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The Miami Law Quarterly announced in the June, 1947, issue that Volume II, Number 1, would be devoted to a symposium on important changes in the body of Florida Statute Law effected by the 1947 session of the Legislature. Because of the excellent and adequate treatment of the new statute law accorded by The Harrison Company and the West Publishing Company in their supplemental volumes of July and October, 1947, to the Florida Statutes Annotated, The Miami Law Quarterly offers, in lieu of the symposium, a series of articles by leading Florida authors in which they will discuss the recent legislative treatment of their respective fields. The following articles, one by Albert B. Bernstein on Taxation and another on Real Property by J. M. Flowers, are the first to be offered. Others will follow in subsequent issues.

FLORIDA TAX LAWS OF 1947

ALBERT B. BERNSTEIN*

THE purpose of this article is to set forth the substance of the laws enacted by the 1947 Florida Legislature which deal with taxation. Space will not permit of an exhaustive treatment of the subject. In many instances

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the legislative Acts are merely digested very briefly without comment, while in some cases there are discussions.

CH. 23637, effective May 5, 1947, is an amendment of Sec. 196.07, Fla. Stat. 1941, providing that the party recovering lands in a suit holding a tax deed invalid must refund taxes together with interest, legal expenses and the fair value of improvements. Under the former law the interest was calculated at 25% per annum for the first year and 8% per annum thereafter, while under the 1947 Act the interest for the first year is reduced to 8% per annum. Ch. 23637 adds language so that the statute now applies more clearly than before to anyone holding under a tax deed holder as well as to the original tax deed holder and specifically provides that the provisions of the Act shall apply to any deed "heretofore or hereafter executed" pursuant to any tax foreclosure, tax forfeiture or any deed from the State, County, or other subordinate taxing unit in connection with proceedings to satisfy a tax lien.

CH. 23676, effective May 15, 1947, re-enacts Ch. 22801 Acts of 1945, exempting dealers in gasoline and like products from excise taxes on products sold to the United States Government in bulk lots of not less than 500 gallons. Said 1945 Act expired by its terms on July 1, 1947, while the 1947 law contains no expiration date.

CH. 23681, effective May 15, 1947, amends Sec. 595.14, Fla. Stat. 1941, concerning the shipment of citrus fruits. It re-enacts the provisions of Sec. 595.14, Fla. Stat. 1941, providing that no shipment of citrus fruit shall be accepted until a grade certificate is issued showing the grade thereof, and further providing for the affixing of assessment stamps known as "Florida Citrus Stamps" to said certificate. There is in addition certain language inserted in the new Act which provides that in the alternative evidence may be placed upon the grade certificate that the payment of assessments has been guaranteed as provided by law, and if such evidence appears upon the grade certificate this obviates the necessity of placing Florida Citrus Stamps on the fruit. This Act should be read in conjunction with Ch. 23692, *infra*.

CH. 23691, effective July 1, 1947, amends Sec. 599.05, Fla. Stat. 1941 (1945 Cum. Supp.), by providing a method of computing excise taxes on tangerines and limes when purchased or handled on weight basis. Sec. 599.05, Fla. Stat. 1941 (1945 Cum. Supp.), imposed excise taxes upon each standard packed box of citrus fruits grown in Florida as follows: Grapefruit — 3c per box, Oranges — 2c per box, Tangerines — 5c per box; and said Sec. 599.05 as amended in 1945 provided a method for computing such taxes on grapefruit and oranges when they were purchased, acquired or handled on a weight basis rather than under the standard packed box basis. The 1947 amendment merely adds two provisions. The first added provision is that when tangerines are purchased, acquired or handled on a weight basis rather than under the standard packed box basis, 95 lbs thereof shall be considered equal to or the equivalent of one standard packed box for tax purposes under said Sec. 599.05. The second added provision is that when limes are purchased, acquired or handled on a weight basis rather than under the standard packed box basis 90 lbs thereof shall be considered equal to or the equivalent of one standard packed box for tax purposes under Sec. 599.18, Fla. Stat. 1941 (1945 Cum. Supp.).

CH. 23692, effective May 19, 1947, amends Sec. 599.08, Fla. Stat. 1941 (1945 Cum. Supp.) as amended, by providing that canners or processors shall guarantee payment of excise tax on citrus fruits by bond or cash deposit. Sec. 599.08, Fla. Stat. 1941 (1945 Cum. Supp.), provided in part that all excise taxes on citrus fruit shall be paid to the Citrus Fruit Commission, or the payment thereof guaranteed to the Commission by the person first handling the fruit in the primary channel of trade, except that all taxes on fruit delivered or sold for canning or processing SHALL BE PAID TO THE COMMISSION, or the payment thereof guaranteed to the Commission, by the person so canning or processing such fruit. In the 1947 law, the capitalized language appearing above in the exception was omitted, and the 1947 law provides that all such taxes shall be paid to the Commission or the payment thereof guaranteed to the Commission by the per-

son first handling the fruit in the primary channel of trade, except that all taxes on fruit delivered or sold for canning or processing SHALL BE GUARANTEED TO THE COMMISSION by the person so canning or processing such fruit by the giving of a security bond, or cash deposit, under rules and regulations promulgated by the Florida Citrus Commission. The former law provided that all taxes collected by the Commission should be delivered to the Comptroller for payment into the proper advertising fund, while the 1947 law requires these taxes to be delivered to the State Treasurer for the same purpose.

CH. 23693, effective May 19, 1947, amends Sec. 599.13, Fla. Stat. 1941, by decreasing the penalties for non-payment of the citrus fruit tax, and providing a method for enforcing such tax. Sec. 599.13, Fla. Stat. 1941, provided that any handler who failed to file a return or to pay any tax within the time required by said law should forfeit to the State a penalty of 5% of the amount of tax determined to be due, plus 1% of such amount for each month of delay or fraction thereof. The 1947 law provides that the forfeiture shall be to the Florida Citrus Commission, and the 1947 law omits the penalty of 1% for each month of delay. The 1947 law also provides the following methods of collecting the citrus fruit taxes due under Ch. 599, Fla. Stat. 1941: (a) By suit at law; (b) By bill in chancery to enjoin any handler, citrus fruit dealer or other person owing said taxes from operating his business, or engaging in business as a citrus fruit dealer until the delinquent taxes are paid; and it is provided that such action may include an accounting to determine the amount of taxes plus delinquencies due; (c) By use of the method provided for in Sec. 205.10, Fla. Stat. 1941, for the collection of delinquent license or privilege taxes by State and County officials. Said Sec. 205.10 provides for collection by a warrant to the sheriff and a levy.

CH. 23740, effective May 22, 1947, provides an exemption from excise and license taxes of postage stamp vending machines. Sec. 1 of the Act declares the legislative policy that postage stamp vending machines render a general public service and are for the general public good. Sec. 2 of the Act provides that in view of such public

service United States postage stamp vending machines are exempted from the payment of any excise or license tax levied by the State of Florida or any county or municipality or other taxing district thereof.

CH. 23748, effective July 1, 1947, amends Sec. 610.09 and 610.13, Fla. Stat. 1941, with reference to filing reports and paying capital stock tax by corporations. Sec. 1 of the Act amends Sec. 610.09, Fla. Stat. 1941, by changing the amount of the appropriation for printing, clerical and other expenses for carrying out the provisions of the Capital Stock Tax Law from \$10,000.00 to \$15,000.00 annually. Sec. 2 of the Act amends Sec. 610.13, Fla. Stat. 1941, by eliminating the provision that where a corporation's fiscal year ends other than with the calendar year, it shall have ninety days after the ending of its fiscal year in which to file the statement or report required by the Capital Stock Tax Law for corporations, and by requiring that all such statements be filed and the tax paid on July 1st of each year. By virtue of this law all corporations are required to file capital stock tax returns on July 1st whether they keep their records on the calendar year basis or on the fiscal year basis.

CH. 23821, effective May 27, 1947, amends Sec. 637.60, Fla. Stat. 1941, exempting fraternal benefit societies from certain taxes. Sec. 637.60, Fla. Stat. 1941, provided that every fraternal benefit society organized under Ch. 637, Fla. Stat. 1941, is declared to be a charitable and benevolent institution and that all of its funds shall be exempt from all taxes other than taxes on real estate and office equipment. Ch. 23821, Acts of 1947, amends said Sec. 637.60 by providing that every fraternal benefit society organized or authorized under said Ch. 637 which maintains in good faith an institution for the benefit of its members, or maintains in good faith a fund which has for its purpose the care, education, or other bona fide benevolent benefits to its members, is declared to be a charitable and benevolent institution and all of its funds shall be exempt from all and every state tax, including all taxes levied on premiums, dues or assessments under Sub-Sec. (2) of Sec. 205.43, Fla. Stat. 1941, as amended by Ch. 22671, Acts of 1945 (hereinafter referred to), and from

all taxes of every kind other than taxes on real estate and office equipment used for purposes other than lodge or charitable purposes. Sub-Sec. (2) of said Sec. 205.43, as amended in 1945 (hereinafter referred to), provides for a tax based on the amount of gross receipts of insurance premiums or assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or inter-insurance agreements, etc. Certain fraternal benefit societies provide death and disability benefits to their members similar to insurance, and it is one of the purposes of Ch. 23821 to exempt the fraternal benefit society from the tax based on a percentage of the gross receipts, which insurance companies are required to pay. The 1947 amendment states, however, that it does not exempt fraternal benefit societies from the license tax of \$200.00 per annum provided for in Sub-Sec. (1) of Sec. 205.43, Fla. Stat. 1941, as amended in 1945, which Sub-Sec. (1) applies to insurers, including certain fraternal benefit societies.

CH. 23827, effective May 27, 1947, amends Sec. 192.48, Fla. Stat. 1941 (1945 Cum. Supp.), which deals with limitations of time in which to bring suits to set aside Murphy Law deeds and extends the provisions so that they will apply to tax deeds and master's deeds. Sec. 192.48, Fla. Stat. 1941 (1945 Cum. Supp.), limits the time to a period of six months after the recordation of the deeds for a former owner to set aside a deed from the Trustees of the Internal Improvement Fund of Murphy Law lands. Par. 1 of Sec. 1 of Ch. 23827 extends this six month period to one year and provides that this limitation shall not apply when taxes were not assessed or were not due or had been paid. Par. 2 of Sec. 1 of Ch. 23827 makes the provisions of Sec. 1 apply "to any deed hereafter executed pursuant to any tax foreclosure or tax forfeiture to satisfy a tax lien and to any deed executed by the state, county, municipality, drainage district, or other taxing unit conveying or purporting to convey any real estate, title to which is claimed pursuant to any tax foreclosure, tax forfeiture, or any other proceeding to satisfy a tax lien." Par. 3 of Sec. 1 of Ch. 23827 provides that the former owner is limited to a period of one year from the date

(May 27, 1947) the Act becomes law to bring a suit to recover land acquired by another by virtue of any deed "heretofore executed within the past five years" pursuant to any tax foreclosure, tax proceeding or tax forfeiture. The first three paragraphs of Sec. 1 of the Act deal with suits by the former owner while Par. 4 of Sec. 1 provides that the grantee of "any such deed", or claimants under him, when the land is in actual possession of another, shall, within three years from the date of such deed, bring appropriate action for possession. Attention is directed to the fact that Sec. 196.06, Fla. Stat. 1941, contains a four year limitation period for suits for possession by the holder of a tax deed or the former owner when the other is in possession. Par. 5 of Sec. 1 provides that Sec. 1 shall not apply when taxes had been paid or when the land is tax exempt or not subject to the tax. It will probably require litigation to determine the exact meaning of this Act for the following reasons: the wording is not entirely clear, it is difficult to decide whether certain of the provisions operate prospectively or retroactively, or both, some of the provisions are inconsistent with other periods of limitations, and the Act is expressly made cumulative and does not specifically repeal laws in conflict therewith.

CH. 23828, effective January 1, 1948, provides for cancelling twenty year old tax sale certificates of record. Sec. 196.12, Fla. Stat. 1941, fixes a period of twenty years from the date of the issuance of a tax sale certificate as the life of said certificate when the certificates are held by any private holder. Said Ch. 23828 provides that after the expiration of twenty years from the date of the issuance of any tax sale certificate held by a private holder, whether issued for State taxes, State and County taxes, County taxes, or Municipal taxes, if no application for tax deed thereon, or other administrative or legal proceeding, is pending involving said tax sale certificate, the Clerks of the Circuit Court are authorized and directed to note the cancellation of such twenty year old tax sale certificate upon any and all records thereof in their offices. Immediately upon the taking effect of the Act the several Clerks of the Circuit Court are

required to comply with the provisions of said Act as to any and all tax sale certificates which are then twenty years old or older, and said Clerks are thereafter required to note the cancellation of any and all such tax sale certificates from time to time as the same come within the provisions of the Act. It is to be noted that all twenty year old certificates are to be cancelled if no application for tax deed or other proceeding thereon is pending. If the holder of the tax certificate has already obtained a tax deed or a master's deed based upon a foreclosure, the certificate is cancelled of record although it has ripened into a title. The purpose of this Act is probably to prevent the necessity of showing old tax certificates in statements prepared by the Clerk and in abstracts.

CH. 23830, effective May 27, 1947, deals with the sale by a county of land acquired by it for non-payment of taxes, and provides an optional method of sale two years after a county has obtained a final decree in the statutory proceedings to quiet title based upon ownership of tax certificates. Sec. 194.47, Fla. Stat. 1941, which was Sec. 36 of Ch. 20722, Acts of 1941, set forth a method by which the county acquired a tax deed when it owned tax certificates and when two years had elapsed since April 1st of the year in which the taxes became delinquent. This section was amended by Sec. 13 of Ch. 22079, Acts of 1943, which set forth an in rem proceeding for quieting title, which proceeding is sometimes erroneously referred to as a foreclosure proceeding. Sec. 21 of Ch. 22079, Acts of 1943, as amended by Sec. 1 of Ch. 22772, Acts of 1945, now set forth as Sec. 194.55, Fla. Stat. 1941 (1945 Cum. Supp.), provided that when the county acquired title to property by said in rem quieting title proceeding, the Board of County Commissioners should within ninety days after the entry of the final decree in said proceeding, determine the price of each parcel of such land, which price should not be less than fifty per cent of the amount of the last assessed valuation appearing upon the county tax roll, and that thereafter the County Commissioners should sell said property at public sale for a figure not less than the price so determined

by them. Ch. 23830, Acts of 1947, provides that when the title to property acquired by the county in such in rem quieting title proceeding has remained vested in such county for a period of two years after the final decree in such proceeding, then the Board of County Commissioners may, at its option, as exercised by the affirmative action of the majority of the Board, order such property to be sold to the highest and best bidder without reference to the sale price theretofore fixed by the Board of County Commissioners, provided that the County Commissioners shall have the authority, in ordering sales to be held under said 1947 law, to fix minimum bids. The main change brought about by this law is that when the final decree in the county in rem quieting title proceeding is two years old, the County Commissioners are no longer bound by the sale price which they previously fixed and which as a matter of law could be not less than fifty percent of the last assessed valuation, but the County Commissioners can order the property sold either without any minimum price or bid or at such minimum price or bid as the County Commissioners should in their complete discretion determine without limitation. The Act further states that in holding any of the sales provided for in this Act, the Clerk of the Circuit Court should advertise such sales once each week for four consecutive weeks in a newspaper published in the municipality in which the lands lie, or, in the event the lands are not within the boundaries of a municipality, the sales should be advertised in a newspaper of the territory in which the land to be sold is situated. The former law as set forth in Sec. 194.55, Fla. Stat. 1941 (1945 Cum Supp.), provided for the notice of sale to be published once each week for two consecutive weeks in a newspaper published in the county where the land is situated. Therefore, if the county holds the sale under the old law, the notice need be published only twice in any newspaper of general circulation in the county, while, if the optional procedure set forth in the 1947 law is adopted, four publications will be required and it may be necessary to select a specific newspaper rather than any newspaper of general cir-

ulation in the county. It is provided that the Act is cumulative in character.

CH. 23832, effective October 1, 1947, provides that the clerks of the Circuit Court are authorized and directed to note the cancellation of any and all tax certificates issued prior to the year 1940, whether issued for State taxes, State and County taxes or Municipal taxes and held by any private holder, where the land covered by such tax sales certificate has heretofore reverted to the State of Florida for non-payment of delinquent taxes under the provisions of the Murphy Law. It is to be noted that the statute does not specifically refer to privately held certificates for non-payment of drainage taxes, and it will require a court decision in order to determine whether such individually held drainage certificates should be cancelled by the clerk. The Supreme Court of Florida, in the case of *Ivey vs. State*, 3 So. 2d. 345, held that when title vested in the State under the Murphy Law, State and County tax certificates owned by an individual were extinguished. Apparently the Supreme Court has not yet decided that under such circumstances Municipal tax certificates held by an individual would be extinguished.

CH. 23871, effective June 2, 1947, exempts from taxes cigarettes sold or given by charitable organizations to patients in United States veterans' hospitals. The Act provides that no tax is required on the sale or gift of cigarettes by charitable organizations to patients in government veterans' hospitals in Florida for personal use of such patients. This exact provision is also contained in Ch. 24363, *infra*.

CH. 23883, effective July 1, 1947, re-enacts with two small changes Ch. 22784, Acts of 1945, relating to taxation of oil and gas mineral interests and imposing an excise tax upon the privilege of producing oil and gas. Ch. 22784, Acts of 1945, is a comprehensive law imposing an excise tax upon the privilege of producing oil and gas; and said Chapter provides for the collection and enforcement of said tax, and also provides a method whereby the owner of the sub-surface interest may acquire tax certificates and tax deeds on the surface

lands, said 1945 law expiring by its terms on June 30, 1947. Said Ch. 23883 re-enacts said 1945 law in its entirety, with the following exceptions: (1) There is added at the end of Sec. 13 the following language: "The value of land for ad valorem tax purposes shall not be increased by reason of the location thereon of any producing oil or gas equipment or machinery used in and around any oil or gas well and actually used in the operation thereof and no ad valorem tax shall be imposed upon such producing equipment and machinery"; and (2) At the end of Sec. 14 there is added language to the effect that where an owner of a sub-surface interest or interests has registered with the Clerk of the Circuit Court pursuant to the provisions of said 1945 law, such registration shall operate as a registration of his sub-surface interest pursuant to this Act. The 1947 Act contains no expiration date.

CH. 23969, effective June 16, 1947, provides for an annual license tag to be issued for trailer coaches, fixes the amount thereof, and prohibits additional taxation. This Act provides that an annual license fee is to be paid by owners and operators of trailers and vehicles not self-propelled, used for housing accommodations, and known as trailer coaches. The fee is \$10.00 and is to be paid to the Motor Vehicle Commissioner at the same time and in the same manner as is provided for other vehicle licenses. This tax shall be in lieu of all other taxes and a suitable license plate or tag shall be issued to evidence payment thereof. It shall be permissible to operate a trailer coach licensed under the provisions of this Bill without a corresponding State license on the vehicle towing same. See also and compare the provisions of this Act with the provisions of Ch. 24113 providing that trailers are to be taxed as personal property in the absence of a license tag. See also the provisions of Ch. 24272 providing a schedule of fees to be paid upon the registration or re-registration of all motor vehicles including private trailers and trailers for hire. There might be a conflict in the amount of license fees for trailers between Ch. 23969 and Ch. 24272, depending upon whether or not

the courts find there is a distinction between trailer coaches and ordinary trailers.

CH. 24110, effective June 16, 1947, provides the procedure for the restoration of corporate privileges to corporations dissolved for failure to pay capital stock tax. Ch. 22622, Acts of 1945, provided for the revival of corporations dissolved for non-payment of capital stock taxes but the 1945 Act remained in effect only until July 1, 1947. Ch. 24110 is essentially a re-enactment of the 1945 Act without a limitation on the time it shall remain effective. While the 1945 Act applied only to previously dissolved corporations, the 1947 Act applies whether dissolution occurred before or after the effective date of the 1947 Act. The 1947 Act contains a section apparently validating the revival before the effective date of the 1947 Act of a corporation dissolved subsequent to the effective date of the 1945 Act.

CH. 24112, effective June 16, 1947, amends Sec. 205.11, Fla. Stat. 1941, and imposes a penalty for delinquent payment of occupational license taxes. This amendment provides that when an Occupational License provided by the law of Florida remains unpaid to the Tax Collector for ninety days after its due date, a penalty of ten percent of the original amount shall be added, and the Tax Collector shall issue a warrant against the person liable for the license tax and penalty. The penalty is new.

CH. 24113, effective June 16, 1947, provides for a personal property tax on automobile trailers not having a current year's license tag, and sets forth a method of enforcement. Sec. 1 of the Act levies and assesses upon each automobile trailer that does not have a current year's Florida license tag thereon the same amount that is assessed upon all other personal property within the County where such trailer is found. Sec. 2 provides that the County Tax Assessor of the County wherein said trailer is found shall issue a certificate of valuation which shall be immediately conveyed to the Tax Collector of said County, and that said Tax Collector shall collect the tax within fifteen days from the date of such certificate of valuation and that if said tax is not paid said trailer is made subject to levy and sale the same as any other

personal property subject to delinquent personal property tax in Florida; provided, however, that the owner of such trailer may purchase a Florida license tag therefor at any time prior to such levy and sale, and the same shall operate to satisfy such ad valorem tax assessment and such levy upon the owner paying any fees allowed by law which have accrued to the Tax Assessor and Tax Collector prior to notification to them of the purchase of such Florida license tag. Sec. 3 provides that if such certificate of valuation is issued before November 1st, the tax rate thereupon shall be based upon the same rate as the previous year's.

CH. 24171, effective July 1, 1947, levies excise tax on fish taken commercially from Lake Okeechobee and certain other waters. Sec. 1 of the Act levies an excise tax of one cent per pound on crappie and bream taken commercially from Lake Okeechobee, the St. Johns River and certain connected bodies of water. Sec. 2 requires payment before the fish enter the channels of trade. Sec. 3 vests authority in the State Board of Conservation to promulgate rules for the collection of the tax. Sec. 4 appropriates the proceeds of the tax to the State Board of Conservation. Sec. 5 makes violation of the Act a misdemeanor. Sec. 6 provides that the Act expires June 30, 1949.

CH. 24172, effective July 1, 1947, re-enacts with only a slight change the law imposing an additional tax of one cent per gallon on gasoline and other like products of petroleum. There is imposed by this Act an additional tax of one cent per gallon for every gallon of gasoline or other like products of petroleum sold in the State of Florida, and it provides a complete mechanism for levying, imposing and collecting this additional excise tax. The Act was passed as an emergency measure to remain in effect until July 1, 1949, and is identical in all major respects with an Act originally passed in 1941 as Ch. 20228 and re-enacted by the 1943 and 1945 Legislatures. The only difference of substance between this Act and the 1945 Act is that the date on which the tax shall be paid and the reports shall be made is changed from the 15th day of the month to the 25th day of the month.

CH. 24176, effective July 1, 1947, amends Sec. 525.09, Fla. Stat. 1941, relating to the payment of an inspection fee for the purpose of defraying expenses incident to the inspection of gasoline, kerosene and signal oil. Sec. 525.09, Fla. Stat. 1941, provided for the payment of a tax of one-eighth cent per gallon on all gasoline, kerosene and signal oil, to the Commissioner of Agriculture by the company selling said gasoline, kerosene and signal oil, for the purpose of defraying expenses incident to the inspection of said oils. This payment was to be made on the 10th day of each month. Ch. 24176 amends said Section only with regard to the date on which payment is to be made, by providing that payment is to be made on the 25th day of the month.

CH. 24206, effective June 16, 1947, amends Secs. 194.53 and 194.55, Fla. Stat. 1941 (1945 Cum. Supp.), deals with the county in rem quieting title proceedings, and provides that drainage districts, with the exception of the Everglades Drainage District, shall in most instances be treated the same as municipalities in connection with such proceedings and the resale of the property and the distribution of the proceeds thereof. Said Sec. 194.53, as amended, had provided in substance that upon the entry of the final decree in said county in rem quieting title proceedings all rights, titles, interests in or liens upon said property, except drainage taxes, should be cut off and extinguished, and the 1947 amendment expressly states that under such circumstances municipal taxes and liens and accrued annual assessments and liens imposed by drainage districts, with all interest, penalties, costs and charges thereon, shall be cut off and extinguished; but another provision in the law excepts Everglades Drainage District taxes from the operation of the entire Act. Said Sec. 194.55, as amended, set forth the method of fixing valuations on land acquired by the county by reason of said in rem quieting title proceedings, and also made provision for the sale of the property and the disposition of the proceeds of sale. It provided that where the lands are within the limits of a municipality certain municipal officials were authorized to meet with the County Commissioners and join in the determination of

the price of the lands. The 1947 law provides that where such lands are within the limits of any drainage district, other than the Everglades Drainage District, the governing body of such drainage district shall meet with the County Commissioners and join in the determination of the price of such lands. Likewise, the 1947 law provides that the drainage districts, other than the Everglades Drainage District, shall share ratably in the proceeds of such sales by the county to the extent of their tax liens, but that, should there remain any excess, the same shall be applied in payment of special improvement liens of the city and county ratably, and any remainder shall be distributed to the county and municipality, no portion of such excess going to the drainage districts. Said Sec. 194.55, as amended, provided that after the county acquires the title to lands as provided therein neither the county tax assessor, nor the municipal tax assessor, if such lands are within a municipality, shall assess same for taxes or extend taxes upon the rolls during the period of time such lands are owned by the county, and the 1947 law provides that if the lands are situated within a drainage district, other than the Everglades Drainage District, said drainage district shall not levy annual assessments, maintenance taxes, or liens thereon during the period that such lands are so owned by the county. There is a statement in the 1947 law that after any of the lands so acquired by the county have been available for sale for at least two years and if no application to purchase same has been made, the County Commissioners may sell and dispose of the same in any method provided by law; and attention is called to the fact that Ch. 23830, Acts of 1947, is an optional method provided by law for selling property where title has remained vested in the county for a period of two years after the date of the final decree in said quieting title proceedings. The 1947 Act expressly states that when the county sells property which it acquired in said quieting title proceedings the deed need not be witnessed or acknowledged to entitle it to record. The 1947 Act also deals with dedicating and conveying for public purposes title to lands acquired by counties in said quieting title proceedings and for the

payment of certain outstanding tax certificates on lands so dedicated or conveyed.

CH. 24269, effective June 16, 1947, amends Sec. 204.01, Fla. Stat. 1941, relating to the chain store tax by adding certain definitions of "a retail sale". Sec. 204.01, Fla. Stat. 1941, defined "a sale at retail" as any sale to a consumer for any purpose other than for resale in the form of tangible personal property. The only change made by said Ch. 24269 is to add to said definition of "a sale at retail" language providing in substance that no sale shall be construed as a sale at retail where the merchandise is sold in wholesale quantities at wholesale prices by licensed wholesale dealers, and further that incidental sales made by a licensed wholesaler at wholesale prices shall not be construed to be sales at retail unless said incidental sales exceed five percent of such wholesaler's total sales.

CH. 24272, effective June 16, 1947, amends Sec. 320.08, Fla. Stat. 1941, relating to license fees for automobiles, trucks, trailers and buses. Apparently this chapter makes no specific change in the amount of the license fees but the designations of "D" Series and "Plain" Series for private automobiles have been exchanged, and after the Title "Trailers for Hire" there have been omitted the words "Factory Rated Load Capacity to be Included in Calculation of Net Weight".

CH. 24281, effective June 16, 1947, authorizes municipalities to apportion to the several funds of the municipalities the proceeds of tax foreclosures and other tax proceedings. This Act provides that municipalities may apportion the proceeds derived from the sale of any lands acquired by them by reason of tax foreclosure proceedings, or by reason of any other proceedings under which said municipalities acquired property for tax liens thereon, to the several funds of the said municipalities in proportion to the interests of the several funds of said municipalities, according to the millage rates in existence and use for the year in which such proceeds of sale are or were received.

CH. 24308, effective July 1, 1947, amends Secs. 208.06, 208.07 and 208.25, Fla. Stat. 1941, relating to the gas-

oline excise tax. Sec. 1 of the Act amends Sec. 208.06, Fla. Stat. 1941, relating to the manner in which the gasoline excise tax is to be paid, by changing the date on which said tax is to be paid from the 15th day of the month to the 25th day of the month. Sec. 2 of the Act amends Sec. 208.07, Fla. Stat. 1941, relating to a penalty to be assessed by the Comptroller for failure to pay the gasoline excise tax when due, by changing the date on which payment must be made from the 16th day of the month to the 25th day of the month, and further, by omitting the provision that the Comptroller shall give the dealer five days' notice prior to the assessment. Sec. 3 of the Act amends Sec. 208.25, Fla. Stat. 1941, relating to the manner in which the Comptroller may assess penalties for failure to make payment of the gasoline excise tax under Sec. 208.24, Fla. Stat. 1941, by changing the date on which payment is to be made from the 15th to the 25th day of the month, and further, by omitting the provision that the Comptroller shall give five days' notice prior to the assessment.

CH. 24334, effective June 16, 1947, relates to conveyance to churches of lands acquired by the county in statutory quieting title proceedings under Ch. 22079, Acts of 1943. This Act provides that whenever any land comprises a part of County Lands Acquired for Delinquent taxes, the title of which land became vested in any county pursuant to the provisions of Ch. 22079, Acts of 1943, or any acts amendatory thereof, and such land, at the time of acquisition of title thereto by the county, was owned by an established church or by any corporation or individuals acting as trustees for such church, and also at such time was being used for church purposes, the Board of County Commissioners of such county may convey such land to such church or to its trustee or trustees upon the following conditions: (a) If title to said property was vested in such church or in such trustees for it, and such property was being used for church purposes on January 1 of the year for which taxes were assessed, the non-payment of which was the predicate on which was based the acquisition of title by the county, then upon request to such county or any other

person holding such title the county or person shall convey to said church or its trustees the land without cost; provided that if such county has sold the land to a third person then the county and not the church must refund to him the amount of money paid to the county; (b) If title was acquired by such church or its said trustees, or if said property began being used for church purposes subsequent to January 1 of the year for which such taxes were imposed but prior to the entry of the final decree as provided for in said Ch. 22079, or any acts amendatory thereof, then upon payment to the county of the amounts required in subsection (a), plus an amount equal to the sum that at the time of acquisition and beginning of the use thereof for church purposes, or, if the two did not occur simultaneously, then at the time of the occurrence of the later, it would have been necessary to pay to redeem such property from outstanding tax sales certificates and subsequent taxes. Said subsection (b) is far from clear. It refers to a payment to the county of the amounts required in subsection (a), while subsection (a) requires no payment by the church or its trustees to the county. The only payment required in subsection (a) is a payment by the county to a third person who acquired the county's title, while subsection (b) does not deal with third persons, but speaks about payments to the county. Subsection (a) requires any person acquiring the title from the county to convey the property to the church or its trustees under the conditions set forth therein. The title to the law makes no mention of third persons, and the beginning of the law, which lays down its general policy, speaks of conveyances by the County Commissioners and not by third persons, the third persons being mentioned only in said subsection (a). There is some possibility that this law might be declared unconstitutional and ineffective (at least in part) on account of its title and also on account of its indefiniteness, although courts are inclined to be liberal with churches.

CH. 24342, effective July 1, 1947, re-enacts Ch. 22713, Acts of 1945, providing for an additional tax upon beverages containing fourteen or more percent alcohol. Ch.

22713, Acts of 1945, provided that, in addition to all other taxes levied upon the manufacture, distribution and sale of alcoholic beverages, except all wines, natural sparkling wines and malt beverages, there was imposed a tax of seventy-two cents per gallon upon all such beverages which contain fourteen or more percent of alcohol and not more than forty-eight percent, and a tax of \$1.44 per gallon upon all such beverages containing forty-eight or more percent of alcohol, and that this tax was to be evidenced by stamps as provided for in the Beverage Law. The 1945 Act expired by its terms on June 30, 1947. The 1947 Act re-enacts the 1945 Act without change except that there is no limit on its duration.

CH. 24343, effective June 16, 1947, amends Sec. 196.18, Fla. Stat. 1941 (1945 Cum. Supp.), so as to provide that master's sales in certain municipal tax foreclosures might be held at City Hall or County Court House. Sec. 1 of Ch. 21896, Acts of 1943, which is now Sec. 196.17, Fla. Stat. 1941 (1945 Cum. Supp.), provided that suits in personam or in rem may be brought by any city, village or town as plaintiff for the purpose of the enforcement and satisfaction of its tax or assessment liens against property located therein, the fee simple title to which is vested in the State of Florida under the provisions of the Murphy Law, and that the State of Florida gives its consent to being made a party defendant in any such suit. Sec. 2 of Ch. 21896, Acts of 1943, which is now Sec. 196.18, Fla. Stat. 1941 (1945 Cum. Supp.), provided that master's sales in such cases should be held at the Court House door. Said Ch. 24343 amends said Sec. 196.18, Fla. Stat. 1941 (1945 Cum. Supp.), being Sec. 2 of Ch. 21896, Acts of 1943, and provides that the master's sale may be held either at the Court House door or at the City Hall door and also that the notice of sale shall designate the place of sale. It is not entirely clear from the specific provisions of the Act whether the property may be sold at the City Hall door in all tax foreclosures by municipalities or only in municipal tax foreclosures where the State owns the property under the Murphy Law. Since the original Act dealt only with the situation where the

State did own the title under the Murphy Law, in all probability this amendment applies only in such cases.

CH. 24363, effective June 16, 1947, amends Secs. 210.01, 210.02 and 210.04, Fla. Stat. 1941 (Cum. Supp. 1945), being Secs. 1, 2 and 4 of Ch. 22645, Acts of 1945, relating to levy and collection of tax on cigarettes. Sec. 1 defines the terms used in the Act, and adds a definition of the terms "use" and "first sale". Sec. 2 makes the time of payment and the person responsible for payment of the tax more definite in that it provides that the "tax shall be advanced and paid to the State upon the first sale or transaction within the State", provides that "the seller, dealer or distributor shall collect the tax from the purchaser or consumer", and provides that "the seller, dealer or distributor shall be responsible for the collection of the tax and the payment" to the State. The amount of the tax advanced and paid to the State is required to be added to and collected as a part of the sales price. Section 2 also exempts (in addition to sales of cigarettes by government operated stores to members of the Armed Services as provided in the original law) sales or gifts of cigarettes by charitable organizations to patients in government veteran's hospitals in Florida for personal consumption of such patients. Sec. 3, amending said Sec. 210.04, contains no noteworthy changes. This amendment does not change the amount of the cigarette tax.

When this article was written, the laws passed by the 1947 Legislature had not yet been published in bound volume form. It is therefore entirely possible that certain Acts concerning taxation have been overlooked. Some of the laws discussed herein have dealt not only with taxation, but with other subjects, and are therefore in all probability discussed in other articles in this issue.

The writer of this article is greatly indebted to Nicholas Hodson and Louis F. Snetman of the Miami Bar for their invaluable assistance in digesting and analyzing a number of the foregoing Acts.