

subscribed a like sum in the name of the City, and with the proceeds of this latter subscription, the road has been finished to Cumberland.

By the act of 1835, ch. 395, the amount of the State's subscription was to be paid to the Company, not in bonds, but in money; and to raise the requisite amount for that purpose, the Treasurer was authorised to issue the bonds of the State, to be delivered to Commissioners appointed by the State, to be by them sold in Europe, at a certain premium, and the proceeds to be paid into the Treasury, and by the Treasurer to be paid to the Company, according to the provisions of the act. The Commissioners found it impracticable to dispose of the bonds according to the terms of the law, and the Company were unable at any time to obtain payment of any part of the State's subscription in the manner provided by the act of 1835.

In consequence of these difficulties, the subscription on the part of the State, remained merely nominal, until the year 1839. On the 5th April 1839, the Legislature passed "an act to provide the ways and means to meet the subscriptions on the part of the State to works of Internal Improvement"; and by that act they proposed to the Company, in lieu of the mode of payment provided by the act of 1835, to accept in satisfaction of the State's subscription the *sterling* bonds of the State to the amount of *three millions, two hundred thousand dollars*, and to secure by mortgage, upon the property and revenues of the Company, the payment of the interest at the rate of five per centum per annum on the bonds created by the act for the term of three years from the date of the bonds.

The company accepted the proposition contained in the law of the 5th April 1839, regularly executed the required mortgage to the satisfaction of the Treasurer of the Western Shore, and received from the *Commissioner of Loans*, the sum of \$3,200,000, in the sterling bonds of the State, on their own account and for their own use, to be disposed of at their own pleasure, without other accountability to the State, than that raised by the mortgage, and such as might arise from the duty of faithfully applying them to the purposes of the company.

The State thereby became released from other or further payment of her subscription; and the company acquired the absolute ownership and disposal of the bonds, as fully, to all intents and purposes, as any other owner of the bonds of the State, who may have acquired them by purchase or otherwise.

Upon these facts, it is presumed, no doubt can be entertained by any one, that the arrangement proposed by the act of 5th April 1839, and assented to by the company, is an executed contract which cannot be changed by one of the parties, without the assent of the other; and that the State having actually paid her subscription, though in the form of her bonds, cannot by any act of her own recall it, unless indeed, she should prefer paying the money in lieu of the bonds, to which the company would doubtless not object.