

security. Any additional liability is not properly a liability to interest, but to damages, in the discretion of a jury or of the Court. *Cook v. Fowler*, 7 E. & I. App. 27; in re *European Central Railway Company*, 4 Ch. Div. 33, *Popple v. Sylvester*, 22 Ch. Div. 98.

In this province there is no fixed statutory rate of interest chargeable upon a judgment debt, and a judgment silent upon the subject of interest, as the judgment in this case is in *Anon.*, 3 Salk, 213, upon a motion to stay execution on a of course, carry interest. *Creuze v. Hunter*, 2 Ves. Jr. 162, *Hilhouse v. Davis*, 1 M. & S. 173.

But it was argued for the plaintiff that, as the defendants in the year 1898 joined in an assignment of the judgment, in which document they admitted that the sum of \$318.45 was then due, which sum included interest for upwards of eleven years subsequently to the maturity of the instalments, that amount can be included in the levy. Here again, the law is against the plaintiff's contention. According to the state of the accounts between the parties there was no such sum as \$318.45 legally due on the judgment at the date named, and it is common learning that no amount can be incorporated into a judgment beyond what is warranted by its terms. It was stated by Holt, C.J., nearly two hundred years ago in *Anon.*, 1 Salk. 400, that "where a judgment is acknowledged absolutely, and a subsequent agreement made, this does in no way affect the judgment, and the Court will take no notice of it, but put the party to his action on the agreement." Again in *Anon.*, 3 Salk. 213, upon a motion to stay execution on a judgment under pretence of an agreement, made after the judgment was entered, the same very learned Judge laid down the law in similar terms.

In order to ascertain the amount due upon the judgment in question in terms of the warrant of attorney and of the provision therein for the charging of compound interest, in accordance with the view of the law as I have stated it, a reference was made to the prothonotary to make the necessary computation, and the amount found to be due after duly crediting the sums proved to have been paid by the defendants, is \$50.47. The levy will therefore be reduced from \$497.27 to \$50.47, which sum, together with the taxed costs of reviving the judgment, the costs of issuing the exception and all other legal incidental expenses, will be the proper levy.

The plaintiff must pay the costs of this application.