

and contrary to the course of the Courts. The Official Referee dealt with the case as such cases are ordinarily dealt with upon a mortgagee bringing in his account. The parties admitted before him the correctness of the figures stated in the agreement as shewing the indebtedness at that time; but the plaintiff claimed that he was entitled to be credited with the costs that he was entitled to, over and above those to which the defendant was entitled. This was admitted, and the parties agreed upon \$150, and credit was given for that amount upon the sum of \$1,340.62, admitted to be due in respect of the mortgage-debt. The Official Referee, having thus, by the admissions and agreement of the parties, ascertained what was due as of the 1st July, 1895, proceeded to take the accounts according to the well-understood rule laid down in *McGregor v. Gaulin*, 4 U.C.R. 378, charging interest upon the debt up to the date when the rents and profits received exceeded the interest and reduced the principal: *Bell & Dunn on Mortgages*, p. 156. An examination of the final account as found shews that the Official Referee observed the proper practice. And there can be no question that in so taking the accounts he rightly allowed the defendant interest upon the principal moneys. The judgment bore interest as of course from its date: *Con. Rule 116*; and the agreement, which was never fulfilled, had not the effect claimed for it of depriving the defendant of the right to be allowed interest upon his mortgage-claim, especially when, as here, he is charged with the rents and profits of the premises as a mortgagee in possession.

The objections to the manner in which the insurance moneys were received and dealt with are covered and answered by the wide terms of the judgment. The Official Referee was not restricted as to the allowances to be made for moneys expended in improvements and rebuilding after the fire, otherwise than that they were to be just, which must mean just to both parties. And it is quite apparent that the reference directed was intentionally designed to cover the state of circumstances which was due in part at least to the plaintiff's delay and apparent acquiescence in what the defendant was doing with the premises during the long period which elapsed between the 1st July, 1895, and the commencement of this action. As between mortgagor and mortgagee in possession, it has long been the rule to allow for reasonable lasting improvements, and especially where the effect of the expenditure has been to increase the revenue from the rents and profits from the premises, which was the case in this instance. And, in order to support such a claim, it has not been necessary to resort to the statutory provisions with regard to