

to dissolve the injunction; provided the defendants gave to the plaintiffs, ten days notice thereof," and a copy of this order was directed to be endorsed on the writ of injunction, and served on the defendants.

In ten days the answer might have been prepared and filed, and in ten days more, the motion to dissolve might have been argued.

Notwithstanding this, the bills filed at Annapolis, on the 23d, 24th and 25th of June, 1828, by the Baltimore and Ohio Rail Road Company, were not answered by the Chesapeake and Ohio Canal Company, until upwards of ten months afterwards, viz: the 8th of May, 1829, when notice of motion to dissolve was given for the 28th of the same month.

On the 28th of May, both of the senior and opposite counsel, and not the senior counsel of this company *only*, as has been alleged by the President of the Canal Company, were engaged in the circuit court, held at Baltimore; and the argument was postponed for the time, by consent; neither party going to Annapolis. It was now in the power of the Canal Company to have brought on the motion to dissolve before the tenth of June; but the next notice, which it gave, was for the 20th of July, by which delay, upwards of another month was unnecessarily lost.

From these dates and facts it appears, that the neglect of the Canal Company to take these steps which were incumbent upon it, if it really desired the speedy termination of the controversy, caused an unnecessary and almost inexcusable delay of near *twelve months*.

As regards the bill filed in Washington county court, by the Canal Company, it was always understood, that both parties considered the Chancery Court at Annapolis, for various reasons, the most convenient and suitable tribunal for preparing the case for final decision, and that neither party expected or desired that any thing should be done with the case in Washington county. And accordingly, all the subsequent proceedings on both sides, have been in the Chancery Court. (a)

When the Canal Company, even at the late day above mentioned, put in its answer, it was in its power, by stating the whole of the facts in the case, fairly and fully, to have enabled the Rail Road Company to demur to the answer, and thus to have brought the case at once to final hearing. But the answer contained allegations against the Rail Road

(a) See extract of a letter to the President of the Rail Road Company from the Counsel, dated 15th May 1830. Appendix No. 1.