

entitled to be credited and liable to be charged accordingly. And upon appeal, the Court of Appeals say emphatically, that they "concur in the opinion and decision of the Chancellor." And in the last opinion of this Court, it is said, "the decision that the complainant is to be regarded in this cause as the sole proprietor of the road, and entitled to be credited with whatever may be considered proper to be paid for its use by the Savage Manufacturing Company, must stand unchanged."

When this cause was last before the Court, in view of the evidence introduced after the decision of 1848 was made, I deemed it proper to reduce the allowance from ten per cent. to six per cent. on its cost, to be paid by the Cotton Company for the use of the road, and \$100 in addition, for repairs. The Auditor has stated the account in conformity with the last opinion, and consequently the exceptions of the defendant thereto must be overruled. In the second part of the third exception it is alleged that all the repairs needed by the road, during the period it was used by the defendant, were made and paid for by the defendant. There does not appear to me to be any evidence of this allegation.

The defendant's first exception to the account F, grows out of the exceptions to the account E, and has already been disposed of.

The second exception to the account F objects to the allowance of \$119 98, received from Samuel Jackson for rent, upon the ground that the persons who received it had no authority on behalf of the defendant to give receipts, and because it has not been proved that said sum went, in point of fact, into the funds of the defendant. But the authority of these persons to give the receipts was adjudicated in the opinion of October last, and I agree with the Auditor, that the proof does show that the money was paid into the defendant's store, and consequently enured to the benefit of the defendant. The exceptions, therefore, will be overruled.

The only remaining question relates to the form of the decree. It appears by the proceedings that the settlement, which the bill impeaches, was made on the 1st of June, 1844. Ac-