

amendment of his pleadings, placed himself in such an attitude as to warrant such extension. **HELD—**

That under this decision the defendant could amend his answer, so as to surcharge and falsify in respect to matters known to him at the time of filing his original answer.

The power to compel the production of books and papers, clearly belongs to this Court, but should be exercised with caution, and the party invoking it must designate, with a reasonable degree of certainty, the books and papers required, and the facts expected to be proved by them.

The application for the production of books stated, "that if they had been kept with any regard to good faith and accuracy, they must contain evidence pertinent to the issues in the cause." No particular books were designated, and no facts expected to be proved by them stated. **HELD—** That it would be an inconvenient and unjustifiable expansion of the rule upon such an application as this, to order all the books of a corporation to be brought into Court.

It is competent to this Court, after an account has been stated by the Auditor, in pursuance of directions, to review and reverse the decision, and to dismiss the bill, on more mature consideration.

But where an order of this Court has been appealed from, and the Appellate Court has remanded the cause for further proceedings, without reversing or affirming such order, but in the order so remanding the cause has expressed its distinct approbation of the order appealed from, no question adjudicated by that order is open for examination in this Court, except those in regard to which additional evidence has been introduced.

As a general rule, the parties must be limited to the items of surcharge and falsification specified in the pleadings; this is indispensable, to prevent surprise.

Unless there is some provision in the charter to the contrary, a transfer of its own stock directly to a corporation, will operate as a merger of the stock so transferred.

But it does not follow that though the shares transferred to the corporation are merged for the time being, they may not be subsequently revived.

Where banks take their own stock in payment of, or in pledge to secure debts due them, it has always been the understanding and practice, that they were authorized to re-issue the stock whenever they thought fit to do so.

This Court has the power to order a re-transfer of stock, or the issuing of new shares, where justice between the parties require it, the amount of capital authorized by the charter not being exceeded by such issue.

If a deed is executed under suspicious circumstances, or is merely constructively fraudulent, this Court may, and should, permit it to stand as a security or indemnity to the grantees.

Equity, unlike a Court of law, which must pronounce one way or the other upon the validity of a deed, may adopt a milder course, and suffer it to stand, not as an absolute conveyance, but simply as a security for the sum really due.