

petition of appeal, which has been presented, must be taken off the file.

1867

TAMVACO

v.

SKINNER;

I have Mr. Justice Markby's authority to say that, on further consideration of the question, he agrees in thinking that the appeal ought not to be allowed.

Attorneys for the appellants: *Messrs. Barrow, Sen, and Watson.*

Attorneys for the respondents: *Messrs Stack, Collis, and Mirfield.*

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Before Mr. Justice Markby.

THE BANK OF HINDUSTAN, CHINA, AND JAPAN "LIMITED" v.
C. B. WILSON.

1868

February 6.

Interest Act (XXXII. of 1859)—Promissory Note Payable on Demand.

In an action for the balance due on a Promissory Note payable on demand, the Court refused to allow interest, there being no proof of a demand in writing:

This was a suit to recover Rs. 3,041-5-1, as balance due by the defendant to the plaintiff on a joint Promissory Note payable on demand. The defendants claimed to set off a sum of Rs. 1,000, and to deduct Rs. 1,545-11-8 from the plaintiff's claim, as being made up of interest, which they were not liable to pay. The defendants had tendered the balance, Rs. 495-9-5 to the plaintiffs. The Note did not bear interest on the face of it.

Mr. *Newmarch* and Mr. *Woodroffe* for the plaintiff.

Mr. *Eglinton* and Mr. *Evans* for the defendant.

MARKBY, J.—The Interest Act (XXXII. of 1859) does not apply. The Note was payable on demand, not at a certain time, and no demand for payment has been made in writing. No contract to pay interest has been made out. The tender of Rs. 495 was admitted. Therefore, the decree would be for the plaintiff company for Rs. 1,495-9-5 only, with costs.

Attorney for the plaintiff: Mr. *Hart.*

Attorneys for the defendant: *Messrs. Robertson and Payne.*