

made a party to this suit; and that no injunction has been directed to it; and consequently no restriction has been, or can be imposed upon its conduct; nor can any order, or decree which has been or can be passed upon this bill, in any manner control, affect, or bind it, or its rights, interests, or property. The whole cause of complaint is against the corporation; and therefore, it is evident, that the relief, to be at all effectual; whether by an injunction, or in any other shape, must be imposed upon and directed against the corporation specially complained of, as the cause of the alleged wrong. It would be futile to bind up the hands, and give relief against the servant while the master was left free. And so, in this instance, it would be of no service to this plaintiff, and insure to him nothing of the substantial relief he seeks, by enjoining the present officers and agents of this body politic; since, in doing so, the court would employ its powers against improper objects; and therefore ineffectually. For, if the present officers and agents were restrained, others might be instantly employed, so as immediately to prosecute the alleged mischievous work. And the judicial authority would have gone forth, not to prevent wrong, but to induce a corporation to change its officers and agents, which would be idle.

Upon these grounds, and because of this palpable defect in the bill, the injunction, which issued in pursuance of its prayer, could not be sustained in any way whatever. Yet this corporation, called *The Chesapeake and Ohio Canal Company*, might have treated this defect in the bill as a mere misnomer of itself; and by appearing and answering by its proper name, it might have waived all right to take advantage of the error.^(o) But it has not done so; and its officers by their answer expressly rely and insist upon this objection to the bill.

The plaintiff might, it is true, have asked and obtained leave to amend his bill in this particular; and the injunction would not, as of course, have been dissolved on making any trivial, or unimportant amendment. But where an amendment is asked for the purpose of introducing new facts, which give a different complexion to the case, or make any substantial alteration in it; or where the object of the amendment is, as in this instance, to bring before the court the principal mover of the alleged wrong, so as to require a

^(o) Gilb. Com. Plea. 234; *Road Company v. Creeger*, 5 H. & J. 124; *Bosley v. The Susquehanna Canal*, 21 April, 1829, post.