

January, 1839, whereas his right to said credit has already been put in issue and decided by this Court and the Court of Appeals. *Third*, a similar objection to the attempt to impeach the credit of \$1,033 33, for salary from 1st of January, 1839, to 6th of July, 1839. *Fourth*, a like objection to the attempt to impeach the credit of \$1,128 96, for amount of dividend on complainant's stock. *Fifth*, because the answer seeks to impeach the right of the complainant to exclude from said account the charge of \$1,350, for cash paid him by C. D. Williams, his right to do so having been already decided by this Court and the Court of Appeals. *Sixth*, a similar objection to the complainant's right to exclude the item of \$5,402 55, alleged to be due on settlement of account with railroad. *Seventh*, because the answer insists that complainant is chargeable with all the money, materials, and labor expended and supplied for the construction of the furnaces, wheel and pattern house, cupola, bellows, gearing, coal house, &c., all which matters have already been adjudicated by this Court and the Court of Appeals. And as an additional exception, *eighth*, because the answer attempts to surcharge and falsify the account in many particulars, but hath not averred or charged that the matters, or any of them, were recently discovered, or were not known to defendant at the time of the settlement of June, 1844, which it is the object of this suit to avoid. At the hearing of these exceptions, on the 10th of May, 1851, the Chancellor delivered the following opinion.]

THE CHANCELLOR:

There can be no doubt that a special case must in general be shown before the Court will allow a defendant to amend his answer, and this for reasons too obvious to be stated. Amendments have been allowed where new matter has come to the knowledge of the defendant since his answer was filed, or in case of surprise or mistake, or where an addition has been made to the draft of the answer after the defendant has perused it, and in some other special cases, treated of in the books of practice, and in reported cases, 2 *Danl.'s Ch. Pr.*, 911, 912.