

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of Bufe v.
Denker and others, from Heligoland; delivered 2nd
November, 1866.*

Present:

LORD WESTBURY.

SIR JAMES W. COLVILE.

SIR EDWARD VAUGHAN WILLIAMS.

IN this case, the Appellant being the holder of a bond upon which certain sums were due for principal and interest, applied to the Court in the island to enforce the payment of the debt, and on the occasion of that application the Court thought proper to direct that the obligors in the bond, Denker and Hansen (or rather the widow of Hansen, one of the original obligors, as his representative), should pay the debt, both principal and interest, by instalments. From that Order an Appeal was presented by the present Appellant. This Appeal was delayed for some time, but it came on to be heard, and was decided by the Lieutenant-Governor in the month of July, 1861. He seems to have been of opinion that there ought to have been substituted for the Order made by the Court below for the payment of the debt by instalments, an Order for the immediate payment of the principal; but that as the creditor might have demanded payment, and enforced his security at an earlier period, His Excellency declined to make any Order whatever touching the interest. Although he directs that the principal of the original loan shall be forthwith repaid, he reserves the question of interest, and does so in a most singular way:—he says, “the question of interest is one for a higher tribunal.”

It is difficult to understand how that reservation could have any effect; but it is clear that if it was right to adjudge the payment of the principal, it

was by virtue of a contract carrying interest. The principal, being due under that contract, must have been due with its accessory, viz. with the interest, which was as much a part of the contract as the principal itself.

· Their Lordships therefore have no difficulty in arriving at this conclusion, that unquestionably the interest ought to have been awarded to the creditor as well as his principal. They propose, therefore, to recommend Her Majesty to make an Order, declaring that the debt which is directed to be paid is in respect of an original loan carrying interest, and that interest was payable as well as the principal at the time of the Order, and with that declaration to remit the case to the Court below. Having regard to the injury which has been done to the Appellant by the Order, their Lordships are of opinion that he may have the costs of this Appeal added to his debt.



