

of the Company should be applied: charging that the Company had misapplied its funds, but had then on hand \$100,000, of net revenue, which ought to be applied to said claims.

The said "Trustee," and certain holders of repair and preferred bonds, were also made defendants.

The Canal Company, by its counsel, (of whom I was one,) filed its answer, which, in substance, admitted the legislation of Virginia and Maryland, and the issue of the preferred and repair bonds, and the guarantee by Virginia, as alleged. It admitted that, as guarantor, Virginia had paid interest, but that the Company being ignorant of the amount, prayed "that the complainant may be required to furnish proof thereof:" it admitted its inability to pay the interest coupons as they fell due, but insisted that its inability was without the fault of the respondent; it admitted that it "borrowed money of Selden, Withers & Co.," to pay interest on said bonds, "pledging the future revenues of the Company, *subject to existing priorities, for the repayment of said money.*" but "refers to said agreement between it and said firm, when produced, for the terms thereof;" admitted the issue of certificates of indebtedness to Selden, Withers & Co., but did not "admit that they have become the property of the complainant, but insisted on proof thereof;" and submitted "the legal rights of the complainants as holder, when that fact shall be proved" to the Court; admitted its failure to pay interest coupons, and called for proof of sums paid by complainant as guarantor; admitted the issue of certificate for \$35,000, but left complainant to prove present ownership. The answer submitted to the decision of the Court, the claim for interest upon the said certificates, and upon amounts paid by complainant for redemption of interest coupons, "upon proof of such payments, and upon the proper construction of the contracts and obligations, under which said payments were made, and upon the true construction of the power and obligations of this respondent in the premises." I further submitted, that in order that it may be fully protected in any decree that may be passed, and that the rights of all parties may be duly regarded, whether or not, the creditors of the Potomac Company, and the State of Maryland should be parties to this suit," and asserted its willingness and readiness to apply its surplus revenues, "in such manner as may be deemed lawful and right, in view of its powers, duties and obligations, and in view of the rights, powers and obligations of all persons concerned."

The other defendants having answered, the case was argued in June 1868, and subsequently, upon the Court's decision that the State of Maryland was a necessary and proper party, the complainant obtained an order to serve a copy of