

Mewburn. The bill states, that the late Philip Hammond made his will, on the 6th of August, 1822, and soon after died, seized and possessed of a large real and personal estate; that by his will, he gave particular portions of his estate to each of the parties to this suit, upon the terms specified; that he emancipated some of his slaves; that he directed certain parcels of his real estate to be sold for the payment of his debts; and appointed his wife, the defendant Elizabeth, with the defendant Rezin, and the plaintiffs Charles and Thomas, his executors.

The only dispositions of this testator's will, that are, at all, material to this controversy are the following, in which, among other things, he says: "to my son Charles Hammond, and his heirs forever, I give and bequeath the following negroes, to wit, Andrew, Dinah, and her daughter Amy," &c.; and again he says, "to my daughter Harriet Hammond, and her heirs forever, I give and bequeath the following negroes, to wit, Margaret and Rose." &c. And he then concludes his will in these words. "I will and direct, that all the residue of my lands in Anne Arundel County, which have not been devised by me to my children, nor grandchildren, be sold by my executors, and the moneys arising from the sales thereof, be applied to the payment of my debts, and should there **308** be more than * will discharge my debts, then I give the surplus that may be over, to my wife Elizabeth Hammond; but in case the moneys arising from the sales of said property should not

wrongful withholding of money. *Webster v. Assurance Co.* 18 Ch. D. 169; *In re Gosman*, 17 Ch. D. 771. Interest is not allowable as a matter of law in cases of tort, but its allowance rests in the discretion of the jury. *Lincoln v. Claflin*, 7 Wallace, 132; *Newson v. Douglass*, 7 H. & J. 418. Where interest is allowed as damages the rate must be according to the *lex fori*. *Godard v. Foster*, 17 Wallace, 124.

The *lex loci contractus* determines the rate of interest, unless the contract is to be performed in another State, in which case the law of such State governs. 2 *Kent Com.* 460; *Costigan v. Sewell*, 6 Gill, 232; *Boyce v. Edwards*, 4 Pet. 111; *DeWolf v. Johnson*, 10 Wheaton, 383. When at the place of contract the rate of interest differs from that at the place of payment, the parties may stipulate for either rate and the contract will govern. *Cromwell v. County of Sac*, 96 U. S. 51.

In judgments at law the interest on the debt may be calculated down to the date of the judgment, and the whole will then bear interest from that date. But this is the effect of an express statutory provision, (Rev. Code, Art. 64, sec. 124,) which has never been extended to decrees in equity on bills to account, where the account embraces charges of interest. In such cases interest is computed by the auditor from the time the money became due up to the time of stating the account, with interest on the *principal sum only* from that time until paid. *Rayner v. Bryson*, 29 Md. 482.

Calculations of interest according to Rowlett's Tables are legalized by Rev. Code, Art. 36, sec. 1. *Duwall v. Farmers Bank*, 7 G. & J. 45.

As to the allowance of interest against trustees, see *Wayman v. Jones*, 4 Md. Ch. 500.