

there is a third person actually liable in the first instance, or the creation of such liability contemplated. In this case I cannot see that there is such a condition of things, if I am to believe the defendant and take the promise as given by him as established; because from his standpoint there never was any person actually liable to him for the debt, nor was the creation of such liability contemplated. The only liability was that of the deceased Halliwell, and so it cannot be said he was guaranteeing the debt of another, and therefore I think that the Statute of Frauds does not apply, and, if the promise is well established in evidence, then it was good, even though not in writing.

But the plaintiff's counsel argues also that the question of such a promise is a material issue, to establish which there must be corroborative evidence as against the estate of a deceased person, and his point is of course well taken, so I must inquire whether there is a sufficient corroboration of the evidence of Dr. Zwick to establish this promise. The corroboration consists in the fact that the books of Dr. Zwick in which he kept his accounts, shew this whole account as charged against J. Earl Halliwell, the deceased, and not against the several members of the family, but each item of the account shews for which particular member of the family the service was rendered. Then Mrs. Zwick, wife of the defendant, swears she often saw Halliwell call for Dr. Zwick at his office and go up with him. Also a Mr. Crier, a book-keeper for Dr. Zwick at that time, testifies that Halliwell came to him and asked to have the account made out in these separate parts, one bill shewing the charges against himself and wife, another bill, services rendered to father and mother, a third, services rendered to Charlotte, his sister, and a fourth, services rendered to his brother Larry. (I should say that all these persons were living together in the same house. There is some evidence that the deceased Halliwell was boarding with his father and mother; there is also some evidence that the father had a means of livelihood, and after his death the mother had some estate, and also that Charlotte had some means of paying this account if she so desired, at least after the mother's death). These accounts were made out in that way, the account being charged against J. Earl Halliwell, and underneath it the words "for Charlotte," "for father and mother," or "for Larry," as the case might be, and were handed to John Earl Halliwell. Mr. Crier says also that Halliwell at that time said he wanted them separ-