

Commentaries on the law of suretyship; and the rights and obligations of the parties thereto and herein of obligations in solido, under the laws of ... and United States of America, and on



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. 1849 Excerpt: ...and artificers runs from the day of each article supplied, or of each piece of work being done; and a continuation of the supply, or of the work, does not interrupt it (i). In the opinion of Pothier, the prescription as to servants wages runs from the expiration of each term of his service. And this opinion is adopted by the Code Civil (J). In these prescriptions, it is competent for the creditor to defer the decisory oath to the debtor, as to whether the sum demanded be really due or not. If the debtor to whom the oath is deferred, will not swear that the sum demanded from, him is not due, the oath is referred back to the plaintiff, and upon such oath he obtains sentence of condemnation (A). Where the widow or the heirs of the debtor are assigned, they cannot be compelled to swear whether the debt was really due from the deceased, because the oath can only be proffered to any person respecting his own act: Qui in alterius locum succedunt, justam habent causam ignorantiae, an id quod peteretur, deberetur. Fidejussores quoque non minus quam haeredes justam ignorantiam possunt allegare. Haec ita de haerede dicta sunt, si cum eo agetur, non ctiam si agat; nam plane, qui agit, certus esse debet; cum sit in potestate ejus, quando velit, experiri; et ante debet rem diligenter explorare, et tunc ad agendum procedere(/). Paulus states it as a maxim, haeredi ejus, cum quo contractum est, jusjurandum deferri non potest (m). The Code Civil allows the oath to be deferred to widows and (i) Coutume of Paris, Art. 125. Pothier, ib. n. 715. Ord. 1673, Art. 9. Code Civil, ib. (J) Pothier, ib. n. 717. Code Civil, ib. (A) Ord. 1673, tit. 1, Art. 10. Pothier, Tr. des Oblig. n. 719, 720. Code Civil, Art. 2275. (Z) Dig. lib. 50, tit.

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