

**SURETISHIP: THE DANGERS
AND DEFECTS
OF PRIVATE SECURITY,
AND THEIR REMEDIES**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649233045

Suretship: The Dangers and Defects of Private Security, and Their Remedies by Charles Saunderson

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

CHARLES SAUNDERSON

**SURETISHIP: THE DANGERS
AND DEFECTS
OF PRIVATE SECURITY,
AND THEIR REMEDIES**

SURETISHIP.

THE

DANGERS AND DEFECTS

OF

PRIVATE SECURITY,

AND THEIR REMEDIES.

BY

CHARLES SAUNDERSON,

LATE AN AUDITOR OF THE GUARANTEE SOCIETY.

"He that is surety for a stranger shall smart for it; but he that hateth suretiship
is sure."—PROV. xi. 16.

"Have not the fairest estates been destroyed by suretiship?"—SOUTH.

LONDON:

SIMPKIN, MARSHALL, & Co. STATIONERS' HALL COURT.

1848.

L. King C. 200 C. 200 (1848) 4



LONDON :
GILBERT AND RIVINGTON, PRINTERS,
ST. JOHN'S SQUARE,

SURETISHIP,

&c.

AN Act was passed in the last session of Parliament, making an important change in the mode by which security may be given to the Crown for the integrity of officers appointed to places of pecuniary trust, and which promises to effect so great an improvement upon the practice hitherto established, that it appears desirable to consider whether the principle on which this change is founded, cannot be extended to Private Suretiship generally. An improvement, calculated to prevent the great inconvenience experienced from the present system by the man of business, and the wrong so often inflicted upon the Surety, deserves public attention; and having a strong conviction of the mischief frequently resulting from the ordinary arrangements by which Sureties are provided, I shall attempt to describe the dangers and defects thereof, and the remedy thus provided by the law.

The Act alluded to recognizes a Society instituted for the purpose of giving security for the fidelity of persons appointed to offices of trust, and

is entitled "An Act for regulating Legal Proceedings by or against the Guarantee Society, and for granting certain powers thereto (Royal Assent 18th June 1842)." The main object of the Act is to authorize the reception of the security of the Guarantee Society for officers of the Crown in appointments to Her Majesty's Service, which had hitherto been protected under special enactments, and must therefore have received the consideration and attention of the responsible advisers¹ of the Crown.

If the proceedings of such a Society be founded upon correct data, it is evident the principle is applicable to other occupations which require the appointment of persons to duties of trust. I have therefore availed myself of opportunities afforded me, and have made minute inquiries into the proceedings of the Guarantee Society. The facts contained in this pamphlet are the result of those inquiries, and of a careful examination of the official documents in its office, during more than two years whilst I acted as an auditor of its accounts.

To proceed at once to the objects of the Guarantee Society,—upon the appointment of an indi-

¹ Personal interviews were had with the Right Hon. Henry Goulburn, the present Chancellor of the Exchequer, and with the Right Hon. F. T. Baring, the late Chancellor of the Exchequer, at which the objects of the Act were officially approved. The principle on which the Society is founded was adopted, when its soundness had been demonstrated.

vidual to any office or duty involving pecuniary trust, or upon the death of a surety, provided the applicant be found a person of moral worth, the Society are willing to incur the risk of becoming his bondsmen; the individual contributing to the funds of the Society a small per-centage proportionate to the amount proposed to be named in the Surety bond. This per-centage however is not calculated upon the degree of honesty he may be supposed to possess; if his reputation for strict integrity and morality present any blemish, he is rejected altogether. Independently of the personal character of the individual, the Society is also guided by the nature of the engagement, and the description of employment or business in which the bond of Suretiship is required,—the character of the referees and their connexion with the party,—the check under which the person will be placed for whom the security is sought, and the evidence the Society may obtain, that his conduct under these frequent and periodical checks will be observed by a wise and vigilant superior, and not abandoned to the common influences by which he may be surrounded. If the employer be careless and negligent, if he be generally known to be a person who does not exercise due caution in the protection of his own interests, by a strict supervision of the persons he employs, the Society declines to afford protection against the consequences to be expected from the defective arrangements of such an establishment; so that the character of the individual seeking Guarantee is

but one of many circumstances which would affect its decision. A second main principle adopted, is to treat losses by Suretiship as an ordinary risk, and to protect the funds of the Society upon the general principles applicable to insurance, which are too well known to require a minute description: in all cases the individual who wishes to protect himself or others from any particular risk for which insurance exists, pays a contribution into a general fund, smaller or greater in amount as the danger of loss increases or diminishes, and upon the occurrence of the casualty against which he provides, reimbursement is made from the general fund thus created.

Heretofore Suretiship for the faithful discharge of pecuniary trust has been a private arrangement between the principal, the agent or person employed, and the Sureties. The friends of some unemployed relative or dependent are desirous that he should engage in business, and the principal of the concern (satisfied with his respectability) is willing to appoint him to an office of trust, provided the "firm" be guaranteed from loss by a bond, in which certain persons of known or supposed property undertake to make good any loss arising from fraud or dishonesty on the part of the person so employed. The person for whom the employment is sought then solicits his friends to grant him this favor, and having obtained Sureties, commences the discharge of the duties assigned to him.

On reflection it will be discovered that this system is open to serious objection: that it is frequently ra-

ther a nominal than a real security: it involves the interest of all, but affords adequate protection to none; it imposes no check upon the vicious,—it exposes the innocent to punishment, and raises an insuperable bar to the adequate reward of many useful members of Society.

The insecurity of Private Suretiship to the principal, arises from the difficulty of ascertaining the solvency of the Sureties offered for acceptance, and the continuance of their solvency after the acceptance of the Bond. This insecurity is commonly disclosed in the following manner:—

The duties required appear to be adequately performed, and the principal is satisfied; perhaps he ascertains that the Sureties are living, and he afterward makes no further inquiries. The means of the Sureties, however, like those of all other individuals, may become impaired without any creditor being aware of the fact, and a knowledge of such misfortunes may be concealed from their most intimate friends; at the same time various causes (if any real danger of default exist) will gradually weaken the good principles of the youth for whom the security was provided, or the necessities of a family subject the honesty of the man of more matured age to a greater trial than his virtue can withstand². If default take place, the principal has recourse

² It is a lamentable fact, that three-fourths of the fraud and dishonesty from which employers suffer, are committed by married men, often with families, and sometimes in the receipt of liberal pay and allowances.