

right under the will of their grandfather; and so far, according to his own shewing, he took possession of this property in the character of a trustee; and as such he undertook, at his peril, with the title deeds of his children before him, to claim and hold, on their behalf, a much larger interest than that which belonged to them. He had thus confessedly assumed no higher character than that of trustee for those who had the right; and now, that it clearly appears, and has been determined by a decree of this court, that the whole right was not in his children, he certainly cannot be allowed to assume a new character, and to retain rents and profits which he does not pretend to have received as his own; but for the use of others, who, it has been determined, have no right to them, and who cannot be allowed to receive them, or be held accountable for them. The decree of the 7th of April, 1828, is, however, conclusive upon this subject. Under that decree he has been called upon to account for the benefit of those, the extent of whose interests have been determined by it.

It has been contended on behalf of *John Diffenderffer*, that he is not chargeable with interest at all; while on the other hand, compound interest is claimed of him.

Legal interest is the measure of damages which the law allows in all cases for the detention of money; which the holder is made to pay where he is in any default in not paying, or applying the money in his hands as he was bound to do. (*h*) The general rule is, however, that interest is not given upon interest; and therefore, on a bill for an account, for the recovery of a legacy, or the like, where interest is allowed, it 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. By which mode of computation and decree compound interest is excluded; and this appears to be the rule in Virginia. (*i*) It has long been the established course of this court, according to the rule laid down by the Court of Appeals, in taking an account of rents and profits to charge the party with interest thereon from the respective times they were received. (*j*)

In this case, one of the accounts of the rents and profits has been stated with annual rests, at the instances of the plaintiffs: and the statement has not been objected to. It is more favourable

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(*h*) 2 Fonb. 423.—(*i*) *Hammond v. Hammond*, post.; *Sheppard v. Starke*, 3 Mun. 41.—(*j*) *Davis v. Walsh*, 2 H. & J. 344