ment only at the rate of four per cent. The action before Mr. Justice Fry was then brought for the recovery of the difference in the interest between seven and four per cent. from the date of judgment until payment, and that learned judge came to the conclusion that the plaintiff was entitled to recover, and he held that the mortgage was not merged in the judgment except to the extent of the money due on it when the judgment was recovered, and that as to subsequently accruing interest there was no merger. The Court of Appeal for Ontario, in *St. John* v. *Rykert*, 4 App. R. 213, came to the opposite conclusion, overruling the judgment of Proudfoot, V.C., 26 Gr. 252, and held that a note made payable "with interest at the rate of 2% per month until paid," was wholly merged in a judgment recovered thereon, both as to all interest then or thereafter accruing due thereon. The Court, in that case, thought the case was governed by the decision of *In re European Central Railway Co.*, L. R. 4, Chy. D. 33. In that case the company had issued debentures in which they bound themselves to pay a certain sum with interest at six per cent.; the principal sum to be paid on a day certain, and the interest to be payable in the meantime half yearly at the several dates expressed in the interest warrants annexed, *until the repayment thereof.* And the Court held that the words "until the repayment thereof" meant "until the day fixed for the repayment thereof." Fry, J., distinguishes that case from the one before him on the ground that there was no covenant to pay interest after the day named, and that therefore it was entirely different to a case where there is an express covenant to pay interest after the day fixed for the repayment of the principal.

The views expressed in *Popple* v. *Sylvester* may possibly be found to qualify the case of *St. John* v. *Rykert*, should the point there discussed come up again on appeal. We are inclined to think sufficient weight was not given in the latter case to the fact that the increased interest was not payable merely as damages, but by virtue of an express contract between the parties. Bearing this in mind, it seems to be clear that the interest recoverable was not a mere incident of the principal, but a substantial part of the contract, that therefore the only interest which could be recovered under the contract was that due when the action was commenced, or, at all events, only that which had accrued up to the date of the judgment, provided a jury could be induced to give, by way of damages, interest at the rate contracted for from the date of the writ until verdict or judgment. But clearly no claim could have been made in that action for interest which had not then accrued. The doctrine of merger certainly appears to be unduly stretched when it is held to apply not only to claims recoverable on a contract for which the plaintiff could, and did sue, but also to claims not then accrued, and for which, in the nature of things, he could not have sued, and did not sue.

Where the interest payable on default in payment of principal money, is merely recoverable as damages, and not by virtue of the express contract of the parties, then it appears to be reasonable enough to hold that although a jury might properly award by way of damages a larger rate of interest than 6%, yet that, nevertheless, the claim on the contract in such a case is after judgment thereon merged in the judgment, because there the interest is a mere incident of the principal, and awarded merely as damages for its detention, and not by virtue of any contract.

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OUR much valued cotemporaries the *American Law Review* and the *Southern Law Review* have been consolidated. The new publication will hail from St. Louis, but the name of the Boston journal will be used. The new publishers announce that the *American Law Review* will retain all the best features of the two reviews, and others which will enhance its value.