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A treatise on the law of guarantees and of principal and surety

Henry Anselm de Colyar

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This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1887 Excerpt: ...for five years, and had never known anything dishonourable or dishonest in any of his transactions, they wrote, " What you have heard was done to protect him from a dishonest tradesman, and will in no way, we hope, be to the injury of his creditors. Having every confidence in him, he has but to call upon us for a cheque, and have it with pleasure, for any account he may have with you." The plaintiffs accordingly sent Dyson the goods, and continued to deal with him down to the 3rd of May, 1872, at which time he was indebted to them in 92/. Is. lOd., which he was unable to pay, the defendants, who were the holders of the bill of sale, having seized and sold all his effects under it. It was held that the defendants' letter of the 1st of January was a continuing guarantee. In his judgment in this case, Keating, J., said: "Each case must, no doubt, depend entirely upon the language used, and the document must be looked at with reference to the special circumstances under which it is given. Now, what did the writers of that letter of the 1st January mean, and what would the plaintiffs naturally understand from it? The defendants were aware of the state of 220 things between the plaintiffs and Dyson, and sent that letter in order to remove the unfavourable impression the plaintiffs had of Dyson's credit and ability. The (z) L. R., 8 C. P. 694. Mayer v. Isaac. Cases in which guar antee held not to be continuing. Walker v. Hardman. letter does not confine itself to the transaction alluded to in the telegram; but it goes on--'Having every confidence in him, he has but to call upon us for a cheque, and have it with pleasure, for any account he may have with you; and when to the contrary we will write you.' What would any man of business understand by th...

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