

HAP. 302. ments, or any interest or benefit, in or of or from the same.

Objection to competency of witnesses.

Evidence or averments of the bill.

To be made by exception filed.

Otherwise no point to be entertained by Court of Appeals thereon.

Duty of Court of Chancery to file their opinions on final decree.

Court of appeals instead of passing a final decree as now used, may if &c. remand causes for further proceedings, necessary to determine its merits.

Save only points finally decided by.

Express reasons for remanding.

Sec. 5. And be it enacted, That hereafter in all causes in the court of chancery, or any county court as a court of equity, all objection to the competency of witnesses and the admissibility of evidence, and to the sufficiency of the averments of the bill or petition, shall be made by exceptions filed in the cause, and no point relating to the competency of witnesses or the admissibility of evidence, or sufficiency of the averments of the bill or petition shall be raised in such causes in the court of appeals, or noticed or determined, or acted upon by the court of appeals, unless it shall plainly appear in the record, that such point had been raised by exceptions as aforesaid in said court of chancery or county court, and in all causes in the court of chancery, or any county court, as a court of equity, it shall be the duty of the said courts to file their opinions for or in respect of any final decree or decretal order, whenever such decree or order shall have passed upon argument, oral, or in writing, on part of any of the parties in such causes.

Sec. 6. And be it enacted, That if upon or after the hearing or consideration of any appeal from any decree or order of the court of chancery, or of a county court as a court of equity, it shall appear or be shewn to the court of appeals, that the substantial merits of the cause will not be determined by the reversing or the affirming of such decree or order, or that the purposes of justice will be advanced by permitting further proceedings in the cause, either through amendment of any of the pleadings, or the introduction of further evidence or otherwise, then the said court of appeals, instead of passing a final decree or order as is now used, shall order the said cause to be remanded to the court from whose decision the appeal was taken, and thereupon such further proceedings shall there be had by amendment of pleadings or further testimony to be taken or otherwise, as shall be necessary for determining the cause upon its merits, and as if no appeal had been taken in the cause, and the decree or order appealed from, had not been passed, save only that the order or decree passed by the court of appeals, shall be conclusive as to the points finally decided thereby; and it shall be the duty of the court of appeals, in its order remanding the cause as aforesaid, to express the reasons for the remanding as aforesaid, and also to determine and declare the opinion of said court of appeals on all points which may have been made before the said court of ap-