which are otherwise within its lawful power. It is told that it must get a fair rental value, and various criteria of fairness are suggested. Thus, the court holds that Congress intended in such a situation to shackle the municipal arm of a sovereign state, for the indefinite future, and compel it to conduct its business contrary to what the law of its own state permits. This result cannot be justified in the guise of preventing an alleged rebate of tariff rates by a carrier, unconnected with and neither controlled by the city nor exerting any legal control over the city, whose only function is that of serving those who use the city's facilities.

I am of opinion that the bill should have been dismissed.

MR. JUSTICE BLACK and MR. JUSTICE DOUGLAS join in this opinion.

KLAXON COMPANY *v.* STENTOR ELECTRIC MANUFACTURING CO., INC.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

No. 741. Argued May 1, 2, 1941.—Decided June 2, 1941.

1. In diversity of citizenship cases, the federal courts, when deciding questions of conflict of laws, must follow the rules prevailing in the States in which they sit. *Erie R. Co.* v. *Tompkins,* 304 U. S. 64. P. 496.
2. In an action in a federal court in Delaware, for breach of a New York contract, the applicability of a New York statute directing that interest be added to the recovery in contract cases is a question of conflict of laws, which the federal court must determine by the law of Delaware. P. 496.
3. The Full Faith and Credit Clause does not require that a State, contrary to its own policy, shall give effect in actions brought locally on contracts made in other States, to laws of those States relating, not to the validity of such contracts, but to the right to add interest to the recovery as an incidental item of damages.

§ 480 N. Y. Civ. Prac. Act. *John Hancock Mutual Life Ins. Co.* v. *Yates*, 299 U. S. 178, distinguished. P. 497.
115 F. 2d 268, reversed.

CERTIORARI, 312 U. S. 674, to review the affirmance of a judgment recovered for breach of a contract, 30 F. Supp. 425. The review in this Court was limited to the question whether § 480 of the New York Civil Practice Act is applicable to an action in the federal court in Delaware.

Mr. John Thomas Smith for petitioner.

Section 480 of the New York Civil Practice Act relates to procedure and remedy rather than to substantive right. *Funkhouser* v. *J. B. Preston Co.*, 290 U. S. 163; *Standard Oil Co.* v. *United States*, 107 F. 2d 402, 418.

This Court's decision in *Erie R. Co.* v. *Tompkins*, 304 U. S. 64, and the adoption of the Federal Rules of Civil Procedure, make it of paramount importance that the distinction between substantive law and procedure be kept clear.

The New York legislature regarded § 480 as a regulation of its own adjective law and not as a grant of substantive right entitled to enforcement in foreign jurisdictions. See *Matter of 1610 P, Inc.*, 168 Misc. 918; cf., *Fidelity-Phenix Fire Ins. Co.* v. *Cortez Cigar Co.*, 92 F. 2d 882; *Kline Bros.* v. *Royal Ins. Co.*, 192 F. 378.

There appears to be no Delaware decision as to whether interest is substantive or procedural. It is doubtful whether such a decision would be of binding force on a federal court sitting in Delaware. Cf., *Ruhlin* v. *New York Life Ins. Co.*, 304 U. S. 202; E. E. Cheatham, Sources of Rules for Conflict of Laws (1941), 89 U. of Pa. L. R. 430, 446–7; Note (1939), 52 Harv. L. R. 1002.

By the preponderance of authority the matter of interest is deemed procedural and governed by the *lex fori*. *Board of County Commissioners* v. *United States*, 308

U. S. 343, 349, 350; *Standard Oil Co.* v. *United States,* 107 F. 2d 402; *Goddard* v. *Foster,* 17 Wall. 123; *Mather* v. *Stokely,* 218 F. 764; *George M. Jones Co.* v. *Canadian Nat. Ry. Co.,* 14 F. 2d 852; *Mitchell* v. *Reolds Farms Co.,* 256 N. W. 445, 449; *Butte, A. & P. Ry. Co.* v. *United States,* 61 F. 2d 587; *Massachusetts Benefit Assn.* v. *Miles,* 137 U. S. 689.

Inconvenience and delay in the trial of cases involving conflict of laws will result from a determination that interest is substantive; controlling considerations of convenience and flexibility in judicial administration require that interest be classified as procedural. Clark, Procedural Aspects of the New State Independence (1940), 8 Geo. Wash. L. Rev. 1230, 1234; "The Tompkins Case and the Federal Rules" (1941), 24 J. Am. Jurid. Soc. 158, 160.

In every such case in the federal District Court on a cause of action arising elsewhere than at the forum the court must determine the *lex loci* as a step preliminary to the award or denial of interest as well as the rate thereof and the period covered thereby. This must be done even though the *locus* of the cause of action may be unimportant for any other purpose in the case.

The conclusion of law as to the controlling *locus* must be based on proof of facts frequently difficult to ascertain, *e. g.,* in a contract action, the intention of the parties as to where performance of the obligation involved should take place.

It would be intolerable to have the *lex loci* determined as it was in the case at bar. Here the place of performance was not considered an issue in the case until after the verdict was rendered. The District Court considered that interest was governed by the *lex loci contractus.* It remained for the Circuit Court to find that the law of the place of performance controlled the question. Under these circumstances, naturally, no evidence was offered by petitioner to show that New York was not the in-

tended place of performance. The conclusion of the courts below that New York was the place of performance of petitioner's obligation to use its best efforts to exploit the patents rests on no factual support other than collateral evidence offered on other issues.

The *locus* will often be a distant State. Its statute books may be unavailable at the forum, especially if, as here, the relevant provision is found in a Code of Procedure. Or there may be no statutory provision whatever, in which event the court must examine the state decisions including those of the inferior courts if the matter has not been settled by the State Supreme Court. See *West* v. *American Tel. & Tel. Co.*, 311 U. S. 223.

Delay will be the concomitant of the research and inquiry thus necessitated. Moreover, as the law of interest in many States is obscure and confused, frequent appeals with respect to the denial or award of interest pursuant to state law must be expected.

A collateral effect of a determination that interest is "substantive" is to cast doubt upon the validity of certain of the Federal Rules of Civil Procedure. Clark, "The Tompkins Case and the Federal Rules," 24 J. Am. Jurid. Soc. 158, 161.

An independent federal rule regarding the allowance of interest may be promulgated either by Congress, or by this Court, or by the District Courts.

Pending the adoption of such a rule or as an alternative thereto, the District Courts are guided by the principles as to the allowance of interest which the federal courts themselves have formulated. See *Jones* v. *Foster*, 70 F. 2d 200; *Companhia de Navagacao Lloyd Brasileiro* v. *C. G. Blake Co.*, 34 F. 2d 616.

Mr. Murray C. Bernays, with whom *Messrs. Paul Leahy, Henry Gale*, and *Abraham Friedman* were on the brief, for respondent.

No matter by what law the question is tested, the courts below were right to apply the New York statute in adding interest to the amount of the verdict. Under *Erie R. Co.* v. *Tompkins,* 304 U. S. 64, the Delaware conflicts rule governs. The rule is (Restatement, Conflict of Laws, § 584; accord, 3 Beale, Conflict of Laws, § 584.2, p. 1601) that "The court at the forum determines according to its own Conflict of Laws rule whether a given question is one of substance or procedure." The doctrine of conflicts, however, is "purely a question of local common law." *Kryger* v. *Wilson,* 242 U. S. 171, 176; cf., 1 Beale, Conflict of Laws, X, and § 5.1, p. 51. When this conflict question is presented, the federal court is bound to decide it according to the law of conflicts of the State in which it is sitting. *Sampson* v. *Channell,* 110 F. 2d 754, 760–2, cert. den., 310 U. S. 650; *Waggaman* v. *General Finance Co.,* 36 F. Supp. 85, 87; Goodrich, Conflict of Laws, 2d Ed., p. 24; Comment, 4 Federal Rules Service Cases 1.3, Case 1.

The Delaware conflicts rule is that damages for breach of contract and the measure thereof are governed by the *lex loci*—in our case the law of New York. *Mackenzie* v. *Omar,* 4 Harr. (Del.) 435, 457; *Canadian Industrial Alcohol Co.* v. *Nelson,* 8 Harr. (Del.) 26, 58.

Moreover, it has been held in Delaware that the rate of interest is governed by the *lex loci. Barstow* v. *Thatcher,* 3 Houst. (Del.) 32; *Mackenzie* v. *Omar,* 4 Harr. (Del.) 435, 458–9.

It follows that the right to interest as an element of damages is similarly governed. Cf., *Curtis* v. *Campbell,* 76 F. 2d 84, cert. den., 295 U. S. 737.

The same result would have been reached if the courts below had gone directly to the New York law, since the measure of damages and the right to interest are substantive under New York law. *Dyke* v. *Erie R. Co.,* 45

N. Y. 113, 118; *Keifer* v. *Grand Trunk R. Co.*, 12 App. Div. 28; *Loucks* v. *Standard Oil Co.*, 224 N. Y. 99, 109; *Preston Co.* v. *Funkhouser*, 261 N. Y. 140, 145.

The classic distinction is between the nature, the obligation, and the interpretation of a contract, all of which are the substance (*Liverpool & Great Western Steam Co.* v. *Phenix Ins. Co.*, 129 U. S. 397, 458), and "procedural" matters—such as, for example, the form of the action, as to whether it shall be assumpsit, covenant, or debt; all process, both mesne and final; pleadings; and rules of evidence. *Pritchard* v. *Norton*, 106 U. S. 124, 133–5.

The Delaware conflicts rule, that the measure of damages and interest are substantive and referable to the *lex loci*, is supported by the weight of federal and other authority. Restatement, Conflict of Laws, § 413; 2 Beale, Conflict of Laws, § 412.1, p. 1332; *Chesapeake & Ohio Ry.* v. *Kelly*, 241 U. S. 485; Robertson, Characterization in the Conflict of Laws (Harv. Univ. Press, 1940) 270.

On the right to interest as part of the damages the following federal decisions hold that the *lex loci* governs. *Freygang* v. *Vera Cruz & P. R. Co.*, 154 F. 640; *Wynne* v. *McCarthy*, 97 F. 2d 964, 970; *U. S.* v. *Garland*, 271 F. 14; cf., *Curtis* v. *Campbell*, 76 F. 2d 84; *Bell* v. *Lamborn*, 2 F. 2d 205.

The prevailing rule is that the *lex loci* governs. *Scudder* v. *Union National Bank of Chicago*, 91 U. S. 406; *Pana* v. *Bowler*, 107 U. S. 529, 546; *Scotland County* v. *Hill*, 132 U. S. 107, 117; *Sloss-Sheffield Steel & Iron Co.* v. *Tacony Iron Co.*, 183 F. 645, aff'd 188 F. 896; 91 American State Reports 741; Restatement, Conflict of Laws, § 418; 2 Beale, Conflict of Laws, § 418.1, p. 1335; 16 Am. & Eng. Encyc. of Law (2d Ed.), 1090; Note, Conflict of Laws—Interest as Damages—What Law Governs, 25 Mich. L. Rev. 537, 538; Note, Law Governing the Measure of Damages for Breach of Contract, 78 U. of Pa. L. Rev. 640, 644.

Sound reason and policy support the rule that the right to interest is governed by the *lex loci*. *Western Union Tel. Co.* v. *Brown,* 234 U. S. 542, 547; cf., *Slater* v. *Mexican Nat. Ry.,* 194 U. S. 120; *Curtis* v. *Campbell,* 76 F. 2d 84, 85; Restatement, Conflict of Laws, p. 699.

Since the New York statute is held substantive by controlling New York decisions, the courts below would, in any event, have been bound to apply that statute and add interest to the amount of the verdict, under the full faith and credit clause of the Constitution.

Bradford Elec. Co. v. *Clapper,* 286 U. S. 145, 155; *John Hancock Ins. Co.* v. *Yates,* 299 U. S. 178, 183.

Even before the amendment of § 480, N. Y. Civ. Pr. Act, it had been held that the measure of damages and the right to interest were of substance. The amendment acted upon a substantive right—the obligation of the contract; it accomplished its purpose by making mandatory the addition of interest to damages for breach of contract, whether theretofore liquidated or unliquidated. *Stentor Electric Mfg. Co.* v. *Klaxon Co.,* 30 F. Supp. 432; *Preston Co.* v. *Funkhouser,* 261 N. Y. 140; *Funkhouser* v. *J. B. Preston Co.,* 290 U. S. 163.

The construction placed upon § 480 by the New York courts, and the New York rule that the right to interest for breach of contract is a substantive right, are part of the statute, as much so as though they were found in appropriate words in its text. *Georgia Ry. & Elec. Co.* v. *Decatur,* 295 U. S. 165, 170; *West* v. *American Tel. & Tel. Co.,* 311 U. S. 223.

The statute as thus construed is a substantive provision of every New York contract to which it is applicable, such as the contract in the case at bar. The contractual rights established thereby are rights of property, enforceable wherever the contract is sued upon. *Loucks* v. *Standard Oil Co.,* 224 N. Y. 99; *Curtis* v. *Campbell,* 76 F. 2d 84.

To deprive a party of the benefit of such property right by refusing to give full faith and credit to the statute, would be a violation of the constitutional rights of such party. *Bradford Elec. Co.* v. *Clapper,* 286 U. S. 145; *John Hancock Ins. Co.* v. *Yates,* 299 U. S. 178; *Broderick* v. *Rosner,* 294 U. S. 629; *cf. Sampson* v. *Channell,* 110 F. 2d 754, 759.

Mr. Justice Reed delivered the opinion of the Court.

The principal question in this case is whether in diversity cases the federal courts must follow conflict of laws rules prevailing in the states in which they sit. We left this open in *Ruhlin* v. *New York Life Insurance Co.,* 304 U. S. 202, 208, n. 2. The frequent recurrence of the problem, as well as the conflict of approach to the problem between the Third Circuit's opinion here and that of the First Circuit in *Sampson* v. *Channell,* 110 F. 2d 754, 759–62, led us to grant certiorari.

In 1918, respondent, a New York corporation, transferred its entire business to petitioner, a Delaware corporation. Petitioner contracted to use its best efforts to further the manufacture and sale of certain patented devices covered by the agreement, and respondent was to have a share of petitioner's profits. The agreement was executed in New York, the assets were transferred there, and petitioner began performance there although later it moved its operations to other states. Respondent was voluntarily dissolved under New York law in 1919. Ten years later it instituted this action in the United States District Court for the District of Delaware, alleging that petitioner had failed to perform its agreement to use its best efforts. Jurisdiction rested on diversity of citizenship. In 1939 respondent recovered a jury verdict of $100,000, upon which judgment was entered. Respondent then moved to correct the judgment by adding in-

terest at the rate of six percent from June 1, 1929, the date the action had been brought. The basis of the motion was the provision in § 480 of the New York Civil Practice Act directing that in contract actions interest be added to the principal sum "whether theretofore liquidated or unliquidated." [1] The District Court granted the motion, taking the view that the rights of the parties were governed by New York law and that under New York law the addition of such interest was mandatory. 30 F. Supp. 425, 431. The Circuit Court of Appeals affirmed, 115 F. 2d 268, and we granted certiorari, limited to the question whether § 480 of the New York Civil Practice Act is applicable to an action in the federal court in Delaware. 312 U. S. 674.

The Circuit Court of Appeals was of the view that under New York law the right to interest before verdict under § 480 went to the substance of the obligation, and that proper construction of the contract in suit fixed New York as the place of performance. It then concluded that § 480 was applicable to the case because "it is clear by what we think is undoubtedly the better view of the law that the rules for ascertaining the measure of damages are not a matter of procedure at all, but are

[1] Section 480, New York Civil Practice Act:

"Interest to be included in recovery. Where in any action, except as provided in section four hundred eighty-a, final judgment is rendered for a sum of money awarded by a verdict, report or decision, interest upon the total amount awarded, from the time when the verdict was rendered or the report or decision was made to the time of entering judgment, must be computed by the clerk, added to the total amount awarded, and included in the amount of the judgment. In every action wherein any sum of money shall be awarded by verdict, report or decision upon a cause of action for the enforcement of or based upon breach of performance of a contract, express or implied, interest shall be recovered upon the principal sum whether theretofore liquidated or unliquidated and shall be added to and be a part of the total sum awarded."

matters of substance which should be settled by reference to the law of the appropriate state according to the type of case being tried in the forum. The measure of damages for breach of a contract is determined by the law of the place of performance; Restatement, Conflict of Laws § 413." The court referred also to § 418 of the Restatement, which makes interest part of the damages to be determined by the law of the place of performance. Application of the New York statute apparently followed from the court's independent determination of the "better view" without regard to Delaware law, for no Delaware decision or statute was cited or discussed.

We are of opinion that the prohibition declared in *Erie R. Co.* v. *Tompkins,* 304 U. S. 64, against such independent determinations by the federal courts, extends to the field of conflict of laws. The conflict of laws rules to be applied by the federal court in Delaware must conform to those prevailing in Delaware's state courts.[2] Otherwise, the accident of diversity of citizenship would constantly disturb equal administration of justice in coordinate state and federal courts sitting side by side. See *Erie R. Co.* v. *Tompkins, supra,* at 74–77. Any other ruling would do violence to the principle of uniformity within a state, upon which the *Tompkins* decision is based. Whatever lack of uniformity this may produce between federal courts in different states is attributable to our federal system, which leaves to a state, within the limits permitted by the Constitution, the right to pursue local policies diverging from those of its neighbors. It is not for the federal courts to thwart such local policies by enforcing an independent "general law" of conflict of laws. Subject only to review by this Court

[2] An opinion in *Sampson* v. *Channell,* 110 F. 2d 754, 759–62, reaches the same conclusion, as does an opinion of the Third Circuit handed down subsequent to the case at bar, *Waggaman* v. *General Finance Co.,* 116 F. 2d 254, 257. See also Goodrich, Conflict of Laws, § 12.

on any federal question that may arise, Delaware is free to determine whether a given matter is to be governed by the law of the forum or some other law. Cf. *Milwaukee County* v. *White Co.*, 296 U. S. 268, 272. This Court's views are not the decisive factor in determining the applicable conflicts rule. Cf. *Funkhouser* v. *J. B. Preston Co.*, 290 U. S. 163. And the proper function of the Delaware federal court is to ascertain what the state law is, not what it ought to be.

Besides these general considerations, the traditional treatment of interest in diversity cases brought in the federal courts points to the same conclusion. Section 966 of the Revised Statutes, 28 U. S. C. § 811, relating to interest on judgments, provides that it be calculated from the date of judgment at such rate as is allowed by law on judgments recovered in the courts of the state in which the court is held. In *Massachusetts Benefit Association* v. *Miles*, 137 U. S. 689, this Court held that § 966 did not exclude the allowance of interest on verdicts as well as judgments, and the opinion observed that "the courts of the state and the federal courts sitting within the state should be in harmony upon this point" (p. 691).

Looking then to the Delaware cases, petitioner relies on one group to support his contention that the Delaware state courts would refuse to apply § 480 of the New York Civil Practice Act, and respondent on another to prove the contrary. We make no analysis of these Delaware decisions, but leave this for the Circuit Court of Appeals when the case is remanded.

Respondent makes the further argument that the judgment must be affirmed because, under the full faith and credit clause of the Constitution, the state courts of Delaware would be obliged to give effect to the New York statute. The argument rests mainly on the decision of this Court in *John Hancock Mutual Life Ins. Co.* v. *Yates*,

299 U. S. 178, where a New York statute was held such an integral part of a contract of insurance, that Georgia was compelled to sustain the contract under the full faith and credit clause. Here, however, § 480 of the New York Civil Practice Act is in no way related to the validity of the contract in suit, but merely to an incidental item of damages, interest, with respect to which courts at the forum have commonly been free to apply their own or some other law as they see fit. Nothing in the Constitution ensures unlimited extraterritorial recognition of all statutes or of any statute under all circumstances. *Pacific Employers Insurance Co.* v. *Industrial Accident Comm'n,* 306 U. S. 493; *Kryger* v. *Wilson,* 242 U. S. 171. The full faith and credit clause does not go so far as to compel Delaware to apply § 480 if such application would interfere with its local policy.

Accordingly, the judgment is reversed and the case remanded to the Circuit Court of Appeals for decision in conformity with the law of Delaware.

Reversed.

GRIFFIN, ADMINISTRATOR, *v.* McCOACH, TRUSTEE.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

No. 755. Argued May 2, 1941.—Decided June 2, 1941.

1. The rules of conflict of laws which govern a federal court in diversity of citizenship cases are those of the State in which the federal court sits. *Klaxon Co.* v. *Stentor Mfg. Co., ante,* p. 487. P. 503.
2. A State may constitutionally decline to enforce in its courts, as contrary to its policy, a contract insuring the life of its citizen in favor of beneficiaries who have no insurable interest, though made in another State and valid where made; and such rule or policy binds the federal court exercising diverse citizenship jurisdiction in the State adopting it. P. 506.