

had, or rather intended to have given to the petition praying for an attachment against him. But, on referring to the answer which he actually made to that petition, it appears that it was not sworn to until the 28th day of the same month; nor filed until the 3d day of August following. It is therefore evident, that although this mode of making an answer sufficient by referring to and adopting an answer of a co-defendant, or by splicing on to it another answer belonging to a different subject, may be tolerated to a certain extent, *Anonymous*, 1 P. Will. 300; *Whitworth v. Davis*, 1 Ves. & B. 549; *Jones v. Magill*, 1 Bland, 198; *Lingan v. Henderson*, 1 Bland, 267; yet here, the dates of the affidavits and filing of the papers demonstrate that it has not in fact been done. And consequently, this answer of McCord, taken without the aid of the matter invoked, affords to him and his co-defendants not the slightest ground for dissolving this injunction.

Having thus reviewed the pleadings, I shall now gather up the facts, as stated in them, and their respective exhibits, and inquire whether they present any equity which merits a more decent garb, or which ought to be allowed to come again before the Court in an orderly manner. And overlooking the errors of the pleadings, I shall, in speaking of the parties, consider Amos Binney as the plaintiff, and The Chesapeake and Ohio Canal Company as the defendant.

In the bill and its exhibits. it is alleged that Amos Binney is seized in his own right, and as trustee for others, of certain lands situated adjoining to the Little Falls of the Potomac River, partly in Maryland and partly in the District of Columbia, beginning at the * head of the Little Falls, and extending down along the
111 river; which property is naturally possessed of great and peculiar advantages, in the application of water to mills; for which purpose the plaintiff, and all others owning lands so situated, have a right to use the waters of the river; that the plaintiff is entitled to certain rights and privileges, under the Act of 1784, ch. 33, s. 13, which The Chesapeake and Ohio Canal Company deny, oppose, and prevent him from being let into the enjoyment of; although they have succeeded to the rights, and have subjected themselves to the claims and franchises which were demandable from the body politic incorporated by that law; although the canal, made under the authority of the Act of 1784, has had admitted into it a sufficiency of water both for navigation and water works, as is evident from the quantity of waste water now thrown off in various sluices upon the land of the plaintiff; and although this plaintiff is able and willing, and has offered to agree to contribute to enlarge the canal for the purpose of letting into it an additional supply of water, if it should become necessary.

It is further stated, that the plaintiff is a stockholder in The Chesapeake and Ohio Canal Company, the President and Direc-