

Both parties appealed from this decree, and upon the hearing of the appeals, the Court of Appeals passed the following decree.

“These appeals, standing ready for hearing, were argued by the counsel for the parties. The proceedings have since been considered, and it appearing to this Court that the substantial merits of the cause will not be determined by the reversing or affirming of the decree of the Chancellor, and that the purposes of justice will be advanced by remanding the cause, it is thereupon, this 14th day of December, in the year 1850, by,” &c., “adjudged and ordered, that the cause be remanded to the Court of Chancery, for the purpose of amending the pleadings, if deemed necessary by the parties, and that such further testimony be taken therein, and other proceedings had, under the Chancellor’s direction, as shall be necessary for determining the cause upon its merits. This Court concurs with the Chancellor in the opinion and decision given by him, but inasmuch as his decision restricts the right to surcharge and falsify to the complainant alone, this Court modifies his opinion so far as to enlarge and extend that right to both parties, which it deems essential to the substantial merits of the cause, in the event of the defendant, by amendment of its pleadings, placing itself in such an attitude as will authorize the Chancellor to make such enlargement and extension.”

After the cause was remanded to the Chancery Court under this decree, the defendant filed an amended answer, under an order of the Court of the 30th of March, 1851, granting leave therefor, pointing out and specifying at length various particulars in which the account upon which the settlement was based was erroneous. The complainant excepted to this answer, *first*, because it attempted to surcharge and falsify the account in many particulars, but does not aver and show that the matters, or any of them, therein charged, were recently discovered, or were not known to the defendant at the time of its filing its original answer, or at the original hearing of the cause. *Second*, because it attacks the credit in said account of \$6,500, allowed complainant for salary from July, 1832, to