

It is, therefore, ordered that the application be overruled, and that the petition of the complainant, filed on the 29th day of January, 1852, be, and the same is hereby dismissed, with costs to be taxed by the Register.

[Further proceedings were then had in the cause, and accounts were stated by the Auditor, to which exceptions were filed; at the hearing of which, the Chancellor, on the 22d of October, 1852, delivered the following opinion, wherein the nature of the exceptions and the facts of the case are fully stated.]

THE CHANCELLOR:

In the opinion of this Court, delivered on the 22d of November, 1848, and by the order of that date, several of the errors specified in the bill, and constituting the grounds of surcharge and falsification relied upon by the complainant, were adjudicated in his favor; and the opinion and judgment of this Court with respect to these errors, having been approved by the Court of Appeals, they must be regarded as settled, unless the proof taken since that order, should be considered sufficiently strong to warrant different conclusions.

The language of the Court of Appeals, in their order passed at December Term, 1850, is, that they "concur in the opinion and decision of the Chancellor;" but as his decision restricted the right to surcharge and falsify the account to the complainant alone, they modified his opinion so as to make the right to surcharge and falsify reciprocal, as essential to the substantial merits of the case, and leave was given to amend the proceedings accordingly.

The defendant has availed himself of this privilege, and much additional proof has been taken, bearing more or less upon some of the questions formerly decided, leaving others of them to rest upon the record, as it stood at the time that decision was made.

It was supposed, by the defendant's counsel, that the case of *Snowden vs. Dorsey*, 6 H. & J., 114, and the numerous cases