

of the debts of the said William Spencer at the same period, including the amount which may have been due the said Isaac at that time upon the contract between him and the said William Spencer, dated the 27th of June, 1803, which the Chancellor thinks should be allowed.

In determining the amount of the credit to be allowed on account of moneys paid, or to be paid, by the defendants, or any of them, under the decree of the Court of Appeals, in the case of *Spencer vs. Pearce*, decided by that court in 1839, the Auditor will exclude such portion of the money so paid, or to be paid, as was lost by the neglect or omission of the said Isaac Spencer or his representatives, to take possession of the property mentioned in the proceedings in that case, in the year 1822, and in permitting it to remain in the possession of Benjamin Terry from that time until the year 1839. And it is further adjudged and ordered, that the accounts so to be taken shall be stated from the pleadings and proofs now in the cause, and such other proofs as may be laid before the Auditor by parties, and the parties are hereby authorized to take depositions before any justice of the peace, on giving three days notice, as usual, to the opposite party, or his or their solicitor, provided the said depositions are taken and filed in the Chancery office on or before the 1st day of January next.

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OTHO SCOTT and JAMES A. PEARCE, for Complainants.

THOS. S. ALEXANDER and WM. A. SPENCER, for Defendants.

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[No appeal was taken from this order.]