

**McGILL'S TRUSTEES, Appellant, vs. WORRELL, Agent for Jackson, Brierly &
Briggs, Appellee.**

LRSC 3 1 LLR 175

[January Term, A. D. 1884.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Debt.

Account current—Invoices—Eight per cent interest.

1. An account current, enumerating and summing up the value of invoices for goods supplied and which, according to mercantile usage, have been duly forwarded the creditor, is notice sufficient of the items therein charged, within the meaning of the Statute.

2. The rate of interest allowable is generally determined by the law of the place of performance or the place where the money is invested, unless there exists some special agreement in this respect. Where a party in the course of mercantile transactions charges another in accounts with a certain rate of interest, and no objection is raised, but on the contrary it is acknowledged as correct, the debtor will not afterwards be allowed to show that the said interest is higher than what is allowed by the *lex loci*.

This case is an appeal from the Court of Quarter Sessions and Common-Pleas, Montserrado County, begun at its September term, A. D. 1882, when the accounts on motion of plaintiff's counsel were referred to arbitration, and which arbitration reported to the said court at its June term, A. D. 1883, awarding plaintiff £909.84 (\$4,365.20), upon which the court below rendered final judgment.

From this final judgment the defendants have appealed on the following exceptions: 1st, "Because the Court of Pleas and Quarter Sessions as a court of law has no jurisdiction over the suit." 2nd, "Because the court refused to dismiss the case on their motion that the account filed is not specific, distinct and intelligible according to law." 3rd, ("Because the court refused to sustain their objections to the award of the arbitrators, based on the following grounds: (a) That the arbitrators allowed the plaintiffs eight per cent interest without proof that both parties had agreed thereto; (b) That the award did not state the account according to law."

In the review of this case we notice nothing so intricate as to hinder this court arriving at a just conclusion in a few words. In this, as in case No. 1, we perceive that the great variance of opinion is in the importance attached to the title of the custodians of the estate of the late firm of McGill & Bro. of Monrovia, and R. S. McGill of Cape Palmas. Without repeating our exposition that an executor or administrator is a trustee, and as such under the Statute of Liberia is answerable at law, we say that on the exceptions in this case to the jurisdiction of the court below, we entertain the same ideas, hence are of opinion that the court did not err in its ruling, taking jurisdiction over the case.

This court is of the opinion that an account current enumerating and summing up the value of invoices of goods, wares and merchandise which have in due course, according to mercantile usage, been forwarded to the parties charged and who are charged with them (and subsequently served with an account current) is a sufficient notice of what the plaintiff intends to charge the defendant with,

in the meaning of the statute. Therefore the court below did not err in overruling the motion to dismiss the cause.

As to eight per cent interest. The arbitrators in this case report, and we find it so on the record, that the plaintiffs have charged eight per cent interest on their money advanced the defendants and allowed them eight per cent interest on all payments they made on the account in business transactions together, which the firms of McGill & Bro. of Monrovia, and R. S. McGill of Cape Palmas, in their correspondence acknowledged to be correct up to December, 1878, when it appears their correspondence stopped until the bringing of this suit.

Ordinarily it is the law of the place of performance, or the place where money is invested, that determines the rate of interest, and ordinarily it is admitted that whoever advances money is entitled to interest by operation of law, but in the absence of special agreement no higher rate of interest than the law of the place of investment allows.

Here the question arises, what rate of interest were the plaintiffs below entitled to? Did the defendant agree to pay any specific rate of interest?

We look at the matter in this wise. If two parties are dealing together in accounts, and the one serve the other with statements of account regularly, showing the interest account at whatever rate it may be, and the other, capable of understanding the accounts, accept them, and write in unmistakable letters acknowledging them to be correct, what is to be understood? We understand the subject to be at once conventional, and that the debtor accepts the rate specified, and that he will pay his creditor the same.

The length of time the account remains unpaid, drawing interest, is not the question with the creditor, more than the anxiety for the settlement of the account, but increase of interest is the fault of him who neglects to pay up. Compound interest, interest on interest, this too is not allowed except in special cases; the decisions of courts have uniformly been against it, as being hard, oppressive, exactive and tending to usury. Interest should not be demanded beyond the principal sum. In casting interest on any note, bond, book account, etc., on which partial payments are made, such payments should first be applied to keep down the interest; but interest is never allowed to form part of the principal so as to carry interest. This principle prevails throughout the mercantile world. Still, in transactions between parties, if no exceptions are taken to such dealings and instead thereof intelligent letters of consent are placed in the hands of creditors, they are left at the mercy of such creditors. Therefore we think the court below did not err in its ruling on this point.

The judgment of the court below is affirmed, and appellants ruled to pay all costs in this action.

Key Description: Accounts and Accounting (Current)