

affirming the order appealed from, upon the ground that the substantial merits of the cause would not thereby be determined, and that the purposes of justice rendered such course necessary; and the Court likewise in that respect exerting the authority conferred upon it by the Legislature, declared that it remanded the cause 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 should be necessary for determining the cause upon its merits.

The Court of Appeals further said in their order, that they concurred with the Chancellor in the opinion and decision given by him, but forasmuch as his decision restricted the right to surcharge and falsify to the complainant alone, they modified his opinion so far as to extend the right to both parties, which was deemed essential to the substantial justice of the case, 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.

The Court of Appeals, then, in the exercise of the discretion conferred upon them by the Legislature, have thought fit to remand this cause to this Court, and in explicit terms have authorized the parties to amend the pleadings, if deemed necessary by them, and to take further testimony; and they have also made the right to surcharge and falsify reciprocal, deeming such course essential to the substantial merits of the cause, provided the defendant, by amendment, put itself in a condition to authorize the Chancellor to give that privilege to it.

The Court of Appeals have not said, nor upon any just construction of their order can they be understood to mean, that the defendant may amend its answer so as to place itself in a condition to surcharge and falsify the accounts, provided it shall be shown to the Chancellor that the matters, in respect of which it seeks so to surcharge and falsify, were recently discovered, or were not known to the defendant at the time of filing the original answer, or at the original hearing of the cause in this Court. On the contrary, it is most manifest from