subscribers than the State of Maryland, to the capital stock of the said Southern Maryland Railroad Company on their respective shares, which said fifty per centum amounts to the sum of \$500,000." The same day the Treasurer of the State, as appears from his official letter, writes Smoot, advising him that the papers were all satisfactory, and that the amount of \$160,000 would be paid as soon as the Treasury was in funds. Armed with this letter from the Treasurer, improperly given, as we think, the President of the Company is enabled to borrow the money the following day from James Sloan, jr., of Baltimore city, making an assignment to Sloan of the State's subscription, in which assignment it is stated that the same is made to cover the amount of \$65,000 due the Company, as evidenced by the letter of the Treasurer of the State of Maryland, dated the 6th day of February, 1873, and addressed to the said Smoot and Fant.

On the 3d day of June, 1873, the Comptroller issued his warrant to James Sloan, jr., assignee of the Southern Maryland Railroad Company, for the sum of \$65,000, and on the 25th of November, 1873, another warrant for \$16,500, to Alexander Brown & Sons, the assignees of said Company, these two amounts being fifty per centum on the States's subscription.

By what authority of law, or on what proper proof these warrants were issued, the undersigned are unable to say.—

The law of 1868, chapter 454, expressly provides as follows: "And the said Treasurer shall, out of any unappropriated money in the Treasury, pay the instalments on each share of the capital stock or said Company or Companies for which he shall subscribe as aforesaid, on the warrant of the Comptroller, which the latter officer is hereby directed to issue as the said instalments may be called for by the County Commissioners of said county, and agreeable to the provisions of the Act incorporating said Company or Companies."

As the Act incorporating the Southern Maryland Railroad Company, (Acts of 1868, chapter 150,) expressly provides in Section 10, "that there shall be paid on every share of such stock two dollars at the time of subscribing; and the residue of the subscription shall be paid whenever assessed or called for by the Board of Directors," the Comptroller of the Treasury could not legally issue his warrant until such assessment had been made by the Board of Directors of the