mond, and Charles Hammond, against Rezin Hammond, Elizabeth Hammond, Matilda Hammond, Harriet Hammond, and Philip H.

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account in *Grinn* v. *Whitaker*, 1 H. & J. 754. See also *Williar* v. *Loan Ass'n*, 45 Md. 548; *Story* v. *Livingston*, 13 Peters, 359; *Conn* v. *Jackson*, 1 John. Ch. 13; *Penrose* v. *Hart*, 1 Dall. 378; *Bradford Academy* v. *Grover*, 55 Vt. 462; *Case* v. *Fish*, 58 Wisc. 56, to the same effect. In a note appended to the case of *Hart* v. *Dorman*, 50 Am. Dec. 289, it is said: "The custom is very common among merchants in settling their accounts, to state an interest account, in which interest is charged on each item of principal on the debit side and credited on each item on the credit side of the account, and a balance of such interest account is struck and added to the balance of the principal. This is known as the mercantile rule. This method has been allowed by the Courts in a few instances where it had been used by the parties or adopted by the plaintiff. *Stoughton* v. *Lynch*, 2 Johns. Ch. 210; *Smith* v. *Shaw*, 2 Wash. 167; *Hart* v. *Dewey*, 2 Paige, 207; *Backus* v. *Minor*, 3 Cal. 231."

In *Stoughton* v. *Lynch*, 2 John. Ch. 214, the Chancellor says: "This exception goes to the whole mercantile usage of computing interest on merchants' accounts. The correct mode of crediting payments, as between debtor and creditor, is to carry them, in the first place to the extinguishment of the interest due, according to the principle of this third exception; and it is susceptible of mathematical demonstration that if credits be not so applied, but the principal of the debt be left to continue upon interest, and interest is computed upon the payments as they are successively made, a debt will, in the course of a few years, (and the time will be longer or shorter according to the rate of interest,) be wholly extinguished by payments of interest, without paying a cent of principal. I have, however, always understood and observed that the usage amongst merchants in stating their accounts is different and conformable to the master's report. It is the debtor who gains and the creditor who loses by this mode. But this usage is not very material when there are long mutual credits, because the rule operates equally upon the credits of each party, and if the balances are nearly the same, the result is equal. * * In the present account, I have no doubt the parties, throughout their accounts, have followed the mercantile usage, and as far as any partial calculation or settlements, in respect to each other have been made, they would of course follow that custom. Shall I then break in upon that usage in the settlement of these copartnership accounts? As the plaintiff claims to be, and is found to be, the creditor, he has an interest that I should do so; but I do not think, upon a consideration of this case, that I ought to disturb the complicated calculations attending the report upon this point."

In the case of a partial payment before either principal or interest is due, the usual mode is to credit the payment when made on the aggregate of the principal debt and of the interest computed to the time of payment. *Williams* v. *Houghtaling*, 3 Cowen, 86. If a debtor pays the debt or a part thereof before maturity, no interest can be claimed on such prepayment. *Handley* vs. *Dobson*, 7 Ala. 359; *Parker* v. *Moody*, 58 Me. 70.

Credits growing out of the contract itself do not fall within the rule requiring credits to be applied to the antecedent unsecured indebtedness, or to the first items of debit in an account between the parties, like payments of money on account, but may properly be applied to the payment of indebtedness arising out of the contract from which they spring. *Suter* v. *Ives*, 47 Md. 520.

Interest as damages. If it does not arise from contract, express or implied, or by the law merchant, interest can only be awarded as damages for the