

have no weight, in opposition to the mass of facts and circumstances here adduced, to shew that, up to the argument on the motion to dissolve the injunction before the chancellor in July, 1829, this company not only threw no obstacle in the way of a speedy decision of the cause, but was ready, on all occasions, to do what was incumbent upon it, to bring the question in dispute, to an early and final termination.

The argument on the motion to dissolve commenced on the 21st July, 1829, and was continued until the 25th of August following, and on the 24th of September, the Chancellor filed his order refusing the motion of the Chesapeake and Ohio Canal company and continuing the injunction before granted until the final hearing.

The following extract from the Chancellor's order, will shew whether he deemed the course taken by this company, a mere stratagem, to procure delay, as has been charged: and will also shew what he thought justice and equity to both parties, required to be done, before the case could be ripe for a final decision.

Extract.—“I do not understand that the defendants contend for an arbitrary and whimsical right of choice, which, without regard to their own real interests, may be capriciously turned against the plaintiffs or any others, merely for the purpose of intercepting their line of operations. They certainly cannot claim such a right with any design to use it for the very same evil purposes of which they themselves now complain. It must be, therefore, that the right of choice, for which they contend, is one, which, in its exercise, is to be governed by fairness, justice and equity. If this be the kind of right for which they contend, and none other could be sanctioned by a court of equity, then it is evident that the court has not, as yet, been furnished with the means of forming any fair and correct judgment upon the subject. It has heard, so far, only the allegations of one side, and that, too, without any proof in support of those allegations, which it can allow itself to notice and act upon.

The bill, and all the allegations of the plaintiffs, are perfectly silent in respect of this right of choice, as now claimed by the defendants. The claim, and every fact relating to it, make their appearance for the first time, in the answer of the defendants. The plaintiffs could not be, nor were they expected to come, prepared for a vindication of their rights, so far as they are implicated by this claim. Their case, as