

CONTINUING GUARANTEES UNDER SEAL.—The popular notion of a guarantee is unquestionably that it is a contract revocable, whether under hand or seal, as to the future at the will of the guarantor. In contrast to this is the view which seems at one time to have prevailed that *in no circumstances* could a guarantee under seal be revoked. In *Calvert v. Gordon*, 3 Man. and Ry. 124, we have a decision which appears to support that view. In that case action was brought against the executrix of a testator who had given a bond conditioned for the faithful service of one Richard Edwards as a collecting clerk to the obligees, trading as Felix Calvert and Co., from time to time and at all times during his continuance in their service and employ. Edwards remained in the service of the plaintiffs and their co-partners as such collecting clerk, was in such service on the day of the death of the testator, and so continued from thenceforth until and after a certain notice was given. This notice was a notice in writing to plaintiff, given by defendant as executrix, to the effect that she would not, as such executrix, remain surety to, or guarantee or indemnify the plaintiffs, for the fidelity of or to and faithful performance by Edwards of his duty as such collecting clerk. Edwards failed to pay over certain moneys that he had collected, and the question was whether the defendant was liable under the bond to indemnify the plaintiffs to the extent of the loss sustained by such non-payment. In respect of moneys received by Edwards before the giving the notice of discontinuance of the guarantee, the loss amounted to £17 2s.; in respect of moneys received subsequently to such notice, the loss was £1,744 1s. 8d. It was in respect of this last-mentioned sum that the real question at issue arose. On behalf of the executrix it was urged that from the nature of the transaction the obligor or his personal representative must be at liberty to discontinue the guarantee, and that a contrary decision would bind the surety to answer for the conduct of the clerk during the joint lives of the master and clerk, provided they continued in that relation to one another, notwithstanding any change of circumstances or conduct on the part of the clerk; but Lord Tenterden, C.J., held that the obligor in such a case must remain liable at all events during the whole period of the service. It would, he said, be a hardship upon the master if the surety could put an end to his liability by giving a notice *which is to take effect from the very day on which it is given*. In reply to the argument of hardship to the surety, his lordship thought it was the intention of the testator to enter into this unlimited engagement, and that he might have stipulated that he should be discharged from all future liability after a specified time, after notice given. In *Burgess v. Eve*, L.R. 13 Eq. 450, the question was again raised. There a father, being desirous of obtaining advances for his son from a bank, gave the son a promissory note for £2,000, and entered into an agreement under seal with the bank to the effect that, in consideration of the bank discounting the note for £2,000 for his son, certain deeds and documents which the father deposited with the bank should remain with the bank as security for the payment of all money due or to become due from the son to the bank, on any account whatsoever, and that he would pay the bank upon demand all such money, and he thereby charged the property comprised in such documents with