The plaintiffs alleged that this document was a continuing guaranty, and was valid and subsisting in the year 1909.

Between the date of the document and July, 1909, the plaintiffs had sold to the Crescent company considerable quantities of coal from time to time, and these had been paid for. During the months of July, August, and September, 1909, the plaintiffs sold to the Crescent company coal to the value of $14,774.64. The plaintiffs admitted a credit against this of $71.03, and claimed the balance of $14,703.61 as payable by the defendants, by reason of the guaranty, because of default in payment by the Crescent company. That company got into difficulties in 1909, and went into liquidation on the 28th September, 1909.

The defendants set up (first) that the agreement was for only one year; and (second) that the plaintiffs, without the knowledge of the defendants, changed the financial relationship existing between the Crescent company and the plaintiffs and extended the time for payment by the Crescent company to the plaintiffs for coal shipped, and so released the defendants from liability, even if the agreement were then in force.

M. H. Ludwig, for the plaintiffs.

A. G. MacKay, K.C., for the defendants.

SUTHERLAND, J. (after setting out the facts):—In connection with the first defence it is necessary to determine whether the contract in question is a specific or a continuing guaranty. The general rule with reference to the construction of guaranties is that all words are to be taken strictly against the guarantor or contractor: De Colyar on Guaranties, 3rd ed., p. 140. Other rules applicable are, "that the surety is not to be charged beyond the precise terms of his engagement:" De Colyar, p. 41; and "that the whole instrument must be considered in construing a guaranty. Thus, when the guaranty is by bond, the extent of the condition of such bond might be restrained by the recitals," etc. . . .

It would appear to be clear . . . that the agreement was entered into with reference to a prospective quantity of coal approximating 100,000 tons to be handled by the defendants through the Crescent company during the year commencing the 1st April, 1907. It is true that the agreement, in the binding portion thereof, further states that the defendants "will be responsible for the payment of *all coal* shipped . . . ," and that the defendants guarantee to the plaintiffs prompt payment for such coal at and upon the times when the same should be due and payable. These are general statements, but, in my opinion, and upon