

University of Miami Law School Institutional Repository

University of Miami Inter-American Law Review

2-1-1970

Bahama Islands: Land Titles and Taxes, 1970

D. E. Mason

Follow this and additional works at: <http://repository.law.miami.edu/umialr>

Recommended Citation

D. E. Mason, *Bahama Islands: Land Titles and Taxes*, 1970, 2 U. Miami Inter-Am. L. Rev. 13 (1970)

Available at: <http://repository.law.miami.edu/umialr/vol2/iss1/4>

This Article is brought to you for free and open access by Institutional Repository. It has been accepted for inclusion in University of Miami Inter-American Law Review by an authorized administrator of Institutional Repository. For more information, please contact library@law.miami.edu.

BAHAMA ISLANDS: LAND TITLES AND TAXES, 1970

DONALD E. MASON*

This article will be divided into three parts. In the first part, the property law as it exists in the Bahama Islands will be surveyed. In the second part, the *Quieting Titles Act*, 1969 will be reviewed, and lastly, the *Real Property Tax Act*, 1969 will be examined in detail.

PART I

ORIGINS OF BAHAMA LAND LAW

Property law in the Bahama Islands is statutory with an English common law basis. The *Declaratory Act* of 1799, embodied in Chapter 2 of the 1965 Bahama Statutes, provides:

The common law of England, in all cases where the same hath not been altered by any of the Acts or Statutes enumerated in the schedule to this Act (except so much thereof as hath relation to the ancient feudal tenures, to outlawries in civil suits, to the wager of law or of batak, appeals of felony, writs of attainment and ecclesiastical matters), is, and of right ought to be, in full force within the Colony, as the same is now in that part of Great Britain called England.

Thus, if the particular aspect of land law is not specifically provided for in the Bahama statutes the problem will be governed by common law as it existed in England in 1799.

The *Declaratory Act* of 1799 is followed by a schedule of Acts and Statutes of Parliament which are in full force in the Bahamas the same as if the Bahamas had been expressly named therein. Among such Acts are the *Statute of Uses* (27 Henry VIII, c. 10); the *Statute of Distribution* (22 and 23 Charles I, c. 10); the *Statute of Frauds*, (29 Charles II, c. 3), each of which comprises a separate chapter in the 1965 Bahama Statutes. A second schedule lists those Acts and Statutes of Parliament which, although originally not intended to apply to the Bahamas, were later extended to the Bahamas by Parliament in an *Extending Act*. Included

* Member, Florida Bar and Texas Bar; LL.M. (International Law), University of Miami School of Law; presently practicing law in Coral Gables, Florida.

are such acts as the *Prescription Act* (2 and 3 William IV, c.71), extended to the Colonies in 9 *Extending Act* of 1846; the *Statute of Inheritance* (3 and 4 William IV, c.106), included in 15 *Extending Act* 1844. Each of these statutes is a separate chapter in the 1965 Bahama Statutes.

There are also other acts of Parliament which by virtue of their own provision apply to the Bahama Islands; a list may be found at the end of the Table of Statutes in the Supplementary Volume of the 1965 Bahama Statutes. Chapter 120 of the 1965 Bahama Statutes provides that all the acts and statutes of the English Parliament dealing with the prerogatives of the Crown are in full force in the Bahamas, and the *Statute of Limitations* on Crown actions is fixed at sixty years.

COMMON LAW ESTATES

Following is a list of the common law estates which exist in the Bahamas by statute and common law. A few selected definitions of the more unusual terms follows the listing:

Fee Simple	Remainders
Fee Tail	Reverter
Tenancy in Common	Escheat to Grantor
Joint Tenancy with Right of Survivorship	Escheat to Crown
Life Estate	Term for Years
Estate <i>Per Autre Vie</i>	Estates in Trust
Commonage	Dower
Leaseholds	Curtesy
Copyholds	Messuage
Reversions	Easements
	Profits <i>a Prendre</i>
Prescription (adverse possession)	

The fee tail, created by the *Statute De Donis* of 1285 has the effect of preventing the grantee or his heirs from alienating the land by conveying a fee simple absolute, but allows the heirs to inherit by the laws of descent, restricted by whatever particular type of estate tail is created, i.e. fee tail general, fee tail male—limiting descent to males, fee tail special—limiting descent to issue of a particular marriage. The expressions creating a fee tail are: "To A and the heirs of his body"; "To A and his issue"; "To A and his heirs, but if A dies without issue, then to B and his heirs". The 1965 Bahama Statutes make provision for destruction of the fee tail by a conveyance of a fee simple absolute by the grantee, but if he does not do so, then the property must descend according to the estate tail.

An estate *per autre vie* is simply a life estate measured by a life other than the grantee.

A copyhold is an estate at will, the only visible title to which consists of the copies of the court rolls, made out by the steward of the manor, on a tenant's being admitted to any parcel of land, or tenement belonging to the manor. This is an ancient feudal estate, the extent of which is unknown in the Bahamas, but is frequently alluded to in the statutes, as is also the messuage.

A grant of a messuage with the appurtenances will not only pass a house, but all the buildings attached or belonging to it as also the curtilage, garden and orchard, together with the close on which the house is built.

Profit *a prendre* is a right to take soil, gravel, minerals, and the like from the land of another. It is a peculiar species of easement, an incorporeal right incapable of livery.

Curtesy is a common law right whereby a husband was entitled to a life estate in all of his wife's freeholds provided that there were issue born alive who were capable of inheriting the freehold. Curtesy was abolished in England by the *Administration of Estates Act* of 1925. By the terms of this act it only extended to England and Wales, and it has not been extended to the Bahamas.

The common law *Rule in Shelly's Case* is also applicable in the Bahamas by virtue of the *Declaratory Act*, whereby if an instrument creates a freehold in A, and purports to create a remainder in A's heirs (or the heirs of A's body) and the estates are both legal or both equitable, the remainder becomes a fee simple (or fee tail) in A. By statutory provision the common law *Rule Against Perpetuities* is applied to future easements of all kind, and covenants not to interfere.

Special rights and privileges accrue to those holding lands in common under the *Commonage Act*, which includes any lands which have been granted to more than twenty people and not partitioned. Commoners who qualify (21 years of age required to register) have the power to make rules for their own settlement with the approval of the Governor.

A few of the more important aspects of Bahama property law will be hereafter discussed.

RECORDING STATUTE

The recording statute of the Bahamas is classified as a pure "race" statute with no provisions for protection of an after-acquiring *bona fide*

purchaser. Because of the extreme importance of this statute, it is reproduced herein:

If any person after having made and executed any conveyances, assignments, grant, lease, bargain, sale, or mortgage of any lands or of any goods or other effects within the Colony, or of any estate, right or interest therein, shall afterwards make and execute any other conveyance, assignment, grant, release, bargain, sale or mortgage of the same, or of any part thereof, or any estate, right or interest therein; such of the said conveyances, assignments, grants, releases, bargains, sales, or mortgages, as shall be first lodged and accepted for record in the Registry shall have priority or preference; and the estate, right, title or interest of the vendee, grantee or mortgagee claiming under such conveyance, assignment, grant, release, bargain, sale or mortgage, so first lodged and accepted for record shall be deemed and taken to be good and valid and shall in no wise be defeated or affected by reason or priority in time of execution of any such other documents. (1965 Bahama Statutes, Chapter 193, Section 10).

The only protection afforded to the *bona fide* purchaser is that such statute shall not apply to any disposition of property made with intent to defraud. A peculiar provision also states that this statute is not applicable to Crown deeds, or deeds drawn or prepared out of the Colony. It is submitted that this could have far reaching effects concerning deeds drawn and prepared in Florida by the many corporations set up to sell property located in the Bahamas.

Statutory provisions are made for the requirements of authentication of deeds to be registered, with different requirements for the different types of estates. Registration is made at the Registrar General's office in Nassau, or with the Commissioner of one of the Out-Island Districts. It is to be noted that there is a presumption of correctness in the recital of statements and descriptions of facts in deeds more than twenty years old.

CONTRACTS FOR THE SALE OF LAND

Many specific provisions are made applicable to contracts to convey, a few of which are here noted. Generally, the entire Chapter 115 of the 1965 Bahamas Statutes deals with these contracts. Section 3(4) provides that a purchaser of land can not require title to be deduced for more than 30 years, or further than a grant or lease from the Crown, or certificate of title made under the *Quieting Titles Act*, whichever is

shorter. Section 3(5) establishes a presumption that the recitals contained in the abstracted instruments relating to beyond the above time limits, are correct and duly executed. Section 3(6) provides that the purchaser assumes leases and sub-leases. Section 7 lays out implied covenants for title for out and out sales, leaseholds and mortgages. Section 48 protects *bona fide* purchasers by acknowledgement of receipt of consideration in the deed. Section 53 provides for the survival of the contract rights to the survivors or any other person to whom the rights devolve.

One of the most interesting provisions demonstrates the absolute power of the Bahamas courts in dealing with property. The 1965 Bahama Statutes, Chapter 153, Section 5 provides that the court may, if a sale is made by the court or out of court require a capital sum to be paid in court and invested in Bahamian or British securities, or may, without any notice to the incumbrancer, declare the land to be free from the encumbrance, or direct payment.

MORTGAGES

All that need be stated concerning mortgages is that the duties and rights of the mortgagor and mortgagee are expressly provided for by statute, in the absence of a contrary intention expressed in the mortgage deed. The mortgagee seems to be in a very powerful position since, according to the statutes, no formal foreclosure seems to be necessary for the mortgagee to sell after default. The mortgagee, pursuant to the 1965 Bahama Statutes, Chapter 115, Sections 22 and 23, is only required to show that he has (1) given the mortgagor notice of the default three months before the sale; or (2) some interest under the mortgage is in arrear and unpaid for two months after becoming due; or (3) there has been a breach of some provision of the mortgage deed or the statute. The mortgagee has, under this power of sale, the right to make deeds of conveyance freed from all estates, interests and rights to which the mortgage has priority, but subject to all estates, interests, and rights which have priority to the mortgage. When a conveyance is made in professed exercise of the power of sale conferred by this act, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised; but any person damaged by an unauthorized, or improper, or irregular exercise of this power has his remedy in damages against the person exercising the power.

DESCENT AND DISTRIBUTION

Descent, distribution and inheritance are all governed by statutory provisions. During the administration of an estate, the personal representa-

tive of the testator or intestate, holds the land in trust for those entitled thereto. Upon distribution, the personal representative then makes deeds of assent. Section 7 of Chapter 153 of the 1965 Bahama Statutes provides that:

No deed or conveyance by the personal representative shall have validity unless registered under the Registration of Records Act, and then the validity of the deed relates back to the conveyance of deed of assent, except for a specific devise, assented to by a deed of assent, in which case the date of validity relates back to the death of the testator.

The *Statute of Distribution* for the Bahamas (Chapter 161 of the Statutes) is copied verbatim from the English *Statute of Distribution* of 1670 (22 and 23 Charles II c.10), and provides for the distribution of an intestate's estate as follows: one-third to the widow and two-thirds equally to the children and their representatives *per stirpes*, or, if no children, or representatives, one-half to the widow and one-half to the next of his kin *per stirpes*.

Chapter 167, identical with the English *Statute of Inheritance* of 1833 (3 and 4 William IV, c. 106), makes provisions for preserving estates in tail: "Where an estate is purchased under a limitation to the heirs, or the heirs of the Body, these are words of limitation and descent must be traced from the Ancestor named."

The sociological descent patterns referred to in the earlier part of this study may be more easily understood by examining the portions of the *Statute of Inheritance* which demonstrate the preference of lineal descendants over collaterals.

No Brother or Sister shall be considered to inherit immediately from his or her Brother or Sister, but every descent from a Brother or Sister shall be traced through the Parent. (1965 Bahama Statutes, Chapter 167, Section 6).

The male line of descent is also preferred:

None of the Maternal Ancestors of the Person from whom descent is to be traced, nor any of their Descendants, shall be capable of inheriting until all his Paternal Ancestors and their Descendants shall have failed. (1965 Bahama Statutes, Chapter 169, Section 7).

DOWER

Common law dower entitled the wife, on the death of her husband, to a one-third life estate in all the lands, houses and buildings of which

the husband was seized during the marriage. The husband could not convey away property subject to dower interest, unless the wife joined with him in the deed for the purpose of renunciation of her dower interest. The English *Dower Act* of 1833 (3 and 4 William IV c. 105), made it possible for a husband to destroy the dower interest by referring to it in a deed of conveyance; the *Administration of Estates Act* of 1925 (15 and 16 George V c. 23), abolished dower, but neither of these English laws originally applied, or have since been extended to apply, to the Bahamas. Therefore, common law dower still exists, and it is specifically so recognized by 1965 Bahama Statutes, Chapter 130, Section 4. It vests in the wife the dower interest during her life, and gives her the right to possession during that time.

Chapter 129 provides that all renunciations of dower are to be made before the Supreme Court of the Bahamas, or Registrar General, or Commissioner of an Out-Island District, and it is not effective until endorsed with the name of an attorney of the Supreme Court and entered into the Registry book of the Supreme Court.

PRESCRIPTION AND ADVERSE POSSESSION

Included in the schedule to the *Declaratory Act* is the *Statute on Prescription* (2 and 3 William and Mary IV, c. 71) passed in England in 1832 and extended by Parliament to the Colony by *Extending Act* 9 of 1846. This statute provides that claims to rights of common and other profits *a prendre* are not to be defeated after 30 years by showing the commencement by someone else before that period, and after 60 years uninterrupted enjoyment, the right is to be absolute unless had by consent or agreement. The period is different for easements and water courses, with time limits of 20 and 40 years. By interruption is meant a period of one year after the claimant shall have notice of such interruption.

Common law prescription is continuous, peaceable possession or usage for the required length of time, limited to an area which is certain and reasonable. A regular usage for the statutory period of time creates a rebuttable presumption that the user has had the right from time immemorial, or at least from the time of legal memory. Under the *Prescription Act* of 1832, the user must claim "as of right" which means neither by violence, nor by stealth, nor by permission.

LAND ROLL

Chapter 122 of the 1965 Bahamas Statutes provides a method whereby every piece of land, occupied or vacant, must be registered each year.

On or before the thirty-first day of March in each year the occupant of any land shall make to the land registrar of the district in which such land is situate a return in the form in the Schedule to this Act. Failure to make such return subject violators to a fine of 5 pounds, or in default of payment, one month in jail. (1965 Bahama Statutes, Chapter 122, Section 5).

A copy of this land roll for each district may be found in the Registry of Records, and also in each Commissioner's office.

On or before the thirty-first day of May in each year it shall be the duty of the land registrars as far as may be practicable to compile for their respective districts a roll of all vacant lands in such districts except Crown lands. [1965 Bahama Statutes, Chapter 122, Section 8(3)].

These registration provisions do not apply to lands held in common by commoners under the *Commonage Act*, or amendments thereto.

QUIETING TITLES ACT

In 1959, the Bahamas enacted a statute, entitled the *Quieting Titles Act*, now Chapter 133 of the 1965 Bahama Statutes, which provides procedures, forms, required documents, provision for notice to adverse claimants, and compliance with these procedures may result in the issuance of a Certificate of Title from the Supreme Court. But each title is subject to: (a) reservations, if any, contained in the original grant from the Crown; (b) recorded valid encumbrances; (c) public highways, rights-of-way, easements, watercourses, and rights to light; and (d) petitioner's wife's right to dower. The Act also provides for a procedure for determining, upon request of the petitioner, the legitimacy of one's marriage, his parent's marriage, his own legitimacy, his status as an heir or other matters possibly affecting title. This Act was preceded by the *Quieting Titles Act*, 1958, (Bahamas Official Gazette No. 18 of 1958) which was equally ineffective in determining the status of title to land.

PART II

QUIETING TITLES ACT, 1969

With this brief survey of the Bahama Islands land law in mind, let us now examine the status of land titles in the Bahama Islands as they presently exist. To say that the land titles to a large portion of the Bahama Islands are in dispute would indeed be an understatement. The confusion as to the status of titles to lands in the Bahamas has been

caused by several factors. One factor is the high rate of illegitimate births in the Bahama Islands. It is often difficult or impossible to determine who should take title according to descent.

Also, it is often difficult to ascertain whether a woman is entitled to a dower interest in the lands of her husband. Another factor creating confusion as to the status of title to land in the Bahama Islands is that there has never been a workable, uniform system of title recording or a uniform central register. The land roll previously mentioned has not proved to be successful for numerous reasons. It is into this quagmire that the *Quieting Titles Act*, 1969, has plunged.

The *Quieting Titles Act*, 1969, is divided into six basic divisions—four parts or chapters and two schedules. Part I of the Act provides that the act shall come into effect on such date or dates as the Governor may appoint by publishing notice in the *Gazette*. The Governor may designate different dates for portions of the act to come into effect, and he may also designate to which areas of the Bahama Islands the act shall be applied. Part I also contains a few definitions pertinent to this act.

Part II provides for certificates of title. Pursuant to this section, any person who claims any estate or interest in land in the Bahama Islands may apply to the Supreme Court to have his title to the estate or interest investigated. The court will investigate the estate or interest and, if it is valid, it will issue a Certificate of Title.

To obtain a certificate of title, a party must submit an application to the court in the form of a petition containing the following:

1. Evidence of title in accordance with section 5 of the Act.
2. A plan or plans in accordance with section 6 of the Act.
3. Evidence as to adverse claims in accordance with section 7 of the Act.
4. Evidence as to inspection, inquiry and notification in accordance with section 8 of the Act.
5. Where appropriate, evidence as to inspection of the Index Map and Claims Book in accordance with section 9 of the Act.

Section 5 of Part II of the Act sets forth in detail the documents necessary to establish evidence of title. Included in the requirements are any deeds, whether in the possession of the petitioner or filed under the *Registration of Records Act*; an abstract of title by an attorney; and any relevant affidavits supporting claims not established by title.

Section 6 of Part II requires that a plan (a survey prepared in accordance with the *Land Surveyors Act* of 1969) made not more than twelve months prior to the petition shall be submitted. The twelve month limit may be waived by the court. The surveyor making the plan must be identified.

Section 7 of Part II relates to adverse claims. It provides that someone other than the petitioner shall submit an affidavit stating all actual or potential adverse claims. The affidavit shall state who is in possession of the land, and under what rights he claims possession.

Section 8 of Part II relates to inspection, inquiry, and notification. At a date not earlier than six months prior to the presentation of the petition, the land shall be inspected by a surveyor or other person appointed by the court. The inspector shall examine the land in detail for any evidence of an adverse claim. The inspector shall make diligent inquiry of anyone living on the land, as well as occupiers of contiguous property.

Section 9 of Part II applies only to such areas of the Bahama Islands as the Governor may designate. This section provides for the creation of an Index Map and a Claims Book, which is in reality a central register for land titles. Upon the payment of the proper fees, any person who claims an interest in land may have his interest recorded in the Index Map and the Claims Book. Any person filing a petition must record his interest pursuant to this statute not later than 21 days after date of filing. If the land that the petitioner is claiming falls within the areas of the Bahama Islands subject to section 9, no certificate of title can be granted until a surveyor checks the Index Map and the Claims Book for adverse interests. The court may order such additions or deletions to the Index Map and the Claims Book as it thinks fit. Whenever a certificate of title is granted, the court shall transmit a copy to the officer in charge of the Department of Lands and Surveys who shall make the appropriate markings and entries in the Index Map and the Claims Book.

The court shall require notice of petition to be published in designated newspapers unless the court deems another form of notice more appropriate. The court may require additional notice at any time before the final determination of the petition. Such notice shall be given as the court directs.

Section 12 of Part II designates the final dates for filing an adverse claim. In normal situations, this is not less than 21 days after the last date the notice is published. However, if the court required additional

notice to be published or some other form of notice to be used, then the final date is 21 days after the first date on which notice is served, or is first published, or would in the ordinary course of post been delivered. No application may be heard until after these dates. This section applies only to adverse claims not recognized in the petition. If a person fails to file an adverse claim within the prescribed period for good cause, the court may permit him to present his claim at anytime before the final hearing.

Upon filing his petition, the petitioner shall apply to the Court *ex parte* for instructions. The court may consider any evidence whether or not it would be admissible in a court of law. Subject to the court's approval, it shall not be necessary to deduce title longer than the 30 years required under subsection (4) of section 3 of the *Conveyancing and Law of Property Act*.

At any time after the application has been filed, the court may refer the application or any questions arising thereunder to a referee. The referee shall have all the powers of the court except that a referee can not grant a certificate of title. Upon the conclusion of his investigation, the referee shall report to the court.

If either the petitioner or an adverse claimant shall satisfy the court that he is entitled to an estate or interest, then the court shall grant a certificate of title for that estate or interest. However, no adverse claimant shall be granted a certificate unless the court is satisfied that additional notices, inspections or inquiries are not required.

Section 16(5) of Part II states that the requirement of a petition can be dispensed with if the petitioner has:

1. Established title in fee simple to a share in the land and has proved such possession thereof as under the *Limitation Act* would extinguish the claims of all persons thereto;
2. proved such possession of the land as would extinguish the claims of all other persons thereto; or
3. established that he is the equitable owner of the land in fee simple and at the date of the petition was entitled to have the legal estate conveyed to him.

Every certificate of title shall substantially comply with Form 4 in the Second Schedule of the Act. Every certificate shall contain (a) full description of the land, (b) have a plan attached, (c) be under the seal of the court, (d) signed by a judge, and (e) shall be recorded. The

clerk of the court shall keep records of all certificates of title, and records of all petitions and adverse claims filed. A certificate filed pursuant to the Act is deemed conclusive as to the facts contained therein. The certificate is subject to public rights, dower, the right of any person claiming through or under the person to whom the certificate is issued, the rights of any person to whom a certificate has been issued under the Act or any other act relating to the quieting of title and such other rights as are excepted. Any certificate obtained by fraud is void except as against a *bona fide* purchaser for value.

Section 20 of Part II provides for the creation of a fund which shall be under the supervision and control of the Minister responsible for Government Finance. The fund shall be financed by such portion of the application fee and from such other funds as the Minister may designate. Any person who deems himself damaged by the Act may file a claim against the fund. If the claimant substantiates his claim, he may recover his damages from the fund.

Part III of the Act deals with certificates of facts. Any person domiciled or claiming land in the Bahama Islands may petition the Court to have certain facts investigated and declared by a Certificate of Facts. The court will determine if the petitioner is the legitimate or legitimated child of his parents, if the marriage of the petitioner's father and mother, or of either of his grandfathers or grandmothers was valid, if petitioner's marriage or divorce was valid, or if petitioner is the heir of any deceased person.

The petition shall substantially follow Form 2 of the Second Schedule and shall be verified. It shall state whether or not petitioner knows if his claim is disputed. The petitioner shall receive instructions *ex parte* from the court. Any certificate of facts shall be under seal of the court, signed by the judge, and promptly recorded. The certificate shall be conclusive as to the facts in favor of the petitioner and all persons claiming by, from, through, or under him against the Crown and all persons whomsoever, and be *prima facie* evidence in favor of all other persons as against the Crown and all persons whomsoever.

Part IV of the Act contains general provisions. Section 24 allows the guardian of an infant, lunatic or person of unsound mind to represent his ward before the court. If there is no guardian, then the court will appoint one. In the case of companies, any attorney or director may represent the company before the court. If there are no directors, then a company officer may represent the company.

No petition, affidavit, order, certificate or other proceeding shall be

rendered void because of a mere technical error. As long as the error does not effect the substantial justice of the Act, the Act shall be considered valid. No proceedings under the Act shall be abated or suspended because of death. The court will, on proper notification by summons that one of the parties is deceased, grant additional time for notification and investigation.

Under Section 30 of Part IV, the *Quieting Titles Act* is repealed. If the Act comes into effect while any application made under the *Quieting Titles Act* and the *Quieting Titles Act*, 1958, has not been determined, applicant may petition the court to hear that petition according to the terms of the Act.

The First Schedule of the Act concerns itself with certificates of title issued under the *Quieting Titles Act* and the *Quieting Titles Act*, 1958. Any person who claims an estate or interest in any land to which this schedule applies (*Quieting Titles Act*, 1969) may, at any time, petition the Court for a confirmatory title. The petition shall include a certified copy of all certificates of title, a statement by petitioner or his attorney as to all dealing with the land possession thereof, and evidence by affidavit of any other supporting evidence. The court will issue instructions to the petitioner *ex parte*. If the court is satisfied that petitioner has valid title, the court will issue a confirmatory certificate of title.

The Second Schedule of the Act contains appropriate forms for filing a petition or adverse claim. These forms should prove to be valuable guidelines to any attorney involved in title litigation in the Bahama Islands.

PART III

REAL PROPERTY TAX ACT, 1969

Following closely the *Quieting Titles Act*, 1969, is the *Real Property Tax Act*, 1969 (Bahamas Official Gazette No. 23 of 1969), which came into effect on October 1, 1969. As one might guess, after creating an act to establish title to a vast area of property, it appeared advisable to place a property tax on all the land in the Bahamas. This is exactly what the *Real Property Tax Act*, 1969 did by establishing a one-half of one percent annual tax on the market value of all real property in the Bahamas. The rate may be varied as the Minister (Minister responsible for Government Finance) deems expedient. The tax for the period between October 1, 1969 and December 31, 1969 is prorated to one-eighth of one percent of the market value of the property.

The Minister shall appoint a Chief Valuation Officer and necessary assistants to assess property liable to tax under the Act. The Chief Valuation Officer shall prepare an assessment list before the 1st of November each year, and shall serve notice of the assessment on the property owner. However, prior to December 31, 1970, assessment lists and notices need not be served until November 1, 1970.

Every property owner shall submit a return of such particulars as the Chief Valuation Officer may prescribe prior to December 31st of each year. Failure to make this return, or reckless and fraudulent statements in the return may result in fine or imprisonment.

Any person aggrieved by the assessment made by the Chief Valuation Officer must object in writing to the Chief Valuation Officer, stating his grounds for objection. If the person is not satisfied with the subsequent decision of the Chief Valuation Officer, he must submit notice in writing to the Chief Valuation Officer requiring him to refer the decision to The Real Property Tax Appeal Tribunal. The Tribunal was established by Section 10 of the Act. The Tribunal's function is to review the rulings of the Chief Valuation Officer. It may dismiss the appeal or modify the decision of the Chief Valuation Officer. If either the Chief Valuation Officer or the property owner is aggrieved by the decision of the Tribunal, he may appeal the decision within twenty-one days to the Supreme Court. The appeal to the Supreme Court must, however, involve a question of law.

Section 14 of the Act provides that the tax shall be due and payable by the owner of the property not later than sixty days after the service of the notice of assessment. Provision is made for quarterly payments and equitable extensions. A surcharge of five percent is added if the tax is paid within ninety days after it is due, and is increased to ten percent if the tax is paid more than ninety days after it is due.

If the real property is located in New Providence, the tax is paid directly to the Treasurer at the Treasury. If the real property is located in one of the Out Islands, the owner may, at his option, pay either the Treasurer or the local commissioner for the district in which the Out Island is located.

When any tax is due under this Act for more than thirty days, the Treasurer may instigate proceedings. The Act provides that the Treasurer may garnish the property of a delinquent taxpayer, and also allows one joint tenant or tenant in common to recover any moneys due him in regards to taxes from the other joint tenant or tenant in common. The Chief Valuation Officer may enter property at reasonable times for the

purpose of inspecting it and may require persons in possession of the land to make a report to him.

The Act exempts certain taxpayers, such as the aged or afflicted, on whom the tax would work extreme hardship. Section 37 of the Act exempts certain types of property, such as land used by churches, state land, school lands, among others, from taxation. An important class of property to the speculator-investor is "unimproved" property. Section 37(4) defines improvements as any addition to the land, except for agricultural purposes, which increases the value of the land by \$3,000.00. The value of the addition is to be determined at the time the assessment is made.

Section 39 provides that the Act shall apply to New Providence and any other Out Island district as the Minister may declare. All prior real property tax laws were repealed by this Act.

CONCLUSION

By the terms of the *Quieting Titles Act*, 1969, previously summarized, the Bahama Islands have in fact adopted the main features of the Torrens land title system. As is well known, under this system title to land does not pass by the delivery of a deed, or the recording thereof, or by the entry of a judicial decree. Any one of these facts gives, under the Torrens system, only a right to the title which will not pass until a designated public official has entered on an official record a certificate of title that the grantee in the deed, or the beneficiary in the decree, is the owner. Under the *Quieting Titles Act*, 1969, such public official will be the court which will pass judgment on the validity of titles to land while the Index Map and the Claims Book will be the official records where a certificate of title will be recorded.

In view of the difficulties regarding titles to land in the Bahamas, the new Act presents a most welcome innovation and is therefore deserving of more than passing notice.

The *Real Property Tax Act*, 1969, is designed to furnish much needed tax revenue. The Act places a great deal of discretion in the hands of the Minister and Chief Valuation Officer, and their administration of the Act will undoubtedly determine its success or failure.