

Company, the truth of which it positively denied; and it omitted some facts and misstated others, which materially affected the interest of this Company. This answer could not be demurred to, because a demurrer would have admitted the truth of every fact stated in the answer, by the Canal Company, and would have precluded this Company from adducing any proof whatever on its part. It was therefore impossible to have brought the case to final hearing in that form of proceeding, without making an unpardonable sacrifice. (a)

When the counsel of this Company met at Annapolis, to argue the motion to dissolve the injunctions, and found that the counsel for the Canal Company insisted that the case was then ripe for hearing on its merits; and that no further testimony, on either side, could affect the decision of the controversy, they offered to put in a general replication, and immediately to set down the case for final hearing. This offer, if accepted, would have excluded only such parts of the answer as were not responsive to the bill, but rested solely on the assertions of the Canal Company, and would have left that Company the benefit of every thing of which it had adduced proof, or of which the Court could have taken judicial notice. (b)

It is believed that the above statements fully justify the assertion, that "the time to which the controversy should be prolonged, depended upon the Canal Company itself;" since it was entirely, and easily, in its power to have expedited the time of trial, and at the trial, to have taken such a course as would, without sacrificing a right or an interest, have put the questions in dispute in a situation for final decision in the Court of Chancery.

The above statement, particular as it is, this Company considers necessary, at the present time, in consequence, partly, of the assertions contained in the second annual report of the President and Directors of the Chesapeake and Ohio Canal Company. These assertions, although utterly unfounded, yet coming from the source they do, appear invested with a character and weight, that forbid this Company to permit them to pass unnoticed or uncontradicted. And as they are, most undoubtedly, in opposition to the facts now stated as true, by the Baltimore and Ohio Rail Road Company, in its report to the Legislature of Maryland, the degree of credence to be attached to this report depends upon

(a) Appendix, No. L

(b) Ibid