

order that a person who signs a bill as a warrantor, or aval as he was called in the Civil Code of Quebec, should be entitled to notice of dishonour or protest.

The indorsement called an aval, signifying "underwriting," was adopted in the Quebec Code from the Civil Code of France. The term was not exclusively applied to indorsement. The aval might be made by one who gave his name as a guarantor for the acceptor by placing his name under that of the acceptor, and likewise as a guarantor for the drawer by placing his name under that of the drawer. If the aval were made for an indorser according to the Civil Code of France it was not necessary in order to hold him liable for the default of the one for whom he had become the guarantor to give him notice of dishonour. Now by the Canadian Code one who indorses pour aval is entitled to notice of dishonour the same as any other indorser. The liability of such an indorser is clearly stated by Lord Blackburn in *Steele v. McKinlay*, L.R. 5 App. Cas., at p. 772, in these words: "An aval for the honour of the acceptor, even if on the bill, is not effectual in English law, as appears by *Jackson v. Hudson*, 2 Camp., at p. 448. That case cannot now be questioned after the lapse of so many years, even if it could have been successfully impugned at the time, which I do not think it could. But the indorsement by a stranger to the bill on it to one who is about to take is efficacious in English law, and has the same effect as an aval. The effect according to English law, of such an indorsement, is recognized by Lord Holt in *Hill v. Lewis*, 1 Salk., at p. 133, and again in *Penny v. Innes*, 1 C. M. & R., 439; such an indorsement creates no obligation to those who previously were parties to the bill; it is solely for the benefit of those who take subsequently."

It is clear, if one indorse a bill or note for the purpose of becoming a guarantor for its payment on the part of any other person to it, a liability exists; but it is a liability or contract of suretyship, which must be specially declared on and otherwise meet the requirements of the Statute of Frauds.

These observations are presented with the utmost diffidence, considering the ability and eminence of the judges whose decision is brought under review. But free and open discussion of legal principles, apart from all considerations save a desire to reach just conclusions, is of course the surest way of attaining that fixity of