

My Lords, there is nothing at all to bring that representation into any kind of doubt. The Respondent has not in his Bill, nor has he by any evidence in support of his Bill, at all proved to your Lordships' satisfaction that that representation was untrue, and untrue to the knowledge of the Directors, either at the date of the Report or at the date of his conversation with the Secretary. What the Respondent relies upon principally is, that at the time when the conversation with the Secretary took place the Company were in a state of financial embarrassment. My Lords, it might well happen that the Company were in a state of financial embarrassment at a particular time, and yet that when the market was better or an opportunity of enforcing the liabilities arose, they might have ample means to complete the Line. It is quite clear, from the language of this gentleman's own Bill, that at the time when he applied to purchase the shares he was himself well aware of temporary difficulties on the part of the Company; for the allegation contained in his Bill is, that he took the precaution of consulting his broker before he applied to the Secretary, and that he was told by the broker that he understood that some of the Shareholders refused to pay the calls, denying all liability and disputing the Company's power to enforce them. It might be very true, therefore, that the Company at that particular time were under some financial difficulties. But there is no case made by the Bill that there was either concealment from the Plaintiff or misrepresentation made to the Plaintiff, so as to enable him to come here and show that he was thereby induced in that state of circumstances to purchase shares. The allegation in the Bill is limited only to the competency of the capital for the completion of the Line; and the contrary to that is not, as I have already observed, anywhere alleged.

There remains the more important consideration on which the opinion of the Lords Justices (given, nevertheless, in the