

in effect averring performance, but not disputing in any way the legal validity of the bond.

By the bond, dated the 14th day of May, 1879, but not executed till the 14th day of June, 1879, defendant became bound to the plaintiff in the sum of \$2,000 for the faithful performance of his duties, as treasurer of the corporation, by Jesse Stunden, who for some years had performed those duties, and who had previously given security by bond signed by other sureties; but owing to this bond having been mislaid an impression was produced upon members of the council that the treasurer had not given security as required by law; and as a report had got abroad that the treasurer of the county held a note of the corporation for the amount of the county rate, and that such rate had not been paid, the treasurer was called on to furnish security. After some time it was proposed that the defendant and one Edward Stunden should execute a bond to the corporation for this purpose. Before the bond was executed the members of the council had examined the treasurer's books, and came to the conclusion from such examination that the corporation was indebted to the treasurer in about \$260, and the Reeve, George Taylor, represented to the defendant that his son, the treasurer, was "all right." His evidence as to this at the trial was as follows: "Previous to his father and brother going bail the council met at his office and informally looked over his books. We took the auditors' report of the 1st of June, and we took the debit and credit side of his cash book, Mr. Button and I; and we figured out, the way the book shewed, a balance in favour of the treasurer of somewhere in the neighbourhood of \$260. We had not got the bond then (meaning the former bond), and we insisted on having them. He proposed his father and brother as sureties. I had a conversation with the father about it. I satisfied Mr. Stunden (defendant), as I was then satisfied myself, and told him that Jesse (the treasurer) was all right on the books. The conversation was with this defendant. He objected; he did not seem to have confidence in him. I