consideration for her conveyance, and there is nothing to indicate that she was not dealt with fairly. She had all of the safeguards provided by law in the concurrence of her husband and a privy examination by an officer. The property in this instance was definitely pointed out as the mother's half of the community property of the living mother and deceased father. The facts bring the case within the letter and spirit of Hale v. Hollon, 90 Tex. 427, 39 S. W. 287, 36 L. R. A. 75, 59 Am. St. Rep. 819, in which this court held that the expectancy of a brother in the estate of a non compos sister under guardianship was a present existing right which was a proper subject of sale. Judge Denman made an exhaustive and able review of the authorities on the question. It is unnecessary to add argument to that which is so definitely settled.

[3] The second objection made is that the married woman could not make a conveyance of an expectancy, because it was a contract or conveyance to take effect in the future. The effect of the deed was at that time to vest the right of Mrs. Barre in the estate named; it was in no sense executory. Under the laws of this state, a married woman has the same power to convey her separate property as a feme sole, with the qualification that she must be joined by her husband, and must appear before an officer and acknowledge the conveyance in the form prescribed by the statute.

In Ballard v. Carmichael, 83 Tex. 364, 18 S. W. 737, this court, by Chief Justice Gaines, said: "One of the most valuable incidents of the right of property is the power to dispose of it; and it is held that the power, in the absence of statutory restrictions, ordinarily accompanies the right. When the law permits the wife to take and hold property in her own right, it is generally held that she can transfer it as a feme sole, unless restrained by legislative enactments." The husband joined Mrs. Barre in making the deed in question; she had the privy examination, and, as owner of the expectancy, had authority to make the deed, thereby parting with her right in the estate named. The trial court erred in sustaining the demurrer, and the honorable Court of Civil Appeals correctly reversed the judgment and remanded the cause.

[4] The writ of error was granted in this case under this article of the Revised Civil Statutes of 1911: "Art. 1522. * * * (8) When the judgment of the Court of Civil Appeals reversing a judgment practically settles the case, and this fact is shown in the petition for writ of error, and the attorneys for petitioners shall state that the decision of the Court of Civil Appeals practically settles the case, in which case, if the Supreme Court affirms the decision of the Court of Civil Appeals, it shall also render final judgment accordingly." The case was disposed of in the district court on demurrer, hence we cannot render final judgment; no evidence having been introduced. The decision of the Court of Civil Appeals practically settles the case.

The district court should have overruled the demurrer; therefore we adjudge and order that the demurrer be overruled, and that the case be remanded to the district court for trial in accordance with this opinion, and that the plaintiff in error pay all costs of this appeal and writ of error.

BELL COUNTY v. HALL.

(Supreme Court of Texas. Jan. 29, 1913.)

STATUTES (§ 94*)—SPECIAL LAWS—REGULATION OF COUNTY AFFAIRS.

Under Const. art. 3, § 56, providing that the Legislature shall not, except as otherwise provided, pass any local or special law regulating the affairs of counties, Act 31st Leg. c. 120, exempting Bell county from the provisions of Acts 29th Leg. c. 161, § 1, as amended by Acts 30th Leg. c. 168, creating the office of auditor for all counties having a population of 40,000 or containing a city of 25,000, is invalid.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 103, 104; Dec. Dig. § 94.*]

Error to Court of Civil Appeals of Third Supreme Judicial District.

Action by W. E. Hall against Bell County. A judgment sustaining a demurrer to the petition was reversed by the Court of Civil Appeals for the Third district (138 S. W. 178), and the cause remanded, and defendant brings error. Affirmed.

A. L. Curtis, of Belton, for plaintiff in error. W. S. Banks, of Temple, for defendant in error.

PHILLIPS, J. By act of the Twenty-Ninth Legislature, c. 161, § 1, as amended by act of the Thirtieth Legislature, c. 168, there was created the office of auditor for all counties in the state having as large population as 40,000 inhabitants, or containing a city with as many as 25,000 inhabitants. Bell county was within the law, and under it W. E. Hall became the auditor for that county. Thereafter it was enacted by the Thirty-First Legislature, c. 120, that Bell county should be exempt from the provisions of the law; and, under the authority of such act, the commissioners' court of the county refused to longer recognize Hall as the county auditor or pay his salary. He brought this suit to compel the observance of his right to discharge the duties of the office and the payment of its salary. A general demurrer to his petition was sustained by the trial court.

The case turns upon the constitutionality of the act of the Thirty-First Legislature, which, as stated, exempted Bell county by name from the operation of the county auditors' law. Section 56 of article 3 of the

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key-No. Series & Rep'r Indexes

Constitution provides: "The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing * * * regulating the affairs of counties," etc.

The honorable Court of Civil Appeals for the Third district held on this appeal that the act was within the constitutional prohibition. 138 S. W. 178. Upon a careful consideration of the question, we concur in this conclusion, and do not regard it necessary to supplement the able opinion written in the case by Chief Justice Key. In relieving Bell county from the operation of the general law, this act, in effect, changed the administration of its affairs in every particular provided by the general law, and thus by indirection regulated its affairs as effectually as though it had directly and affirmatively prescribed a different method for their management.

The judgment of the Court of Civil Appeals, reversing the judgment of the district court and remanding the cause, is affirmed.

FREEMAN v. HUTTIG SASH & DOOR CO. et al.

(Supreme Court of Texas. Feb. 5, 1913.)

1 PARTNERSHIP (§ 238*)—NEW PARTNER—LIABILITY FOR FIRM DEBTS.

One becoming a partner of a going firm does not thereby become liable for debts previously incurred, in the absence of an agreement, express or implied, to that effect, but the presumption is against the assumption of liability.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 491, 492; Dec. Dig. § 238.*]

2. PARTNERSHIP (§ 238*)—NEW PARTNER—LIABILITY FOR DEBTS.

The purchaser of a partner's interest in a going firm is not personally liable for existing firm debts merely because he recognized that the firm property was subject thereto, and did not expect to obtain the partner's interest free from the debts, but expected that a corporation, to be formed, should pay them in taking over the firm property, and though he advised a copartner to apply proceeds of sales of firm goods to the payment of firm debts, irrespective of the time of their creation.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 491, 492; Dec. Dig. § 238.*]

3. PARTNERSHIP (§ 238*)—NEW PARTNER—LIABILITY FOR DEBTS.

The purchase of a partner's net interest in a going firm is not of itself sufficient to create an assumption of his individual liability for existing firm debts.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 491, 492; Dec. Dig. § 238.*]

4. PARTNERSHIP (§ 238*)—NEW PARTNER—LIABILITY FOR DEBTS.

A purchaser of a partner's interest in a going firm is not liable for existing firm debts for goods purchased merely because the new firm receives and uses them for its own benefit.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 491, 492; Dec. Dig. § 238.*]

5. PARTNERSHIP (§ 28*) — CREATION — CONTRACTS.

Persons may form a partnership, though not intending so to do, since a partnership may be implied by agreement, whereby persons assume a relation in law constituting a partnership.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 30–35, 38–48; Dec. Dig. § 28.*]

6. PARTNERSHIP (§ 32*) — CREATION — CONTRACTS.

A purchaser of a partner's interest in a going firm did not intend to enter the firm and there was no agreement that he should become a partner, but it was the purpose of the purchaser and the remaining partners that the business should be incorporated. The formation of the corporation was unavoidably deferred, and it, in fact, was never formed, and, while the purpose to form it remained, the business went on under the firm name under the management of a copartner as before. *Held*, that the purchaser became a partner in a new firm composed of himself and the remaining partners in the old firm.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. § 34; Dec. Dig. § 32.*]

7. PARTNERSHIP (§ 238*)—NEW PARTNERS—LIABILITY FOR DEBTS.

Where a purchaser of a partner's interest in a firm became a partner with the copartners in a new firm, the purchaser, as partner, was liable for goods ordered by the firm before the purchase and delivered thereafter, and for goods ordered and delivered after the purchase, but was not liable for goods ordered and delivered before the purchase.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 491, 492; Dec. Dig. § 238.*]

8. PARTNERSHIP (§ 238*)—NEW FIRM—LIABILITY FOR DEBTS OF OLD FIRM.

A creditor of a firm acquires no lien on the property of a new firm created by a third person acquiring the interest of a partner in the former firm.

[Ed. Note.—For other cases, see Partnership, Cent. Dig. §§ 491, 492; Dec. Dig. § 238.*]

Error to Court of Civil Appeals of Fifth Supreme Judicial District.

Action by the Huttig Sash & Door Company against C. F. Freeman and others. There was a judgment of the Court of Civil Appeals (135 S. W. 740) affirming a judgment for plaintiff, and defendant Freeman brings error. Reversed and remanded, with instructions.

Locke & Locke, of Dallas, for plaintiff in error. Chilton & Chilton, E. P. Bryan, and W. S. Bramlett, all of Dallas, Joe E. Phillips, of Daingerfield, Hill & Webb, Spence & Baker, and Holloway & Holloway, all of Dallas, John M. Henderson, of Daingerfield, and Lawther & Worsham and W. N. Flippen, all of Dallas, for defendants in error.

PHILLIPS, J. In this case we are called upon to determine the correctness of the decision of the honorable Court of Civil Appeals for the Fifth District in affirming the judgment of the district court of Dallas county, whereby the plaintiff in error, Freeman, was held liable as a partner for certain debts of the Independent Lumber Company, a partnership engaged in the lumber

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key-No. Series & Rep'r Indexes