

without compliance with the provisions of said Act either by the Company or by the Comptroller of the Treasury.

The subscription having been made by the Treasurer of the State, as above recited, the State became a stockholder in the Company, with the obligations and the same rights as any other stockholder, except that the Act of 1868 threw additional safeguards around the the State's subscription. The State could 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 installments per share, than the assessment per share on the other stockholders. The assessments 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 3d 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 installments now due, on each 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 3d day of January, 1873, the amount of said installments being 50 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 50 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 installments." These installments are stated by Smoot in his testimony, to have been the installment of 2 per cent. (\$20,000) required to be paid at the time of the original subscription in 1868, and an additional installment of 48 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