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states that abolish reverter and forfeiture even when the easements and restrictions survive. The final paragraph of the statute declares that the grantee of the tax deeds has the right to enforce like restrictions against "the immediate, mediate, or remote grantors" and specifically excepts "forfeitures, right of re-entry or reverter" as means of enforcement.[23] Although this exception seems unnecessary, inasmuch as the grantee would not normally have these rights, perhaps the Legislature contemplated "forfeiture, right of re-entry and reverter" as means of enforcement. Since these measures were specifically excluded from use by the grantee, it may be reasoned that their omission as to the rights of the grantor indicates that the Legislature intended for them to be among the means of enforcing the restrictions that survived the deed. Yet even after the passage of this statute the Florida Court has stated that "a tax deed vests in the Grantee a new, independent and paramount title."[24]

Florida is now in the unusual position of being an "original title" state where tax deeds extinguish prior liens, and yet restrictions and covenants survive and may be enforced by reverter, right of re-entry, and forfeiture.

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The following case comments, written by freshmen students in fulfillment of a portion of the requirements in the course known as Introduction to Legal Research and Writing, are considered of sufficient quality to merit publication.

EQUITY: INJUNCTIVE RELIEF FROM INTERFERENCE WITH STATUTORY POLITICAL PARTY OFFICE

Shelly v. Brewer, 68 So.2d 573 (Fla. 1953)

Upon the resignation of one Booth, respondent was elected chairman of a county executive committee of a political party. Petitioner, the incumbent vice-chairman at the time of Booth's resignation, claimed that she was entitled to the office and accordingly exercised the

[23]*Ibid.*

[24]Daniell v. Sherrill, 48 So.2d 736, 739 (Fla. 1950).

powers of chairmanship. Respondent sought injunctive relief from interference with his duties and, as provided by statute,[1] a declaratory decree as to his legal status. The circuit court denied a motion to dismiss and granted a temporary injunction. On petition for certiorari, HELD, pending determination of the officer's title a temporary injunction will lie when there is an encroachment upon the statutory rights of a political party officer. Certiorari denied.

It is generally recognized that, upon an encroachment of his duties, a public officer may seek the aid of the courts.[2] Most jurisdictions hold that a political party office does not come within the realm of public office and therefore a party officer is not entitled to judicial relief from encroachment upon his duties.[3] Florida, while not expressly recognizing political party officers as public officers, has indicated that they are at least analogous[4] and that both are entitled to any of the processes of court in proper cases.[5]

The Florida Court has described the rights of political party officers as legal rights,[6] and has stated that quo warranto is the proper remedy against the usurpation of authority of, or for trying the title to, a statutory political office.[7] Prior to the instant case all decisions relating to political matters involved the extraordinary common law writs.[8] Equity refused to take jurisdiction when only political[9] or policy[10] matters were concerned; the presence of a property interest was a prerequisite to equitable relief.[11] There is a recent trend in other American jurisdictions, however, toward relaxation of the rigid rule

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[1]FLA. STAT. §§103.111, 103.121 (1953).

[2]MECHEM, PUBLIC OFFICES AND OFFICERS §478 (1st ed. 1890).

[3]*E.g.*, Turk v. Cotton, 175 Ark. 100, 299 S.W. 613 (1927); People v. Brady, 302 Ill. 576, 135 N.E. 87 (1922); Attorney General v. Drohan, 169 Mass. 534, 48 N.E. 279 (1897); Heiskell v. Ledgerwood, 144 Tenn. 666, 234 S.W. 1001 (1921). *Contra:* Dashigue v. Cohen, 14 La. App. 475, 131 So. 746 (1930).

[4]*See* D'Alemberte v. State *ex rel.* Mays, 56 Fla. 162, 190, 47 So. 489, 498 (1908).

[5]*See* State *ex rel.* Merrill v. Gerow, 79 Fla. 804, 808, 85 So. 144, 146 (1920).

[6]State *ex rel.* Merrill v. Gerow, 79 Fla. 804, 85 So. 144 (1920); D'Alemberte v. State *ex rel.* Mays, 56 Fla. 162, 47 So. 489 (1908).

[7]State *ex rel.* Feltman v. Hughes, 49 So.2d 591 (Fla. 1950); State *ex rel.* Page v. Dannelly, 139 Fla. 320, 190 So. 593 (1939); State *ex rel.* Watkins v. Fernandez, 106 Fla. 779, 143 So. 638 (1932); MECHEM, *op. cit. supra* note 2, §478.

[8]*E.g.*, D'Alemberte v. State *ex rel.* Mays, *supra* note 6; see note 7 *supra.*

[9]Joughin v. Parks, 107 Fla. 833, 147 So. 273 (1932).

[10]Alexander v. Booth, 56 So.2d 716 (Fla. 1952).

[11]Joughin v. Parks, *supra* note 9; *accord,* Elder v. McCall, 350 Ill. 538, 183 N.E. 578 (1932); Fletcher v. Tuttle, 151 Ill. 41, 37 N.E. 683 (1894); *see* Rhodes v. Driver, 69 Ark. 606, 611, 65 S.W. 106, 107 (1901).

requiring that property rights be involved before equity will assume jurisdiction.[12] Equity chancellors have come to realize that in a society of increasing complexity there are many cases not involving property rights in which relief at law either provides no remedy or is so cumbersome as to be inadequate. With this realization in mind the courts have granted temporary injunctions pending settlement of title to office, utilizing such theories as the protection of public welfare and legal rights.[13]

In granting a temporary injunction in the instant case the Court has affirmed earlier indications that a political party officer is a public officer if he holds office under statutory provisions. Moreover, it has indicated that when the legal right to a public office is disputed the officeholder has a right to temporary injunctive relief in order to maintain the status quo.

Shelly v. Brewer is a landmark case in the Florida law relating to political controversies; it has opened the door to equitable relief by way of injunction as an adjunct to the use of declaratory judgments authorized by statute.[14] It should not be concluded, however, that the way has been cleared for any and all equitable relief. Only temporary injunctive relief has been granted, and that as an adjunct to another remedy; but it is not unreasonable to believe that other forms of equitable relief will be made available in a proper case involving political rights. With the merger of law and equity in code states, injunctions in those states may be available in some situations without resort to declaratory judgment procedure.[15]

The Florida Court, by this decision, has extended equitable relief beyond the protection of governmental functions immediately affecting the public. Today, pending settlement of title to his office, a person holding any public office in Florida may seek temporary injunctive relief to prevent usurpation of his authority.

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[12]*E.g.*, Thompson v. Talmadge, 201 Ga. 867, 41 S.E.2d 883 (1947); Richardson v. Commonwealth, 275 Ky. 486, 122 S.W.2d 156 (1938); Heward v. Long, 178 S.C. 351, 183 S.E. 145 (1935); see DEFUNIAK, HANDBOOK OF MODERN EQUITY 171 (1950).

[13]See *e.g.*, Thompson v. Talmadge, *supra* note 12; Heward v. Long, *supra* note 12; Gilmore v. Waples, 108 Tex. 157, 188 S.W. 1037 (1916).

[14]FLA. STAT. c. 87 (1953). The existence of another remedy does not preclude the use of declaratory judgment procedure, Lockleer v. West Palm Beach, 51 So.2d 291 (Fla. 1951).

[15]*E.g.*, State v. Cunningham, 83 Wis. 90, 53 N.W. 35 (1892); see WALSH, A TREATISE ON EQUITY 279 (1930).