maturity of the whole debt, it is really sued for as a part of the debt accrued due.

Can there, then, be said to be any difference between an instalment of interest payable by a term of the contract, and an instalment of the principal itself payable in the same manner?

It seems to me that it is highly inconsistent to say that an action may be maintained for an instalment of interest each six months, and that the endorser shall be charged with it, without demand on the maker, and notice of his failure to pay; and to say that as to the payment of the principal, in say eighteen months, the endorser shall be discharged, unless duly demanded and he is given proper notice of dishonor. Surely the contract of the endorser is the same with reference to each instalment, whether principal or interest. Is not his contract the following?—The maker of this note has promised to pay you, the holder, at particular times and occasions, certain sums of money (call them principal or interest as you will), and I undertake that if he fails to pay you, and you promptly notify me of the fact, I will pay you.

If the stamp act were in force the interest accruing during the eighteen months which this note had to run would have to be computed, and duty paid upon the whole sum or debt represented by the one contract. The interest here is not a penalty, or damages, it is debt, and, in my opinion, just as much so as the principal sum secured by the note.

The American cases referred to by me in support of the opposite view, are, I think, not to be followed. They are due to a line of decisions upon the question of interest, which are admittedly at variance with the principles maintained in a number of English authorities. Mr. Sedgewick, in his work on damages, very clearly points out the distinction between the American and English authorities. "There is," says the author, "considerable conflict and contradiction between the English and American cases on this subject. But as a general thing it may be said, that while the tribunals of the former country restrict themselves generally to those cases where an agreement to pay interest can be proved or inferred, the courts of the United States on the other hand have shown themselves more liberally disposed, making the allowance of interest more nearly to depend on the equity of the case, and not requiring either an express or implied promise to sustain the claim. The leading difference seems to grow out of a different consideration of the nature of money. The American cases look upon the interest as the necessary incident, the natural growth of the money, and therefore incline to give it with the principal, while the English treat it as something distinct and independent, and only to be had by virtue of some positive agreement." (Sedg. (6 ed.) 473.)

In Van Rensselaer (2 Barb. S. C. R. 643), Mr. Justice Willard, at. pp. 666, says: "Whatever may be the rule in England, interest in this country is not considered as a demand distinct from, and independent of, the original debt, and resting solely upon contract, express or implied. It is treated rather as an incident to the debt, always payable when there is a promise, express or implied, to pay it, and in numerous instances when no such promise can be inferred."

Referring again to the cases cited by me in support of the plaintiffs' contention, *The National Bank* v. *Kirby* was an action against a maker only, who claimed that the non-payment of the interest dishonored the bill, and that the plaintiff in that action, taking the bill with interest unpaid, took it subject to all the equities. *Kelly* v. *Whitney* was an action also against joint makers only, who set up the same defence as in last case.

Boss v. *Hewett* was also against a maker who claimed the benefit of the same defence as in last two cases, alleging the notes had been obtained from him by fraud.

Suppose the whole debt in this case, principal and interest, had been secured by several notes endorsed by the defendant, one promising to pay the amount of six months' interest, naming the dollars and cents in six months from the date of the note; in another note the same amount in one year; in another note the same amount in eighteen months; and in another note the principal sum in eighteen months. Could recovery be had against the defendant endorser upon these notes without demand and notice of dishonor? As against the endorser, I do not think the plaintiff is to have any greater benefit by reason of the whole contract being on one piece of paper promising to pay the interest half-yearly.

I think therefore the plaintiff's action should be dismissed with costs.