

that estate was conveyed for that sum, and as Basil D. Spalding's interest was one-third, I see no insuperable objection to giving him the benefit of the vendor's lien for that proportion, say \$1,666 66 $\frac{2}{3}$.

The estate, when sold by the trustee, subject to the dower of the widow, brought \$2,626 06, and upon the interest of Basil D. in the estate, I am of opinion he is entitled to be regarded as the holder of the vendor's equitable lien, and to be paid in preference to the general or judgment creditors of George R. Spalding. For the residue of his claim, he must share the fate of those creditors.

ROBERT J. BRENT, for Complainant.
ALEXANDER, for Defendant.

AMOS A. WILLIAMS
vs.
THE SAVAGE MANUFACTURING
COMPANY.

MARCH TERM, 1851.

[CHANCERY PRACTICE—AMENDMENT OF ANSWER—PRODUCTION OF BOOKS AND PAPERS—MERGER OF STOCK.]

As a general rule, a special case must be shown before the Court will allow a defendant to amend his answer.

Amendments will be allowed where new matter has come to the knowledge of 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.

This unwillingness of the Courts to permit a defendant to change, or add to the grounds of defence set up in the first answer, is increased when the application is made after the opinion of the Court and the testimony have indicated how it may be modified to accomplish his purpose.

An order granting the complainant the right to surcharge and falsify an account, was appealed from, and the Court of Appeals remanded the cause, under the Act of 1832, ch. 502, for the purpose of amending the pleadings and taking further testimony, and for further proceedings, and extended the right to surcharge and falsify to both parties, provided defendant, by