

Judge Vincent Giblin

The Life And Times of a South Florida Attorney and Judge

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During a controversial professional career spanning nearly half a century, Vincent Claude Giblin was a high profile jurist with a razor sharp mind and a resume characterized by a wide variety of positions and experiences. Giblin practiced law for nine years in Escambia, Duval and Broward counties before embarking upon the practice of law in Dade County in 1929, following two years of service as Broward County's first circuit judge. In 1927, Governor John W. Martin appointed the twenty-nine-year-old Giblin Broward County's first circuit judge over the objections of the local Ku Klux Klan to a Roman Catholic filling the post.

After serving as a Broward County judge for just two years, Giblin moved to Miami in November 1929, after losing an election to a former Madison County judge, George W. Tedder. Four months later, in association with James "Fritz" Gordon, Giblin began defending Chicago mobster Al Capone against attempts by Florida's governor to ban Capone from living in the Sunshine State. He also fought Dade County's efforts to padlock Capone's Palm Island residence as a nuisance. The City of Miami and other law enforcement authorities even tried to jail Capone on a variety of perjury and vagrancy charges. After successfully defending the mobster against thirty-one criminal charges, Giblin became enmeshed in a surprising, short-lived alleged plot to assassinate Florida Governor Doyle Carlton, who had run for office on an anti-gambling platform.

A relatively obscure Broward judge, Giblin vigorously opposed the U.S. Senate's confirmation of Miami-based U.S. District Judge Halsted Ritter in 1929. A year later, he successfully applied to Ritter for a court order protecting Capone from Governor Carlton's ban keeping the gangster from regaining occupancy of his Palm Island residence. Four years later, in 1933, Giblin testified before a U.S. House of Representatives committee

inquiring into the conduct of Ritter, proceedings which led to Ritter's impeachment, conviction, and removal from office by the U.S. Senate.

Outside the practice of law, Giblin engaged in a wide variety of businesses, including gambling ventures beginning in 1925. Some of these businesses generated considerable profits, however short-lived they might have been. While practicing law in Dade County, judges cited Giblin three times for contempt of court, but Giblin beat all three charges. As a Dade County circuit judge from 1952 until 1959, Giblin disliked many of the court practices long part of the judicial system, including what he deemed "fraudulent" divorces in Dade County, and campaigned for a longer residency requirement. Giblin publicly questioned the truthfulness of those moving to Dade County to satisfy Florida's short three-month residency requirement for a divorce. From 1952 to 1957, he taught civil procedure classes at night at the University of Miami law school, in addition to presiding as a Dade circuit judge.

During the McCarthy era, Giblin spearheaded widely-publicized efforts to disbar Florida lawyers affiliated with the Communist Party. In 1954, he disbarred Miami lawyer Leo Sheiner for refusing to answer questions about his Communist Party ties. Sheiner also allegedly had been involved in a Communist-led plot to assassinate Dade County Circuit Judge George Holt. Giblin served twice on assignment as an associate justice on the Florida Supreme Court. In 1929, Giblin served on the high court the first time while also serving as a Broward circuit judge. He served the second time on the Florida Supreme Court while serving as a Dade County circuit judge twenty-five years later in 1954. Giblin also served for a time by assignment as an associate judge of the Third District Court of Appeal in Miami while serving as a Dade circuit judge. He ran for election to the Florida Supreme Court in 1952, but was defeated. Eleven years later, Giblin unsuccessfully contended for a new Dade County senate seat.

Early Years

Born on November 15, 1897, in Mobile, Alabama, Vincent Claude Giblin was, at age 20, of medium height and build with brown eyes and dark hair. Believed by some to have had a glass eye, Giblin actually had been born with a crossed left eye. His father, Vincent A. Giblin, served as Mobile's police chief from April 1, 1909, until his untimely death in office on June 17, 1912. Because his mother died sometime before 1910,



Vincent Giblin, age 20, Notre Dame Law School student, 1918.
Courtesy, Notre Dame Archives, South Bend, Indiana.

Giblin was orphaned at the age of fourteen when his father died.¹ After graduating from high school in Mobile, Giblin attended the University of Notre Dame's law school on a scholarship, graduating in 1918, without having attended undergraduate school.²

While in law school fellow students recognized Giblin not only for his extracurricular activities but also for his rhetorical skills. The unknown author of a profile on Giblin in Notre Dame's 1918 student yearbook, *The Dome*, for which Giblin served as business manager, demonstrated considerable accuracy in predicting his future judicial career:

"It would require the combined talents of O. Henry and Conan Doyle to fittingly describe this genial-looking fellow, for Vince Giblin is before all else our man of mystery. He comes in the dead of the night. He is entirely oblivious to all rules and regulations. When subpoenaed to the appellate division of the Skivers' Court, however, he has never failed to present an air-tight, rivet-proof alibi. Vince's Notre Dame activities have been as varied as his versatility; he has secretaried to Father Morissey; he has danced in LaSalle Hall; the nooks and crannies of Springbrook Park are as an open book to him; he handled the business end of the Dome. Vince, we are proud of you, and when the centennial celebration rolls around there is no hand we shall be more glad to shake than that of **Judge Giblin** [emphasis added]."³

As noted, by the end of his storied career in the law, Giblin had served as a judge in two different counties in the State of Florida, a distinction held by few, if any, in Florida history.

Early Law Practice

Giblin's early legal training was particularly noteworthy. Many of his early mentors were leading lights in the practice of law; at least one, William A. Blount, figured prominently in making state laws uniform throughout the nation. After graduating from law school, Giblin became a law clerk in the office of U.S. Attorney John L. Neely in Pensacola in July 1918. Three months later, Giblin was admitted to practice law before the Supreme Court of Florida at the youthful age of 20. After a short stint with the U.S. Attorney's office, Giblin clerked in the Pensacola law office of Evelyn C. Maxwell, a former justice of the Florida Supreme Court. A year later, William Blount, a Pensacola trustee of the Henry Flagler estate and general counsel to the Florida East Coast Railway, sent Giblin to Jacksonville. There, he became chief clerk in the legal department of the Florida East Coast Railway under Scott M. Loftin and

Robert H. Anderson. Both Blount and Loftin would later become presidents of the American Bar Association, and, in the case of Anderson, president of the Florida State Bar Association.⁴

In 1921, and for the next four years, Giblin clerked for Jacksonville attorney Giles J. Patterson, who, like Anderson, would later become president of the Florida State Bar Association. Beginning in the early part of 1925, Giblin initiated several business ventures unrelated to the practice of law that would consume considerable portions of his time for at least the next twenty years. For three months in the early part of 1925, Giblin formed a landowners association in Okeechobee, Florida. The purpose of the association was to wrest control of the Everglades Drainage District from the Trustees of the Internal Improvement Fund (comprised of Florida's governor and four Cabinet members), who held hundreds of thousands of acres of Everglades land in trust for the public. This venture proved unsuccessful.⁵

Sometime later, Giblin moved to Fort Lauderdale to establish a law practice, specializing in corporate law. Aside from the practice of law, Giblin helped land owners in the Chateau Park neighborhood of northwest Fort Lauderdale obtain releases of mortgage, which netted Giblin some forty lots in the subdivision for his services. He also engaged in real estate activity north of Fort Lauderdale. In the practice of law, Giblin represented railway, insurance, real estate, and other business interests. Giblin accepted no criminal, divorce, or negligence cases. Longtime Fort Lauderdale attorney G. Harold Martin, one of Giblin's contemporaries, remembered the twenty-nine-year-old Alabaman as "undoubtedly the best lawyer in the county, and probably the best in the state" at that time.⁶

Appointed Broward's First Circuit Judge over Opposition by the KKK

In 1927, at the urging of the Broward County Bar Association, the Florida Legislature passed an act signed into law by Governor John W. Martin, creating the Twenty-second Judicial Circuit for Broward County. The Legislature appropriated \$168,000 for the judges' salaries of all twenty-eight circuit courts in Florida. Broward County's share was \$6,000. By comparison Florida's governor was then paid \$10,000 annually. Following the unanimous recommendation of the Broward County Bar Association, and over the local Ku Klux Klan's objection to a Roman Catholic candidate for judge, Governor Martin appointed twenty-nine-

year-old Fort Lauderdale lawyer Vincent Giblin as Broward County's first circuit judge. Shortly after the Florida Senate confirmed the appointment on June 1, 1927, Giblin assumed chambers temporarily on the fifth floor of the First National Bank building (later the Sweet Building and now known as the One River Plaza building) on the north side of the New River in downtown Fort Lauderdale, awaiting the construction of a new courthouse building at the northwest corner of Third Avenue and Southeast Sixth Street on the south side of New River.⁷

In one of Judge Giblin's more humorous cases, a woman in her twenties and her husband sued an eighty-year-old man who was barely able to walk on the grounds that the octogenarian had seduced her. Prominent Fort Lauderdale attorney Carl Hiaasen (grandfather of Miami journalist and author Carl Hiaasen) answered the lawsuit by pleading in a number of foreign languages, including Russian, Greek, and Sanskrit. When the lawyer for the plaintiff received the pleading, he protested that "not one word of this is in English." Turning aside the objections, Judge Giblin asked the complaining lawyer to "[s]how me where the law says a pleading must be filed in the English language." Eventually the case died for lack of further action. While a Broward circuit judge, Giblin also served for a brief time on the Florida Supreme Court by assignment as a substitute for Justice Louie W. Strum, who was then ill. Judge Giblin authored five opinions during his short tenure on the high court.⁸

Giblin's work ethic proved legendary. Not only did Giblin dispose of the backlog of cases he inherited when he assumed the bench, he had time to handle cases for Judge Curtis E. Chillingworth sitting in West Palm Beach in the Fifteenth Judicial Circuit. The *Fort Lauderdale Daily News* reported that Giblin held hearings nearly every evening in his chambers at the First National Bank Building. In addition to handling his own cases, Giblin presided in the absence of Chillingworth during a one-week period beginning on October 4, 1927, while Chillingworth vacationed in Paris. Giblin convened court in West Palm Beach and charged the grand jury in Palm Beach County while also disposing of cases in Fort Lauderdale.

Defeated in Broward Election

Giblin would serve only a year before facing an election to continue in office on June 5, 1928. Despite hard work and the strong backing of the overwhelming majority of the members of the Broward County

Bar Association, former Madison County judge George W. Tedder defeated Giblin in a close contest. The campaign divided both the Bar and the public. Noting Giblin's speed and efficiency in disposing of the cases before him, the majority of the bar association endorsed Giblin's election over Tedder in a newspaper advertisement, emphasizing that Giblin had disposed of 1,200 cases in one year's time.⁹

Broward state attorney Louis Maire responded to a rumor during the campaign that Judge Giblin had been "shielding and protecting former officials of ... defunct banks from prosecution for alleged violations of the State banking laws." In an open letter published in the *Fort Lauderdale Daily News*, Maire stated that he knew both Tedder and Giblin and that he held the "highest regard for the integrity of both."¹⁰

Capone Moves To a Residence on Palm Island

Only a year into Giblin's first term as a Broward judge and just a few weeks after his defeat in the June 1928 election, Miami Beach city council members began planning to oust Chicago mobster Al Capone from his newly-acquired residence on Palm Island in Biscayne Bay. Capone would soon become Judge Giblin's most famous client after Giblin left office in Broward County in 1929. During a stormy session on Wednesday, June 27, 1928, council members charged Mayor J. Newton Lummus with condoning the presence of the mobster. Members passed a resolution calling on all law enforcement agencies to arrest Capone for the "slightest infraction of any law whenever possible." Mayor Lummus asserted that he had no right to oust Capone without just cause. Capone contended that he had a constitutional right to live wherever he chose. He also told police officers that he was in Miami for his "health," that he had a sizeable investment in his residence, and that he would resist to the highest court any attempt to oust him from it.¹¹

Members of the Palm & Hibiscus Islands Improvement Association, Inc., including Dan Hardin and John B. Orr, presented a homeowners resolution condemning Capone's presence in the exclusive community to Miami Beach City Council members. Homeowners reminded the council that it agreed to take measures to oust Capone from the community. Homeowners had been told that a joint meeting with Miami city commissioners and Miami, Miami Beach, and Dade County law enforcement officers would be held "without delay" to dis-

cuss ousting Capone. Homeowners charged that Lummus had been quoted in the press as stating that Capone was, in the mayor's words, "one of the fairest men I have ever been in conference with." In reality, Lummus had a discussion with Capone, followed by the mobster's decision to leave Miami Beach immediately. Five months later, on June 20, 1928, however, Lummus had been quoted as "admitting frankly that he knew of no legal means" to force Capone out and that the crime lord had never been "adjudged guilty of any crime." Finally, homeowners claimed that Lummus had collected a real estate commission from Capone's purchase of his Palm Island residence through a straw man and that Lummus had deceived the public by failing to disclose his actual role in the transaction. The upshot was the adoption of a resolution by the Miami Beach City Council agreeing to take "all steps as may be within its power and cooperate in every way possible with all law enforcement officers of Dade County and the various municipalities of the state to the end that the said Al Capone may no longer be a resident of this community."¹²

In Broward County, the battle over Giblin's loss to Tedder as that county's only circuit judge after only one year in office had just begun. A year after Tedder's election in the Democratic primary, on June 19, 1929, Florida Governor Doyle E. Carlton, who won office during the same primary election cycle Giblin had lost, appointed Tedder as Broward circuit judge. Tedder's appointment was confirmed by the Florida Senate the same day. The following day, Governor Carlton issued a commission to Tedder for the seat Giblin had occupied for just two years.

Giblin Refuses to Give up Broward Seat

Giblin, however, stubbornly refused to give up his seat on the bench, arguing that he had been appointed to a six-year term according to the Florida constitution, not the two-year term reflected in his gubernatorial commission when he began serving in June 1927. Giblin suggested that Governor Carlton obtain an advisory opinion from the Florida Supreme Court to settle the question. Giblin also announced that he had no intention of asking the Governor to appoint him over Tedder.¹³

A month later, Giblin persisted in claiming that he had been appointed to a six-year term, signing orders the day after his commission expired. In fact, Giblin continued to sign orders for months after Tedder had been appointed.¹⁴

Hotly-contested litigation followed in which Judge Tedder filed proceedings in the Florida Supreme Court seeking Giblin's ouster from office. The objective was to settle who was entitled to the office of circuit judge, since Judge Giblin had continued to sign orders and judgments after Judge Tedder had received his commission on June 20.¹⁵

The outcome was expected to affect "several of the presiding circuit judges" in the state. The court, however, would not issue its decision for several months, leaving Giblin issuing orders and decrees long after Tedder's robing.¹⁶

Four months later, in October 1929, in an apparent attempt to spur the high court into action, Giblin filed two law suits with Broward County's Clerk of the Circuit Court, Frank Bryan. Giblin personally served the second lawsuit on Judge Tedder since Broward County's sheriff refused to serve Tedder. Giblin and Tedder both disqualified themselves from hearing the second case. As a result, Dade County Circuit Judge William L. Freeland was assigned to hear the second suit. Just eleven days after Giblin filed his second suit in Broward County, on October 30, 1929, the Florida Supreme Court issued an evenly-divided opinion on the question. The decision left both judges in office. Broward County now had two circuit judges occupying the same office and carrying out the same duties as would one circuit judge.¹⁷

Giblin Moves to Miami

After Tedder's commissioning as Broward's second circuit judge on June 20, 1929, Florida comptroller Ernest Amos authorized paying Tedder's salary but refused to pay Giblin. Apparently weary over the controversy, Giblin resigned on November 7, 1929, and moved to Miami. Just six weeks later, however, on December 27, 1929, Giblin brought proceedings in Leon County Circuit Court in Tallahassee to compel Amos to pay his salary for the nearly five-month period beginning on June 20 (the date of Tedder's commission) until his resignation. Amos responded that Giblin had not been paid because Tedder had been appointed by the Governor, confirmed by the Senate, and issued a commission, all in accordance with Florida law. That same day, however, Tallahassee Circuit Judge John B. Johnson issued a writ ordering Amos to pay Giblin for the period June 20, 1929, through November 7, 1929. Broward County thus had two circuit judges occupying the same seat for four and a half

months in 1929, albeit in different places, with both receiving the same state salaries for the same seat. Four months later, Giblin would represent one of America's most notorious criminals in Miami.¹⁸

Capone Served with Subpoena at Palm Island Residence

Meantime, earlier in the year, on February 27, 1929, Capone had been served at his Palm Island residence with a subpoena requiring his attendance before a federal grand jury in Chicago. The subpoena scheduled Capone's appearance for March 12, 1929, just thirteen days later. Capone waited until Monday, March 11, before petitioning the Chicago court for a postponement. Capone claimed that he was too sick to appear. Attached to Capone's petition was the sworn statement of his Miami physician alleging that Capone had been ill and under a doctor's care since January 13, 1929, that he had been confined to bed with pneumonia for six weeks, and that he had been out of bed for only ten days before March 5, 1929.¹⁹

Capone Cited for Contempt of Court in Chicago

Believing Capone's allegations to be false, the Federal Bureau of Investigation launched an intensive investigation into Capone's statements and his true medical condition. The investigation revealed that between January 13, 1929, and March 5, 1929, Capone had frequently attended horse races at the Miami Jockey Club in Hialeah and appeared in good health. During the same period, Capone also traveled to and from Nassau and Miami by steamship and a second time to Bimini and back to Miami by seaplane. Moreover, on Valentine's Day, February 14, 1929, Capone had been questioned for two hours by Robert Taylor, County Solicitor for Dade County, and an Assistant District Attorney of King's County, New York, at the Dade County Courthouse in downtown Miami. Capone again appeared to be in good health. His appearance at the Dade County Court House seemed to create the perfect alibi when law enforcement officers began investigating the Chicago murder of seven members of the "Bugs" Moran gang that day, a crime known as the St. Valentine's Day Massacre. Capone led the list of suspects behind the crime even though he was unquestionably in Miami at the time of the slayings.²⁰

On March 27, 1929, Capone was cited by the federal court in Chicago for contempt of court, arrested, and released on \$5,000 bail. Almost two years later, on February 25, 1931, Capone entered a plea of not guilty, was tried, and found guilty of contempt of court on the same day. Before trial, Capone told reporters, "It's on the up and up that I was sick. I came up here when I was able to travel. I don't mind seeing grand juries. I do everything I can to help them. I don't think there'll be anything to this case."²¹

Capone Jailed in Philadelphia

Within two months of his first scheduled appearance before the federal grand jury in Chicago in March 1929, Capone was in trouble again; this time in Philadelphia. On May 17, 1929, Pennsylvania authorities jailed Capone for a year on a charge of carrying a concealed revolver while leaving a movie theatre in Philadelphia. Initially jailed in county facilities, Capone was later transferred to a state prison. After Capone served only ten months, Pennsylvania Governor John S. Fisher released him on March 17, 1930, from Philadelphia's Eastern State Penitentiary. *Time* magazine featured Capone's release in its March 24, 1930, edition. In fact, the periodical displayed a photograph of a happy, smiling Capone in a business suit and tie, along with a rose bud tucked in his lapel, on its front cover. America was then, as it remains today, utterly fascinated with the celebrity of Capone. Nonetheless, the magazine reported, "Miami officials would oppose to the limit Capone's return to Palm Island," calling his plan to return "a detriment to the whole community." The fight was on.²²

Florida Governor Bans Capone

On March 19, 1930, less than four months after Giblin had moved to Miami, Governor Carlton "banished" Capone from Florida following his release from a Pennsylvania prison. Carlton instructed Florida law enforcement officials by telegram to prohibit Capone from entering the state: "It is reported that Al Capone is on his way to Florida. Arrest promptly if he comes your way and escort him to the state border. He cannot remain in Florida. If you need additional assistance, call me." Carlton appealed to all citizens "to cooperate by all legitimate means towards ejecting a public menace and imposter and to exterminate the

growth of organized crime.” Capone’s arrival elicited an almost instantaneous alarming editorial from *The Miami Daily News*, entitled “Capone Is Here.” To Miami’s prosecutor, allowing Capone to live there was like allowing “a rattlesnake to live in a garden where it could bite children.” To Capone’s problems, however, the answers might lie in the protections afforded by the United States Constitution and the clever legal maneuverings of a former Broward County judge.²³

Engaged once again in the private practice of law, but now in Miami, Giblin soon became associated with James Francis “Fritz” Gordon in representing America’s most notorious criminal. Born on September 27, 1902, in Griffin, Georgia, Gordon was nearly five years Giblin’s junior. While Giblin had been educated at the University of Notre Dame’s law school, Gordon graduated from Mercer University School of Law at Macon, Georgia. Both would become Dade County circuit judges two decades later in the 1950s. Gordon had been in practice in Miami since 1925, just a year after being admitted to the Georgia bar. That same year, 1925, Gordon had been admitted to the Florida bar. Gordon spent his first year serving as trust officer for the Commercial Bank & Trust Company of Miami. From 1927 until 1929, Gordon served as Assistant Solicitor of Dade County, prosecuting criminal cases on behalf of the county. By 1949, Gordon would maintain offices in the Seybold Building, today a landmark structure in downtown Miami and a world-acclaimed center for the jewelry business.²⁴

For reasons not entirely known, Al Capone hired thirty-two-year-old Vincent Giblin and twenty-seven-year-old Fritz Gordon to help him regain occupancy of his Palm Island house. It is likely that Capone first hired Gordon, and then Gordon brought Giblin into the case. One authority recounts that, years later, Giblin told him that former Ohio governor James Cox, owner and publisher of the *Miami Daily News*, urged Giblin to help Capone. On March 22, 1930, Giblin and Gordon filed a federal lawsuit in Miami on behalf of Capone to stop Florida’s sheriffs from obstructing Capone in his attempt to re-occupy his Palm Island residence. The suit came before a judge unlikely—at least on the face of it—to be sympathetic to Capone’s cause, a jurist who had been on the federal bench in Miami only a year before the filing of the Capone lawsuit.²⁵

Ritter Appointed Federal Judge in Miami

Born on July 14, 1868, in Indianapolis, Indiana, Halsted Lockwood Ritter graduated from nearby DePauw University with a bachelor's degree in philosophy (1891), a bachelor of law degree (1892), and a master of arts degree (1893). Ritter's sister was Mary Ritter Beard, an acclaimed women's historian and women's history archivist. After practicing law for a few years in Indianapolis, Ritter practiced law for thirty years in Denver. From 1898 to 1902, Ritter was also a professor of law at Denver Law School. He served as a member of the Colorado State Railroad Commission from 1907 until 1908. Apparently on the advice of fellow DePauw graduate and Miami lawyer Frank Shutts (then also publisher of *The Miami Herald*), the fifty-seven-year-old Ritter relocated to West Palm Beach in February 1926, initially working for J. Mark Wilcox. Seven years later, Wilcox would become Ritter's nemesis as a member of the U.S. House of Representatives, setting in motion impeachment proceedings against Ritter. Ritter practiced law in West Palm Beach for just three years before his nomination to the federal bench in Miami by President Calvin Coolidge and confirmation by the United States Senate on February 16, 1929. A relative newcomer to the Sunshine State, Ritter had earned a reputation as a leader in the Anti-Saloon League in Colorado and a strong supporter of Prohibition. Two years later, Ritter published a biography of the nation's first president, *George Washington the Business Man*.²⁶

Giblin Opposes Ritter's Nomination to Federal Bench

Ritter's nomination by Coolidge in January 1929, however, ran into immediate trouble in the Senate from the most unlikely of sources. Vincent Giblin vigorously opposed Ritter's nomination, even writing a letter to one of his early mentors in the law, Robert H. Anderson, now president of the Florida State Bar Association (today known as The Florida Bar), to stop the appointment. Ritter had practiced in front of Giblin. Giblin found Ritter utterly lacking in ability. He wrote that he was not simply supporting another candidate. He was trying to block the appointment of "one whom I know is unfit for such a position," based solely on his appearances in front of him. Giblin suggested that "the slightest investigation will disclose Mr. Ritter's utter lack of qualification for the Federal judgeship." Three weeks later, however, the U.S. Senate

confirmed Ritter as a Judge of the United States District Court of the Southern District of Florida in Miami. Four years later, in November 1933, Giblin testified in Miami before a Congressional committee inquiring into the conduct of Ritter in the handling of a bankruptcy case and other matters that would ultimately lead to Ritter's impeachment and removal from office.²⁷

The suit Giblin and Gordon filed on behalf of Capone alleged that the gangster had purchased the Palm Island property in the summer of 1928 for \$40,000, that Capone had spent more than \$20,000 in improvements, and that his son, Albert Francis Capone, and Capone's two brothers, John Capone and Albert Capone, had been occupying the residence in his absence. It also alleged that Capone intended to travel through the State of Florida on March 24, "or as soon thereafter as he may safely do so" and that by order of Florida's Governor, the State's sheriffs threatened to "arrest, kidnap, abduct and speedily and quickly transport" Capone, on sight, to the Florida border.²⁸

Ritter Blocks Carlton's Ban against Capone

Six days after the suit's filing, on March 28, 1930, U.S. District Judge Halsted Ritter entered a temporary order forbidding law enforcement officials in Florida from interfering with Capone's return to Miami. Giblin later served copies of the injunction on each of the sheriffs of the twenty counties in Florida through which Capone was likely to travel to reach his Miami residence. The injunction restrained the sheriffs from "seizing, arresting, kidnapping and abusing" Capone. Four days later, on April 1, 1930, however, the Sheriff of Palm Beach County still had not received a copy of Judge Ritter's order.²⁹

Capone Arrives in Miami

Almost a month later, on early Easter Sunday morning, April 20, 1930, Capone finally arrived in Miami. Giblin and Gordon met Capone at the Florida East Coast Railway station in Hollywood. They then drove Capone to the community Easter sunrise service on Miami Beach. Sleepy attendees swere startled to see America's Public Enemy No. 1 in their midst. Capone later announced to the waiting press his intention to get some rest and a wish to be left alone: "I have no interest in politics, neither in Chicago nor Miami. I am here for a rest, which I think I deserve.

All I want is a fair break. I have done nothing in violation of the law in Miami and will not. All I ask is to be left alone and enjoy the home I have purchased here." Later, he took his thirteen-year-old nephew from Chicago for a speedboat ride on Biscayne Bay. Three days later, the Chicago Crime Commission released its list of twenty-eight public enemies. Capone topped the list.³⁰

Even before Capone's return, local police had raided his residence on Palm Island, found liquor there, and confiscated it. Despite Ritter's bold temporary injunction and the Chicago mobster's request for peace and quiet, Miami officials would not let Capone rest. For the next two months, Miami authorities arrested Capone on a variety of vagrancy and perjury charges, and even attempt to padlock his Palm Island residence.

Dade County Sues to Padlock Capone Mansion; Capone Arrested for Vagrancy

On Tuesday, April 22, 1930, just two days after Capone's arrival, Dade County State Attorney N. Vernon Hawthorne filed suit seeking to padlock Capone's Palm Island mansion as a public nuisance. Hawthorne alleged that the residence had been a "retreat' for all classes of criminals, racketeers and fugitives from justice," that Miami Beach real estate values had been adversely affected by Capone's presence, and that the mansion had been "a place where liquor was kept and served."³¹ Three days later, on April 25, while U.S. District Court Judge Ritter announced that he was making permanent his temporary injunction barring twenty Florida sheriffs from harassing Capone, the Dade County grand jury declared war on Capone. Ritter, however, noted that "[t]here can be found no law anywhere which clothes the Governor of the State of Florida, or the sheriffs who are defendants, with power to arbitrarily declare that a person can be apprehended without process, held in restraint of his liberty without an opportunity to be heard, transported against his wish to the boundary line of the State, and thereby, from fear, being prohibited from, at any time, entering the State."³²

Ritter Encourages Capone; Grand Jury Endorses Efforts to "Exterminate"

While Judge Ritter "urged Capone to take advantage of his privileges as a citizen of the United States," Miami grand jury members

applauded Hawthorne's efforts to rid Miami of Capone: "We endorse, commend and urge all legitimate efforts to *exterminate* from the community what clearly appears to be a cancerous growth of organized crime." [emphasis added.] Approving Hawthorne's efforts to close Capone's residence, the grand jury encouraged "all law-abiding citizens to give their unstinting cooperation and support to all legitimate means to accomplish the end that 'Scarface' Capone, his accomplices, and their sinister influences shall not continue to be inflicted upon the law-abiding residents or visitors to Florida."³³

Miami Beach police kept a close watch on Capone, his residence, and his activities twenty-four hours a day, reporting any movements in and out of his Palm Island residence. On May 8, despite Ritter's injunction, Miami police arrested Capone and detained him for three hours before Giblin and Gordon could gain his release. The attorneys applied for relief before Dade Circuit Judge Uly O. Thompson, a forty-seven-year-old Georgian. Capone and his companions had been driving along Biscayne Boulevard when they were stopped by two detectives. They were searched, fingerprinted, and photographed, but no charges were filed. Instead, Miami detectives served notice on Capone that he was to get out of town.³⁴

Capone blamed James M. Cox and his newspaper, *The Miami News*, for the harassment. Interestingly, when police began to search Gordon, who along with Giblin had met Capone and his associates at the station, Gordon ran out of the station but was caught by police a half a block away. The next day, May 9, Judge Ritter refused to rule on a request made by Capone's attorneys to block future arrests of the mobster without a warrant, preferring to wait until a Dade County judge failed to protect Capone's constitutional rights. Years later, Giblin related to one of his law partners that he broke down the front door of Dade Circuit Judge Paul Barns' house at two o'clock in the morning on one such occasion when Barns told Giblin to return later in the morning during normal business hours to secure an order releasing Capone from jail after one of several wrongful arrests the City of Miami police made to harass Capone.³⁵



Mug shots of Al Capone, by the Miami Police Department. 1930.
Gift of Scott Silverman. HistoryMiami, 2005-267-1.

Barns Jails Miami Real Estate Agent for Contempt for Bribery Attempt

On Saturday, May 10, 1930, while the padlocking suit was still pending, Dade County Circuit Judge Paul Barns ordered the arrest and jailing of Norman Grebstein, a Miami real estate agent, on a contempt of court charge for attempting to bribe the judge. According to Barns, Grebstein visited the Miami jurist and offered to pay him \$5,000 to padlock Capone's mansion "according to law." Barns told Grebstein that he only took money from the State of Florida for doing his job and intended to decide the case according to the law. Giblin reported that Grebstein, in an attempt to play both sides, had told both Gordon and him that he (Grebstein) could "fix it with the judge for \$5,000." Gordon stated that he told Grebstein that he would have him arrested if he attempted to solicit money from Capone to fix the case.³⁶

Three days later, on May 13, 1930, while Capone and his companions, including Giblin, attended a boxing match in downtown Miami, Miami city police arrested Capone. He was later detained in the city jail for "investigation," and remained there overnight, since Giblin could not find a judge to issue a writ of habeas corpus. During the month of May alone, Miami police arrested Capone four times for vagrancy. Each time,

Giblin swore out warrants against city authorities, charging them with conspiracy to deprive Capone of his liberty. Years later, Giblin told a law partner that he constantly walked around with habeas corpus writs stuffed in his pockets to spring Capone on a moment's notice from unlawful attempts to jail the gangster.³⁷

Miami Commissioners Pass Vagrancy Law

To make matters worse for America's Public Enemy Number One, on Tuesday, May 23, 1930, Miami city commissioners passed a new vagrancy law aimed squarely at Capone. Providing a maximum fine of \$500 and a maximum jail sentence of sixty days, the ordinance defined a vagrant as "any person having visible means of support acquired by unlawful or illegal means or methods, or *any person or persons known or reputed to be crooks, gangsters or hijackers*, to come within the limits of said city of Miami, Fla., or to travel upon the streets, highways or sidewalks of said city." [emphasis added.] Of doubtful constitutional validity, the ordinance was to become effective thirty days later.³⁸

'Padlocking' Hearing Begins

Eighteen days after passage of the vagrancy ordinance, on June 10, 1930, Circuit Judge Barns began hearing State Attorney Vernon Hawthorne's nuisance suit seeking to padlock the Capone Palm Island residence. Fifty witnesses had been subpoenaed to testify, including thirteen for the defense. On the same day, readers of the *Miami Herald* learned that on Monday, the day before the hearing, the Supreme Court of Florida had conditionally granted a writ of habeas corpus to Norman Grebstein, whom Barns had imprisoned for contempt for over a month for allegedly attempting to bribe the judge. The high court returned the case to Barns to impose a definite term of imprisonment instead of the indefinite term that had left Grebstein twisting in the wind. The upshot of the decision was the immediate release of Grebstein. Barns later issued a statement considering Grebstein "as much a fool as a knave and that he [Grebstein] meant an offense," otherwise he (Barns) would not have jailed him.³⁹

Capone's Association with Illegal Liquor and Known Criminals

Hawthorne's presentation in the padlocking suit focused on establishing Capone's association with Ray "Crane Neck" Nugent, a Toledo

gunman who forfeited a \$10,000 bond in Miami on an Ohio murder charge, and the visit of "Machine Gun" Jack McGurn, a reputed Capone gangster who had been arrested on a Miami golf course and returned to Chicago on a warrant. A Baptist preacher, William H. Sledge of the Little River Baptist Church, testified that on Christmas Eve at Capone's residence, he had heard an order given for delivery of a case of champagne and two cases of whiskey to the home of Fred Pine, a well-known Miami attorney. Sledge testified that he had lived in Miami for at least five years and had visited the Capone home twice. On one occasion, he had visited the residence to lease an automobile to Capone. While talking to a man he believed to be Capone's brother, John Capone, Sledge heard Capone give the order. When pressed by Hawthorne, Sledge failed to identify John Capone, identifying instead Giblin's partner Fritz Gordon as John Capone in open court.⁴⁰

Hawthorne Calls 13 Witnesses

Hawthorne called thirteen witnesses to the stand the first day of trial. Fred Girton, editor of a weekly newspaper, admitted that he had been served a glass of champagne at the Capone residence. Called as a court witness because of his alleged bias in favor of Capone, J. H. Wendler, editor of Miami Beach and Hialeah weekly newspapers, "vehemently" denied that he had ever been served liquor at Capone's residence despite being confronted with a list of fifteen different intoxicants allegedly served there. Wen Phillips, editor of another weekly newspaper, denied he had been served alcohol at all. Jousting with Hawthorne over a question about Capone serving liquor, Phillips glibly asserted a lack of qualifications to answer: "I wouldn't say it was. You see I am not a chemist." For their part, Giblin and Gordon either dismissed each of the state's witnesses without questioning on cross-examination or asked only one or two perfunctory questions.⁴¹

Pancoast Supports Padlocking Capone Residence

Thomas J. Pancoast, president of the Miami Beach Chamber of Commerce, and Edward Robertson, president of the Palm and Hibiscus Islands Improvement Association, Inc., were also called as State's witnesses on the first day. Hawthorne continued to hammer home his case, attempting to demonstrate that Capone's residence constituted "a retreat for criminals, fugitives from justice, racketeers and persons of unsavory

character,” and that Capone served liquor on the property. While Pancoast testified that the Capone residence was “a harbor for criminals,” he conceded on cross-examination by Giblin that there existed illegal slot machines in the basement of his own Pancoast Hotel on Miami Beach. Pancoast also admitted that he had no firsthand knowledge of the Capone residence or its occupants and that his knowledge of the home’s bad reputation had been derived from conversations with Miami residents Dan Hardee, Jack Orr, and Edward Robertson. Pancoast asserted that the fact that the Capone residence harbored criminals had been “common knowledge.” While he himself admittedly had no fear of Capone, Pancoast testified rather loosely that “thousands” of persons had told him that they were afraid to live in Miami Beach because of Capone’s presence there.⁴²

‘Every Time a Tire Explodes ... Warfare Has Started,’ People Complain

Ed Robertson, who two years before had appeared before the Miami Beach City Council to urge city officials to oust Capone from his Palm Island residence, testified that he had been a resident of Palm Island for five years and that on two occasions he had seen armed guards walking around the Capone residence. In his opinion, the presence of armed Miami Beach police officers on the property had given the appearance of an “armed camp.” For two years it had been necessary to station Miami Beach police officers outside the estate. Acknowledging that he had no direct, firsthand awareness of the activities at the residence, Robertson testified that he lived three blocks away and had never been on the property. On cross-examination by Giblin, Robertson stated that “[e]very time a tire explodes on the causeway [*sic*] someone telephones and asks if warfare has started on the island.”⁴³

Burdine Defines ‘Gangster’

On June 12, Roddey B. Burdine, owner of Burdine’s department store, testified for Hawthorne in favor of padlocking the Capone residence. In calling Capone a gangster, Burdine defined a “gangster” as “a man who kills when necessary; who carries his point with whatever weapon is at hand; who takes the law into his own hands. He has no respect for the law of decent society. He makes his own laws. He thinks nothing of human life or its sanctity.” Burdine hesitated, however, to con-

firm whether or not liquor had been served at the residence when he visited Capone at a champagne breakfast held at the Capone residence on March 6, 1929, to solicit a \$1,000 donation to the Community Chest (today's United Way of Miami-Dade). As a guest of Capone, Burdine thought it "against the etiquette of society" to answer such a question. Later forced to answer by Judge Barns, Burdine said that answering the question made him feel like "a stool pigeon."⁴⁴

Community Chest Returns \$1,000 Donation to Capone

On cross-examination by Giblin, Burdine admitted that he had visited the Capone residence only once and had not seen Capone since that one occasion in March 1929. Uncomfortable Community Chest leaders later ordered a return of Capone's \$1,000 donation. Burdine also testified that, in his opinion, the reputation of the Capone residence was "bad" based on its occupants and on the twenty to forty persons he saw there that day. On cross-examination by Giblin's partner, Gordon, Burdine conceded that Capone's purchases at Burdine's store had run into "at least five figures." Quizzed by Giblin as to how Burdine knew Capone was a gangster, Burdine asserted that it was "general knowledge" and that even "[l]ittle boys on the street know it."⁴⁵

Miami Beach city manager Claude Renshaw testified that he had served as city manager for five years and that the general reputation of the Capone residence had been "bad." At the request of Palm Island residents and others, there had been a police presence at the Capone residence continually since Public Enemy Number One, as Capone was sometimes known, returned to Miami after release from a Pennsylvania prison two months before. On cross-examination by Giblin, Renshaw agreed that complaints had been based on fear of what might occur at the residence as opposed to what had actually occurred there. The only official report of disturbance had been a report that Capone's "little boy" [Sonny Capone] had been shooting off a .22 caliber rifle. Finally, Renshaw agreed with Giblin that nothing illegal had ever occurred at the house.⁴⁶

Capone Scares Palm Island Home Buyers

On the stand for only seven minutes, Miami public safety director S. D. McCreary characterized the reputation of Capone and that of his home as "terrible." Capone's caretaker, Frank Gallat, could not confirm

whether or not there had been imbibing of alcohol beverages at the Capone residence when Burdine visited there the year before. D. A. Stearns of the Biscayne Bay Islands Company, real estate broker for the Palm and Hibiscus Islands, testified that Palm Island real estate values had declined as a result of Capone's presence and that buyers cancelled contracts to build when they found out Capone lived there. One of the buyers, Stearns stated, even ordered the sale of his lot at a substantial discount. Buyers of lots on installments had informed him, Stearns testified, that they intended to stop making payments as long as Capone resided on the island. Stearn's agents also reported to him that there was no sales activity on the island because of its reputation. On cross-examination by Giblin, Stearns conceded that he did not know of any unoccupied improved property on Palm Island. He also did not know that Clarence Busch had offered to sell his Palm Island home to Capone before Capone the gangster purchased it.⁴⁷

In reporting on Friday's courtroom activities, the *Fort Lauderdale Daily News* focused on an entirely different aspect of the trial in a front-page story entitled, "Well Dressed, Al Capone Is Hearing Story." The story recounted that America's Public Enemy No. 1 had worn five different suits during four days of testimony. Capone's fifth suit in four days was a gray tropical suit. In prior appearances Scarface Al wore white, tan, and blue tropical suits.⁴⁸

Giblin Argues for Dismissal of Padlocking Suit

On June 13, after calling dozens of witnesses, the state rested its case. Without calling a single defense witness, Giblin and Gordon immediately moved for a dismissal. In arguing that Hawthorne's suit should be dismissed as groundless, Giblin spoke succinctly before a packed courtroom at the towering Dade County Courthouse. Giblin argued "that the existence of a nuisance at or on the premises at the time of the filing of the bill of complaint has not been shown; on further grounds that if any nuisance ever existed it was abated long prior to the institution of the suit, and that the defendants appearing for the state have testified that at the time the bill was filed there was no nuisance on the premises and no nuisance has been maintained or conducted on the premises since the institution of this suit."⁴⁹

Giblin's concise argument on behalf of America's "public enemy number one" carried the day. The next day, June 14, 1930, Judge Barns

granted Giblin's dismissal motion, ruling that the state had not proven its allegations that Capone's Palm Island mansion was a "nuisance." Demonstrating admirable courage in the face of considerable public opposition to Capone's presence in the community, Barns ruled:

"The nuisance statute was enacted to provide that neighborhoods could protect themselves against invasions of certain rights, but the law does not provide for the expulsion of undesirables, as such.

"It is apparent that the popular action to take in this matter would be to enjoin Al Capone from further occupancy of the premises, and if the proof would justify it this order should certainly be reversed, but if I am to abide by my oath, I cannot do it, believing that even under the proof, the only cause of annoyance is the mere presence of Al Capone upon the premises."

Sixteen years later, Barns would be elected to serve as a justice on the Florida Supreme Court.⁵⁰

Miami Deputies Serve Arrest Warrants on Capone

Within minutes of Barns's decision, Dade County deputy sheriffs began serving four arrest warrants on Capone for perjury charges. These charges grew out of four separate allegedly false statements made by Capone while on the witness stand during the trial of Miami public safety director S. D. McCreary in Miami's justice-of-the-peace court on false arrest and false imprisonment charges made by Capone after one of his arrests in Dade County.⁵¹

McCreary had caused Capone's arrest four times, three times without warrants. Dade County solicitor George McCaskill charged that Capone falsely testified: that McCreary had denied Capone the right to use a telephone to call his attorneys and friends; that McCreary had denied him a receipt for valuables and had ordered his valuables thrown in the jail toilet; that McCreary had ordered that Capone be given no food, water, or blankets; that McCreary told Capone that he would arrest him and members of his family, including his wife and child, if they were with him when he came to Miami. Capone was later released after posting a \$14,000 appearance bond.⁵²

Capone Recants Testimony, Avoids Perjury Conviction

Facing strong opposition in a campaign to retain his office as county solicitor, McCaskill prematurely filed the perjury charges against Capone before a decision had been handed down in McCreary's false arrest case before Justice of the Peace Warren L. Newcomb. Seizing an opportunity to clear their client, Giblin and Gordon asked Newcomb to reopen the hearing so that additional testimony could be taken from Capone, even though the case was technically closed and under consideration.⁵³ Newcomb granted Giblin's request. Giblin then put Capone on the stand again to clarify the testimony that he had given during the May 23 hearing. Giblin led Capone through a step-by-step reconsideration of his prior testimony, essentially recanting his assertions against McCreary:

"Mr. Capone, do you remember your previous testimony?" Giblin asked.

"I do," Capone answered.

"Do you remember testifying that at the police station you made a request to use the telephone?" Giblin asked.

"That's the part I want to correct, with permission of the court. I was excited about my valuables and do not remember if I asked or not. I know that I asked the officer in the police car on the way to the police station if I would be allowed to use the telephone," Capone answered.

"That was on Biscayne Boulevard?" Giblin asked.

"Yes, sir," Capone said.

"Was there any similar request made at the police station?" Mr. Giblin asked.

"Not to the best of my knowledge," Capone answered.

"Is the rest of your testimony as transcribed true?" Giblin asked.

"To the best of my knowledge, **I wouldn't swear to it,**" Capone added. [emphasis added.]⁵⁴

Following Capone's testimony, Miami Justice of the Peace Warren Newcomb dismissed Capone's false arrest and imprisonment charges against McCreary. Later, McCaskill filed four new informations restating the original perjury charges against Capone, but McCaskill would ultimately drop all of the charges because of Capone's recanted testimony against McCreary.⁵⁵

Giblin Buys Remote Broward Land for Undisclosed Client

Meanwhile, Giblin attempted to buy property for Capone out of the public eye. As early as the first week of June 1930, just days before the start of the padlocking trial in Miami, there were newspaper reports that Giblin had been seeking to buy property on behalf of Capone in Broward County and around Lake Okeechobee. On June 6, the *Everglades News*, published in Canal Point, on the east bank of Lake Okeechobee, reported a curious account of Giblin scouting for property on behalf of Capone. The report attributed the account to a well-known Pahokee contractor, W. G. "Guy" Stovall, publisher for a time of the *East Beach News* newspaper. Stovall had been accompanying Giblin on a trip north of Canal Point looking for land for Capone. Stovall reported that he had heard that Capone and a group of friends intended to buy land for a hunting and fishing preserve and that he had traveled to Miami to present an offer to the beer baron to sell a block of land fronting on Lake Okeechobee.⁵⁶

During the last week of June 1930, Giblin bought a large expanse of vacant property in remote northeast Broward County in the Town of Deerfield (today's Deerfield Beach), along Hillsboro Canal and what would become the Intracoastal Waterway. This property later became known locally as "Capone Island," and is now known as Deerfield Island Park, a park maintained by Broward County. According to the deed filed on June 30, 1930, Giblin, identifying himself only as a "trustee" for an undisclosed beneficiary or beneficiaries, acquired title to the property. Giblin declined at the time to identify his client or clients. A *Palm Beach Post* account of the transfer described the property as approximately fifty acres between the Intracoastal Waterway and the Hillsboro Canal and virtually inaccessible, being two miles from the nearest road and four miles south of Boca Raton. This account further stated that Giblin neither affirmed nor denied that he had purchased the property for Capone,

who is "known to have been seeking property for a home in the vicinity." The story characterized Giblin as "chief legal counsel" for Capone who has been involved in "almost constant litigation with Miami and Dade County authorities for about three months."⁵⁷

Capone Land Buy in North Broward County Scares Local Residents

The *Fort Lauderdale Daily News* sensationalized the purchase with a front-page bold-lettered headline that must have terrified local residents: "Capone Seeks Foothold in Broward." At first conceding that Giblin had "served with distinction as first judge of the Twenty-second Judicial Circuit, for Broward County," the account nevertheless described Capone as a "Chicago beer and brothel baron." When asked over the telephone whether Capone had bought the property, Giblin gave a smug but cryptic response: "When I find out, I'll let you know." Reports soon surfaced that Capone intended to build a mansion on the property, had engaged a New York architectural firm to prepare the plans, and hired a local contractor to build it.⁵⁸

Two weeks after the purchase, while Capone awaited a Miami judge's decision on the two remaining perjury charges still pending against him, the Chicago gangster reportedly planned to build a country estate on the property, with swimming pools, a golf course, and tennis courts. James Fritz Gordon refused to confirm the plan but said his client had considered moving from Miami Beach to Broward County. Gordon flatly denied Capone had any intention of retiring. Capone had "expressed himself recently as being weary of the various legal processes" and planned on going to Chicago to "rest up." A *Palm Beach Post* account quoted Guy Stovall, Capone's contractor, as saying work was to begin on clearing the property, constructing a large swimming pool, and performing paving work, while plans were being drawn up by a New York architectural firm for a \$250,000 residence. According to Stovall, the decision to start the preliminary work costing \$125,000 followed a decision of the Boca Raton town council that a former paved street to the property could be re-opened. Stovall also stated that Giblin had accompanied him on a trip through the Everglades to look at prospective sites for a hunting lodge.⁵⁹

Dade Drops Remaining Perjury Charges against Capone

Almost immediately after reports of Capone considering leaving Dade County and relocating to a house to be built in Broward County, Dade officials dropped the remaining perjury counts against the Chicago mobster. On Saturday, July 12, Dade Criminal Court Judge E.C. Collins entered a directed verdict of acquittal on one of the three remaining charges against Capone. In an Associated Press report of July 15, 1930, published the next day in the *Palm Beach Post*, Dade County Solicitor George McCaskill announced that he intended to dismiss the remaining perjury charges against Capone. McCaskill did not believe he could prevail on the remaining two counts, given the Court's dismissal of the first charge. He also asserted that Capone was within his rights to change the testimony the prosecutor originally charged was false. Dade officials were under the impression, wrongly, that Capone intended to relocate to Broward County, according to a *Palm Beach Post* account. In the end, Giblin and Gordon had successfully defended Capone against every civil and criminal case brought against the mobster by Miami and Dade authorities during a period lasting nearly three months.⁶⁰

While Capone may have intended to build a mansion in northern Broward County, the Boca Raton town council apparently spoiled his plan by requiring him to build an access road from the peninsula to the town, according to one authority. In any event, after federal authorities imprisoned Capone for income tax evasion in 1931, the Town of Deerfield foreclosed on the peninsula for back property taxes and turned it over to the Florida Inland Navigation District in 1934. In 1961, the peninsula became an island with the dredging of the Royal Palm Waterway. The name of the property was changed from Capone Island to Deerfield Island Park in 1980 when Broward County developed it under lease from the state.⁶¹

Plot to Assassinate Governor Carlton

The troubles of Capone, and by association, Giblin, were not over. Just two months after Miami's attempts to padlock Capone's residence, Giblin became embroiled in a plot reportedly hatched by three men to assassinate Doyle E. Carlton, Florida's governor. On August 17, 1930, Jacksonville Sheriff W. E. Cahoon jailed *Florida State News* publisher Fred O. Eberhardt of Tallahassee and two Jacksonville men, Frank Ralls

and Henry Halsema, on a charge of “conspiracy to procure” the assassination of Carlton. Carlton had been elected on a platform advocating strong statewide opposition to gambling. According to Eberhardt’s lawyer, the publisher had been talking on the telephone with Giblin when the sheriff’s deputies arrested him.⁶²

During a preliminary hearing several days later, Jacksonville attorney Stafford Caldwell, Carlton’s campaign manager, testified that Giblin told him that Ralls had implicated himself, Eberhardt, and Halsema in the plot to assassinate the governor. Giblin testified that Clem Dowling, Ralls’s roommate, implicated the three men. Giblin asserted that his sole interest in the case had been to insure that Capone was not charged with a crime if the men carried out their plan. On cross-examination, the defense revealed that none of the witnesses had any direct knowledge of the three men plotting to assassinate anyone. Giblin stated that he did not hear Eberhardt or Halsema say anything about a murder plot. Ralls, however, told Giblin that “three men” were ready “to bump off the Governor.” Denying that Capone engaged in any illegal gambling or liquor activities in Miami, Giblin asserted that he had proposed a “\$100,000 plan” to gain control of gambling in Miami. Giblin’s scheme was to draw out the conspirators to clear Capone from any association with the wrongdoing.⁶³

By now, so legendary had Capone’s exploits become, authors everywhere began churning out biographies of the thirty-one-year-old gangster even before his first felony conviction. In October 1930, *The New York Times* published a review of *Al Capone: The Biography of a Self-Made Man*, a 350-page biography selling for \$2.50 a copy. The narrative tells the story of the rise of Capone from “a cheap bum” to the head of “a gang of murderers, hijackers, and corruptionists.” The book claimed that Capone’s profits from illegal activities totaled \$30 million during the year 1927 alone. Repeating Capone’s classic remark, the *Times* review quoted the mobster as saying, “They’ve hung everything on me except the Chicago fire.” To be sure, none of the government’s claims had so far stuck. “Such is the uncompleted story,” the reviewer concluded. But Capone had before him a federal trial for income tax evasion and a potentially lengthy prison sentence.⁶⁴

Giblin Forces Capone to Pay Legal Fees

Despite numerous attempts by Giblin to write Capone and politely request payment, the mobster refused to pay him for the legal work he had provided his client. One author has written that when Capone balked at paying “Giblin’s fee of \$50,000, the former athlete [Giblin] stormed into his [Capone’s] home, grabbed him [Capone] by the shirt-front and threatened to knock his teeth down his throat. Capone was so startled that he handed over what cash there was in the bedroom chest.” This author goes on to state that the Giblin and Gordon law firm later sued to collect the balance of the fee. Another author gives a similar account. That author opines, however, that the Miami fee litigation was contrived by Capone and his lawyers in a clever attempt to delay a hearing in Capone’s income tax evasion case in Philadelphia.⁶⁵

Giblin Attaches Capone’s Furniture to Force Payment of his Legal Fees

Less sensational than these after-the-fact book accounts, contemporaneous news accounts confirm Giblin’s fee dispute with Capone. *The New York Times* reported that on June 6, 1931, Dade County deputy sheriffs attached Capone’s Palm Island home and removed part of its furnishings following a suit filed by Giblin alleging that Capone owed him fees totaling \$50,000. The next day Sunday, June 7, Dade County deputy sheriff Coleman told reporters that removal of Capone’s furnishings would continue on Monday, June 8, unless ordered otherwise. A week later, *The New York Times* reported that on Monday, June 15, 1931, Giblin filed a creditor’s bill in Dade County Circuit Court asking the court to subject Capone’s Palm Island residence and furnishings to a judgment in connection with a \$50,000 suit Giblin had brought against Capone for unpaid legal services.⁶⁶

In Chicago, federal authorities arraigned Capone the day after the Miami filing on conspiracy charges related to 5,000 liquor law violations involving Capone and sixty-eight of his confederates. Although it is impossible to state whether or not the fee litigation had been trumped up in an attempt to excuse Capone from appearing in federal court in Chicago, the publication of each of the Giblin fee litigation stories in the *New York Times* under a Miami byline directly follows a story under a Chicago byline about the federal government’s attempts to prosecute

Capone for tax evasion and other crimes. In a letter written to an old friend less than six months before his death from cancer, Giblin related that because Capone refused to pay him, he attached Capone's home furnishings and other property, resulting in the sheriff removing Capone's property from the residence and "forc[ing] Capone to pay."⁶⁷

Capone Jailed in Chicago for Income Tax Evasion

After a brief trial beginning on October 6, 1931, Capone finally went to jail on income tax evasion charges on October 24, 1931. Giblin, just thirty-three-years old at the gangster's jailing, never represented Capone again. Years later, Giblin, who had represented railroad, insurance and other corporate clients when he began his career, commented on his representation of the notorious gangland leader: "The last thing in the world I wanted right then was a criminal practice but suddenly I had it and it cost me money. Some of my best business clients dropped me like a hot potato. It was not politically expedient to have been Capone's attorney." Giblin resigned to the inevitable, making criminal law a significant part of a civil and criminal practice from 1929 to 1951. Performing brilliantly in his new-found area of expertise, Giblin lost only a handful of criminal cases in that period.⁶⁸

Giblin's Outside Business Interests

Outside the practice of law, Giblin engaged in a wide variety of business ventures, with varying degrees of success from 1926 until 1945. The collapse of the real estate boom in 1926, the 1926 and 1928 hurricanes, followed by the stock market crash in 1929, forced many south Floridians like Giblin to seek opportunity wherever they could find it. Just a few weeks after moving to Miami to practice law with Fritz Gordon, Giblin leased a horse race track in Pompano, in Broward County. Giblin believed his system legitimate despite laws making gambling illegal. Giblin invested between \$3,000 and \$4,000 in the venture and personally operated and managed the track himself for three or four months. This speculative enterprise failed when competitors devised another system of operation.⁶⁹

In 1931, just after his representation of Capone had ended, Giblin and Jack August formed a corporation known as the Biscayne Bonding Company to write surety bonds, designed to assure the appearance of

persons charged with crimes to appear in court. Giblin invested \$2,500 in the venture and devoted fifty percent of his time to operating it, according to August. The corporation remained active until 1936 when it was dissolved.⁷⁰

From 1934 to 1935, Giblin pursued another race track venture, but in New Jersey. Despite the fact that the State of New Jersey's constitution specifically forbade pari-mutuel betting, Giblin and a group of investors apparently headed by Herbert Gimbel, of the famed Gimbel's Department Store family, attempted to operate a greyhound race track in Pennsauken, just across the Delaware River from Philadelphia. In 1934, the New Jersey state legislature passed a law permitting dog racing in that state under the pari-mutuel system despite a prohibition against gambling in the New Jersey constitution. The legislation also regulated the leasing of land for such purposes, justifying the law on the country's dire economic straits. The Township leased land adjacent to its airport to a company that in turn subleased the land to the Pennsauken Kennel Club.⁷¹

Predictably, the New Jersey Supreme Court ruled the operation in direct violation of the New Jersey constitution and shut it down. Through Giblin's efforts, however, the Town of Pennsauken leased the land to Gimbel's group for dog racing, the arena was erected "overnight," and a permit issued authorizing dog racing before closing. The track was in operation for only forty-nine days before the New Jersey court ruling. During that forty-nine-day period, however, the operation was so successful that all loans were repaid together with six percent interest and a twenty percent dividend paid on stock, with Giblin collecting an astonishing \$25,000 share of the profits. Giblin devoted eight months of his time to the venture. If the track had been allowed to operate another thirty days, Giblin would have earned another \$150,000 and been able to retire from the practice of law, according to a federal court account of the venture.⁷²

In 1935 and 1936, Giblin and a business associate secured a lease from the City of Miami to operate a restaurant in Bayfront Park on Biscayne Bay. This venture was also successful. Giblin received a one-third interest in the restaurant. Sometime later, he sold his interest to his partners. Three years later, in 1939, Giblin organized the Economy-Profit Sharing Association, a cooperative engaged in providing laundry and dry cleaning services to members at prices considerably below charges fixed by the State Laundry and Dry Cleaning Board. he served as president and general manager, devoting seventy percent of his time over

a two-year period until the legislature repealed the act establishing the state board. While the cooperative grossed between \$400,000 and \$500,000 a year, it is not known how much Giblin himself netted from the venture.⁷³

Capone Released from Prison

On January 19, 1939, after nearly eight years of imprisonment, the U.S. Bureau of Prisons released Giblin's most famous client, Al Capone, from Terminal Island prison, Los Angeles, after he developed tertiary syphilis during a four-and-a-half year stay at Alcatraz. For the rest of his life, Capone lived at his Palm Island home in Miami Beach.

Ritter Impeached, Convicted and Removed as Federal Judge

While Giblin practiced law in Miami and explored various business opportunities throughout the Miami area and elsewhere, U.S. District Judge Halsted Ritter of Miami, the federal jurist who had enjoined Florida's sheriffs from interfering with Capone's move back to Miami after a short stint in a Pennsylvania prison, began a slow, agonizing three-year descent from his lifetime appointment as a federal judge, culminating in impeachment and removal from office. The decline began when West Palm Beach Congressman J. Mark Wilcox introduced a bill in the House of Representatives on May 29, 1933 (three years after the injunction protecting Capone), authorizing House Judiciary Committee members to investigate Ritter's conduct and determine whether or not he had committed any impeachable offenses. Ritter, it may be recalled, initially worked briefly for Wilcox when he came to Florida in February 1926. Giblin also had vehemently opposed Ritter's confirmation as a federal judge. Six months after passage of Wilcox's bill, impeachment committee hearings began in Miami in November 1933. In addition to hearing the testimony of several prominent Miami attorneys, including Abe Aronovitz, James A. Dixon, and Henry K. Gibson, committee members also heard the testimony of Vincent Giblin. Giblin testified that he and his partner, Fritz Gordon, had met with Ritter in his "rooms" at the Whitehall Hotel in Palm Beach, rather than in his chambers in Miami, where Ritter entered the temporary injunction protecting Capone in returning to his Palm Island residence in April 1930. Giblin's testimony appeared to corroborate an impeachment allegation that Ritter had received a free apartment in the Whitehall while the hotel was the sub-

ject of a foreclosure proceeding overseen by Ritter in his capacity as a federal judge.⁷⁴

On March 2, 1936, the House of Representatives voted to impeach Ritter by a vote of 181 to 146 on only one of seven articles of impeachment. After an eleven-day trial, the U.S. Senate convicted Ritter on April 17, 1936, on the last of the seven articles and removed him from office. Ritter, however, did not go easily. He initially refused to vacate his Miami chambers, routinely entering his offices at the Federal Building, while officials contemplated changing the locks after his removal. To force payment of his salary despite removal, Ritter brought suit against the government. Ritter argued that the Senate had illegally removed him on a vague omnibus or 'catch-all' article after acquitting him on all six preceding articles specifying six separate impeachable offenses. The United States Supreme Court, however, upheld the U.S. Court of Claims' decision denying Ritter any relief on March 8, 1937.⁷⁵

Establishes Stag Bar in Miami

Giblin continued to explore business opportunities outside the practice of law. In 1945, he and a partner formed still another corporation named Stag Bar, Inc. to own and operate a bar known as The Downtowner, ultimately adding a restaurant and lounge to the Miami operation. A few months later, Giblin's partner withdrew and the attorney added another partner, having already invested \$17,000 in the business. Giblin's second partner withdrew, and his brother, Creston, took over the presidency and management of the business. By the time the business ended in 1950, Giblin had invested \$20,000 in the bar.⁷⁶

FBI Watches Capone's Palm Island Residence

On January 25, 1947, Alphonse Capone, who had sparked Giblin's legal career in Miami nearly two decades before, died at his Miami Beach home at the age of 48 of heart failure.⁷⁷ Two years before, the Federal Bureau of Investigation (F.B.I.) kept a close watch on the slowly dying Capone, hoping to turn up almost anything on the now reclusive, syphilis-ridden mobster. The ostensible purpose of the surveillance was to catch Matthew Capone, Al's brother, who was wanted on a charge of murder. The F.B.I.'s Miami office conducted continuous twenty-four hour surveillance at Capone's Palm Island residence for a three-week period ending February 23, 1945. F.B.I. agents meticulously recorded activ-

ities at the house as well as their observations of the people visiting Capone. Palm Island, the F.B.I. reported to J. Edgar Hoover, had once been “an exclusive residential area,” recalling its status nearly two decades before when Capone sought to retake possession of his residence with the help of Giblin and Gordon. Real estate values began plummeting after real estate brokers and nearby landowners learned that the Chicago mobster lived on the island when Capone bought the residence in 1928. Now, it appeared, Capone was living “a quiet life.”⁷⁸

Capone no longer had any contact with Giblin, now an established and successful Miami lawyer. Capone’s usual routine outside his residence was to go to the grocery store, visit his dentist, and drive to see his son Albert Francis Capone (“Sonny”), then living near Hollywood. Sonny attended a private Catholic school on Miami Beach and the University of Notre Dame from 1937 until 1938 before graduating with a bachelor’s degree in business administration from the University of Miami. By all accounts, Sonny was “a normal law-abiding citizen,” according to F.B.I. reports. Sonny’s father, by contrast, was far from the normal law-abiding citizen. Capone consorted with his old Chicago cohorts from time to time. And, as a result of the advanced stages of syphilis, he spoke very rapidly, slurring his words, constantly humming, whistling, and singing while conversing with various cronies from his former syndicate days, the Miami office reported to J. Edgar Hoover.⁷⁹

Giblin Practices Law in Post-World War II Miami and Accumulates Contempt Citations

Engaged once again in the private practice of law, now in the state-ly Ingraham Building in downtown Miami, Giblin soon earned a reputation as a fearless, determined, and successful attorney.⁸⁰ Three different Dade County circuit judges would find Giblin in contempt of court, although he would ultimately achieve acquittal in all three cases. In one especially noteworthy case, on April 4, 1946, Dade Circuit Judge Stanley Milledge sentenced Giblin to six months in the Dade County jail for contempt of court for accusing Judge Milledge of corruption in a case in which Giblin had sued on his own behalf to stop a gambling syndicate’s illegal activities in Dade County. Inexplicably, Milledge agreed to the syndicate’s application for a delay in hearing Giblin’s request for a temporary ban of illegal gambling without giving Giblin an opportunity to object. The additional time gave the gambling syndicate time to file a

request that Milledge remove himself from the case. When Milledge denied the request, the syndicate further delayed the proceedings by appealing Milledge's denial to the Florida Supreme Court.⁸¹

To thwart the syndicate's scheme to delay the proceedings through the end of the tourist season, Giblin dismissed his case before Milledge and filed exactly the same lawsuit for an early hearing before another judge. Complying with a state law requiring the filing of an affidavit supporting his dismissal request, Giblin submitted a detailed sworn statement accusing Milledge of "cooperating" with the gambling syndicate "in a common design to extend gambling activities of the syndicate for a prolonged period." Giblin also stated that he had heard that the syndicate had helped Milledge win election as Dade County state attorney and therefore did not expect strict enforcement of gambling laws, although Milledge had campaigned on a platform of strict law enforcement. Giblin further swore that the syndicate had also helped Milledge win Governor Fred Cone's appointment of the judge to a seat on the bench.⁸²

Giblin had filed the suit to stop illegal gambling casinos operated by Howard Losey and others (known as "the syndicate") at the Royal Palm Club, the Esquire Club, the Bali Club, the Teepee, "the Farm" (south of Miami), and at various other gambling establishments throughout Dade County. Giblin believed that gambling at these venues earned profits averaging \$25,000 a night, and, at times, exceeding \$100,000 a night during the winter season, which was rapidly coming to a close. To Giblin, time was of the essence in stopping the gambling at the earliest possible time. Milledge, however, found Giblin in contempt of court for filing the affidavit accusing him of misconduct and sentenced him to six months in the Dade County jail. To secure his release, Giblin filed a petition for writ of habeas corpus in the Florida Supreme Court. Nearly two months later, the high court quashed Judge Milledge's contempt citation, ordering Giblin's release and further directed a new trial.⁸³

Giblin never spent a day in jail. A widely-circulated photograph of the attorney in the local press shows a relaxed Giblin seated in a chair in the Dade County sheriff's office, smoking a cigar, while awaiting word from the Florida Supreme Court on his request for a temporary release on bail pending appeal of Milledge's ruling. Exactly ninety-four minutes after turning himself into the Sheriff's office, a telegram from Tallahassee brought news of the high court's order directing Giblin's release on a \$1,000 bond pending the appeal.⁸⁴

Following the high court ruling on Giblin's habeas corpus petition, on June 18, 1946, Senior Circuit Judge Paul Barns (the same judge who had denied the padlocking of Capone's residence in 1930) ordered Dade Circuit Judge Charles A. Carroll to conduct a second contempt hearing on Milledge's charges after the jurist had removed himself from the case. After this second contempt hearing, Carroll adjudicated Giblin guilty a second time, sentenced Giblin to thirty days in the Dade County jail and fined him \$2,000. Giblin once again bonded out of jail and appealed Carroll's ruling to the high court. In overturning Judge Carroll's contempt judgment, on February 11, 1947, the Florida Supreme Court ruled that since Giblin's motion and affidavit charging Judge Milledge with corruption had been filed pursuant to a statute requiring a sworn reason for dismissing the action, Giblin's allegations against Judge Milledge were privileged and could not be used to secure a contempt conviction. Interestingly, Giblin and Milledge later became good friends.⁸⁵

Meanwhile, in October 1946, Giblin had already formed a law firm partnership with longtime Miami Beach municipal court judge Daniel P. Galen and joined the Miami Beach Bar Association. That same month Dade County Bar Association members voted overwhelmingly against the Bar taking any disciplinary action against Giblin. Despite the support of the Bar association in the Milledge affair, the pugnacious Giblin made headlines in the local papers again for slugging a witness and calling him a "liar" during a police suspension hearing before the Miami Civil Service Board in October 1947.⁸⁶

In March 1949, Giblin's own life turned briefly litigious, and highly publicized, when his wife Julia sued him for divorce in Dade County Circuit Court, an event reported in *The Miami Herald*. The suit was settled in one week's time. Giblin and his wife were divorced on March 26, 1949. Giblin and Julia had no children; Julia was awarded alimony. Little more than a week later, Giblin married again, according to *The Havana Post*. The *Post* reported that a "Mr. and Mrs. Gib[b]lin" of Miami were visiting the city, probably on their honeymoon. His second wife, Virginia, was his legal secretary.⁸⁷

Giblin Serves as Circuit Judge a Second Time in Dade County

Less than a year after Giblin's divorce and marriage to his second wife, Virginia, on December 26, 1950, Florida Governor Fuller Warren

appointed him to serve as a Dade County circuit judge, joining his old law partner Fritz Gordon on the bench. *The Miami Herald* issued an even-handed opinion on the selection:

“Two decades ago Giblin was a Circuit judge in Broward County. He displayed judicial talents the profession recognized then. He is, nevertheless, a man of character and contradictions and some personal eccentricities. Yet in his practice as a criminal lawyer here he has been noted for professional aloofness from his clients. He made it clear always that he was operating for them solely as a professional employee. His return to the Circuit bench here will be watched with close interest both by the profession and the people of this county.”⁸⁸

On November 13, 1951, Giblin empanelled the Fall Term of the Grand Jury. Six months later, on May 12, 1952, grand jury members released their final report. Jury members boasted over their work in prosecuting “organized gambling,” noting “for the first time in the history of modern Dade County” the absence of “open and notorious table gambling or bookmaking, except on a brief and sneak basis.”⁸⁹

Three months later, on August 12, 1952, Giblin announced his candidacy to fill the unexpired term of Justice Roy Chapman on the Florida Supreme Court, just a few days after Chapman’s death. Florida Governor Fuller Warren then announced the appointment of West Palm Beach attorney E. Harris Drew to fill Chapman’s unexpired term. When Drew stood for election at the end of Chapman’s term, Giblin ran against him.⁹⁰

Giblin Runs against Drew for Florida Supreme Court Seat

During the campaign against Drew, Giblin openly criticized the activities of the Florida Supreme Court as well as proposed plans for changing the high court. Giblin particularly ridiculed a proposed change in the state constitution to increase the number of justices from seven to ten, arguing that Florida needed more competent justices, not simply more justices. And he deemed figures circulated to prove the need for more justices a “hypocritical sham.” Giblin also said that the office of chief justice should be occupied by a “dominant figure who can give orders and see that they are carried out” rather than simply an office “rotated among the justices so all can have the honor of being chief justice.” On October 15, 1952, despite the strong endorsement of an over-

whelming majority of the Board of Governors of The Florida Bar, Giblin lost the statewide election by a slender margin.⁹¹

Giblin Teaches Law

From 1952 until 1957, Judge Giblin taught civil procedure courses as a part-time lecturer at the University of Miami law school to many future south Florida lawyers who worked during the day and attended law school at night. Judge Giblin is remembered as a colorful and interesting speaker who often regaled his night school law classes with stories of his Capone representation. One Giblin story involved an occasion when he was invited to dinner at the Capone Palm Island residence. When Capone's formally-attired male dinner guests began to seat themselves, Giblin was rather shocked to see them wearing shoulder-holstered pistols underneath their tuxedo jackets.⁹²

Opposes Fraudulent Divorces

As a Dade jurist, Giblin vehemently opposed Florida divorce practices, criticizing Florida's then ninety-day residency requirement as too short. He also rallied against "ineffectual practices of some members of the bar." On September 17, 1953, Judge Giblin appointed Miami attorney Abe Aronovitz (first Jewish mayor of Miami, 1953-1955) as a friend of the court to investigate every divorce granted in Dade County after January 1, 1953, and to determine how many persons who gave Florida addresses were still living in the state. Giblin also directed the Dade state attorney to bring disbarment proceedings against an unnamed Miami lawyer who was involved in a divorce action the judge called "fraudulent." He glibly stated that he was going to continue to deny divorces to "migratory perjurers who come here to rid themselves of the responsibility of marriage assumed in another state." In a more thoughtful, less entertaining statement, Giblin sternly announced, "I don't intend to run a court in which the truth is expected in cases other than divorces, but where lies are applauded and rewarded in divorce cases."⁹³

Giblin during the McCarthy Era

During the McCarthy era, Giblin held strong but popular anti-Communist views, reinforced by a Florida 'anti-communism' law (Chapter 876, Florida Statutes), and a November 1954 Dade County

grand jury report commending efforts to root out Communist infiltrators in the county. Enacted in 1941, Chapter 876 of the Florida Statutes still makes “criminal Communism advocating the overthrow of government by force or violence or assassination of government officials” a crime in the State of Florida. Meeting in the Spring Term of 1954, the Dade County Grand Jury cited forty-two persons “alleged to be members of the Communist Party of the United States” in violation of chapter 876. Only six had disclosed their membership. Thirty-four had been found guilty of contempt for refusing to answer questions asked of them in the Miami grand jury room and given sentences ranging from three months to a year in jail by the Dade Circuit Court. Fourteen found guilty and committed to the Dade County jail sought their release through habeas corpus relief. All fourteen ultimately were discharged from custody by order of the Supreme Court of Florida. The Dade County Grand Jury indicted one, Sam Hirsch, on two counts of perjury. In closing, Dade Grand Jury members commended State Attorney George A. Brautigam for his “untiring efforts,” further recommending “continued action against all Communists, and subversive persons in Dade County, to the end that they and their activities be duly and legally exposed.”⁹⁴

Giblin Disbars Sheiner for Communist Affiliations

Giblin often spoke to social and civic groups, inveighing against American apathy in opposing the internal threat of Communism. In one speech, Giblin criticized the press for letting Red propaganda creep into its news columns: “What they [the press] can’t seem to realize is that this army of Communists has landed and is trying to destroy us from within.” In a move reportedly to have been the first such action in the nation, Giblin disbarred forty-four-year-old Miami attorney Leo Sheiner on September 3, 1954, after Sheiner invoked the Fifth Amendment when questioned about his Communist affiliations.⁹⁵

Sheiner, the NAACP and the Florida Progressive Party

Almost from the beginning of his private practice, Sheiner had begun taking on liberal causes in Miami. In September 1947, he represented the NAACP in a case involving a Miami African American veteran, A. C. Hopkins. Hopkins had been fatally shot by a white Miami

policeman, R. O. Weigand. Weigand claimed self-defense, asserting that Hopkins had attempted to draw a weapon and was drunk and disorderly. As a result of Sheiner's representation, at the behest of the NAACP, Miami Justice of the Peace O. B. Sutton ordered Weigand held on a charge of second-degree murder. The next year, in 1948, Sheiner, along with Miami lawyer Abe Aronovitz and two other Miami attorneys, appealed the case of Edward M. Norman to the Florida Supreme Court. Norman had filed a petition with the Dade County Supervisor of Registration to change his party affiliation from the Democratic Party to the People's Progressive Party. The high court denied Sheiner's request for relief because Norman's request to change party affiliation had not been made in writing in the presence of the Supervisor of Registration as required by Florida law.⁹⁶

Sheiner also helped found the Florida Progressive Party, a left-wing group supporting Henry Wallace's 1948 bid to oust Harry Truman from the presidency, and served as state finance committee chairman. In fact, one author credits Sheiner as one of a small number of Miami Jews who formed the nucleus of the Florida Progressive Party for Wallace. Among many other progressive stands, the national party's platform called for ending universal military training, the poll tax, and segregation. The party also supported a more robust United Nations, immediate recognition of the State of Israel, and public ownership of large areas of the economy such as banking, railroads, and electric power.⁹⁷

On April 7, 1954, Judge Giblin ordered Dade State Attorney George Brautigam to bring disbarment proceedings against Sheiner for failing to answer questions about his affiliation with the Communist Party before a Senate committee. Five days later, Brautigam filed a motion alleging that on January 26, 1954, Sheiner refused to answer questions before the Dade County Grand Jury regarding his membership in organizations advocating the forcible overthrow of the government, basing his refusal on Fifth Amendment grounds protecting citizens against self-incrimination. Brautigam's motion also alleged that less than two months later, on March 18, 1954, Sheiner refused to answer whether or not he had been a member of the Communist Party and the head of the Southern Conference for Human Welfare at Miami, Florida, before a United States Senate subcommittee.⁹⁸

On September 8, 1954, after asking Sheiner just two questions during a hearing held five days earlier, Giblin entered a written order dis-

barring Sheiner even though he had been a member of the bar in good standing in two states as well as the District of Columbia. Giblin's decision made national headlines, with newspapers across the country reporting the disbarment, including *The New York Times*. *Time* magazine reported the disbarment in an article headlined, "The Limits of Immunity." The article quoted Giblin as stating, "It is inconceivable to the Court that an American lawyer, under obligation to support and protect the Constitution of the United States, when his loyalty to that Constitution and Republic is justly questioned, will invoke as a shield the Fifth Amendment or any other amendment to the Constitution of the United States." *The Fort Pierce News-Tribune* reported that Giblin denounced intellectuals as "pygmies on stilts" who give aid and comfort to the Communist cause.⁹⁹

American and Florida Bar Associations Support Giblin

Sheiner appealed his disbarment to the Florida Supreme Court with the help of Miami attorneys Louis M. Jepeway, Sr., and Jack Kehoe. Pensacola attorney John ("Jack") M. Coe, state chairman of the Florida Progressive Party in 1948, also aided Sheiner. As an attorney for the progressive National Lawyers Guild, Coe helped write the brief for the Guild as *amicus curiae* in support of Sheiner's constitutional right to invoke the Fifth Amendment. Opposing Sheiner and the National Lawyers Guild, the American Bar Association (ABA) vigorously supported Giblin's disbarment order.¹⁰⁰

In addition to support from The Florida Bar, Dade County's State Attorney George Brautigam and Florida Attorney General Richard Ervin, Giblin also received support from what today might seem the unlikeliest of sources. Miami attorney Ellis S. Rubin, as an assistant attorney general, filed a brief in support of disbarment. During the year 1955, Rubin also filed a ninety-one page report on his investigation of subversive activities in Florida as a special assistant attorney general in cooperation with the American Legion. During oral arguments held on April 6, 1955, Herbert O'Connor, then chairman of the committee on subversive matters, advocated on behalf of the ABA that Giblin had not only the right but the duty to disbar Sheiner immediately for failing to answer questions regarding his membership in subversive organizations.¹⁰¹

Despite the impressive support of the American Bar Association favoring Giblin's disbarment order, the Supreme Court of Florida

reversed the order and returned the case to Giblin for further proceedings, ruling that Sheiner had been denied due process. After Sheiner invoked the Fifth Amendment privilege against self-incrimination, the trial court could not solely rely on a refusal to answer questions about Communist Party membership to disbar an attorney, without direct evidence of membership. The high court did not end the matter, though. The justices made it clear that, if proven, membership in the Communist Party alone could lead to Sheiner's disbarment.¹⁰²

Giblin Petitions Florida Supreme Court to Disbar Communist Party-affiliated Lawyers

In addition to the Sheiner case, Giblin pressed ahead with plans to disbar attorneys automatically who invoked the Fifth Amendment in response to questions concerning their Communist Party affiliations. Judge Giblin and twenty-six other members of the Miami bar, including Ellis Rubin, petitioned the high court to amend Florida Bar rules to, in effect, automatically disbar attorneys who refused to answer questions about their membership in the Communist Party. The Florida Bar's board of governors responded with an alternative provision making refusal to answer questions *prima facie* evidence of unfitness to practice law. In declining to adopt either provision, on July 13, 1956, the Court in an *en banc* decision ruled that an attorney should be entitled to all of the protections afforded by the Constitution, including the Fifth Amendment privilege against self incrimination as well as fair trial and due process protections in disbarment proceedings. Still, the justices made it clear that lawyers could not "consistently become members of the Communist Party or lend their sympathy or allegiance to any communist front, cell or other communist sympathizer known to be operating within this country without forfeiting their membership in the bar." Membership in the Communist Party had now become grounds for disbarment in the State of Florida.¹⁰³

Two weeks before the Florida Supreme Court made membership in the Communist Party a ground for disbarment, on July 2, 1956, Dade Circuit Judge Ray H. Pearson held the second disbarment hearing involving allegations that Sheiner had been a member of the Communist Party. A former FBI undercover agent, Joseph D. Mazzei, testified that he had been sent to Miami by the Pittsburgh Communist Party in 1948 to

discuss the “elimination” of Dade Circuit Judge George E. Holt. Holt had gotten national publicity in 1948 when he set a bond of \$100,000 for Leah Adler Benemovsky, who refused to say whether or not she was a Communist. Holt also sentenced thirty-five persons for contempt during a probe of Communist activities in Dade County. Holt told newspaper reporters the day before the Sheiner hearing (July 1, 1956) that he had received a telegram on June 16, 1955 (the day after Judge and Mrs. C. E. Chillingworth went missing at Palm Beach) warning, “You’re next.”¹⁰⁴

Sheiner Exonerated

Mazzei testified before Judge Pearson that he had discussed with Sheiner a plan to bring in someone to “knock off” a Florida judge (Holt) with whom the Communists were having trouble. Sheiner, now a “former Miami lawyer,” testified that he had been a party member on or after April 1, 1952, but refused to state whether he had been a member before April 1, 1952. Almost three months later, in an entirely unrelated federal criminal case pending before the United States Supreme Court, U.S. Solicitor General J. Lee Rankin advised the justices that he had serious reservations about the credibility of Mazzei, who had been one of the federal government’s key witnesses in a successful criminal prosecution for violation of the Smith Act. Particularly troubling was the doubtful veracity of Mazzei’s statements that he had conspired with Sheiner to “knock off” a Dade County judge. On May 29, 1959, the Florida Supreme Court affirmed Dade County Circuit Judge Pearson’s dismissal of disbarment proceedings against Sheiner. The Florida court finally put an end to what amounted to a five-year campaign to disbar Sheiner during the tumultuous McCarthy era.¹⁰⁵

Giblin Serves as Associate Justice on Florida Supreme Court a Second Time

While serving as a Dade circuit judge, Giblin sat for a second time as a justice on assignment to the Florida Supreme Court, authoring as associate justice five opinions for the high court in 1954. Giblin also sat as an associate judge of the Miami-based Third District Court of Appeal, and in that capacity authored opinions for the appellate court in Miami in two cases in 1958 and 1959.¹⁰⁶

Judge Giblin Arrested, Resigns Bench a Second Time

On January 23, 1959, Giblin's wife, Virginia, had been driving him to court when she was stopped for speeding. Giblin tried to explain who he was and that he was going to court, but the Coral Gables police officer would have none of it. Giblin then drove away. The officer arrested both Giblin and his wife. The case ended up in Dade circuit court, which ruled that the Coral Gables municipal court had no right to try the judge on charges arising out of his wife's speeding charges. The City of Coral Gables appealed to the District Court of Appeal, which reversed the case and ruled in favor of the city. Giblin then appealed the District Court of Appeal's decision to the Florida Supreme Court, which reversed the District Court of Appeal and ruled in Giblin's favor. By then, Giblin had already resigned a second time in a judicial career that had first begun in 1927 and ended for the second and final time in 1959 after eight years on the Dade bench. In the end, Giblin grouched that he had been forced to resign by Dade County Bar Association statements that judges should stay out of controversy, protesting the Association's "attempt to gag me."¹⁰⁷

Giblin, a Miami Lawyer Again

In 1959, Giblin joined Marion Sibley in the highly-respected Miami Beach firm of Sibley, Grusmark. The Sibley, Grusmark firm engaged primarily in commercial litigation. Giblin's partner when he himself became a Dade County circuit judge, U.S. District Court Judge James Lawrence King, remembers him for his "phenomenal memory, a passion for attention to detail, precision in speech and a brilliant mind." Another partner, Irving B. Levenson, recalls that Giblin never dictated any of his work into a dictating machine or to a secretary. Instead, Giblin wrote out all of his legal work and correspondence in long-hand on a yellow legal pad. In his trial work, Giblin was so physically imposing and possessed of a stare so intense witnesses visibly trembled on the witness stand under the former judge's cross-examination. In his office work, Giblin had been a 'fly-specking' perfectionist. He once summoned Levenson to his home at 3:00 a.m. to complain that there had been a misplaced comma in a commercially-printed brief that Levenson helped draft.¹⁰⁸

Final Years

In 1960, Giblin supported off-track gambling in Miami Beach hotels through the use of closed-circuit television, with the placing of bets processed through track personnel, arguing that the system would increase revenues fivefold to the state racing commission. Two years later, Giblin challenged the legality of Dade County's grand jury system, claiming it unconstitutional on the ground that it excluded a disproportionate number of working people in favor of the wealthy. Dade Circuit Judge Robert Floyd denied Giblin's request to invalidate the system. In 1963, Giblin ran for a new Dade County senate seat in the Florida Legislature and lost.¹⁰⁹

Outside the practice of law, Giblin was known as a brilliant conversationalist, but he was also known to have problems with alcohol. After a Dade County Bar Association cocktail party, Giblin was told the next day that he had been singing with his arm around his worst enemy. Swearing off booze for four years, Giblin once remarked: "Anytime the stuff makes me buddy up to that so-and-so, it's time to quit." Some recall, however, that Giblin had long since abandoned drink when they knew him.¹¹⁰

Giblin died on March 21, 1965, of colon cancer in Miami Beach at the age of sixty-seven. One of the many obituaries published after his death reported that he "was held in high regard for his knowledge of the law, even by attorneys who objected to the limelight that seemed to seek him."¹¹¹ The *New York Times* ran a lengthy story on the life of Giblin focusing on his successful representation of Capone and only briefly mentioned his service on the bench in Broward and Dade counties.¹¹² A *Time* magazine article briefly acknowledged Giblin's passing with references to his being "onetime Florida mouthpiece for Al Capone" and his nine "tempestuous" years of service as a Dade County judge, crusading to lengthen Florida's residency requirement for divorce from ninety days to six months, and the venting of his "terrible temper."¹¹³ "Absolutely fearless," "incorruptible," "meticulous" and "a brilliant lawyer," however, were the words and phrases most often used to describe Giblin by those who knew him best.¹¹⁴ On the automobile trip with then Dade Circuit Judge James Lawrence King to Giblin's funeral service in Coral Gables, Judge Stanley Milledge, who nearly two decades before jailed Giblin for contempt of court, wept at the loss of such "a great man."¹¹⁵

Conclusion

Despite efforts to peel back Florida history, Vincent Claude Giblin remains one of the State's more contradictory and enigmatic figures. At the age of 29, he served as Broward County's first circuit judge, perhaps the youngest circuit judge in the state. He practiced law during a period of rapid population growth, expanding real estate development, and burgeoning tourism in south Florida. He fought with fierce tenacity to retain his seat on the Broward bench after he lost an election following his first year in office. He finally took the matter to the Florida Supreme Court and won. When the Florida Comptroller refused to pay him after the defeat, Giblin sued the Comptroller in Tallahassee and won again.

During Prohibition, he represented Al Capone for four short months and won every case. In doing so, Giblin lost many of his corporate clients. Nonetheless, his practice in both criminal and civil law continued to thrive. In attempting to earn a living during the hard times of the Great Depression, Giblin struggled like many others, pursuing several business ventures. His business dealings, however, often took advantage of 'loopholes' in the law, as in his schemes to conduct horse racing in south Florida and in New Jersey, contrary to the laws in both states. He took advantage of other 'loopholes' in conducting a laundry and dry cleaning cooperative at prices substantially below charges fixed by a state board until the Florida Legislature repealed the act establishing the board.

As a Dade County lawyer, his pugnacious style in practicing law led to contempt charges in the 1940s. He represented a poor black man in Broward County facing the death penalty on murder charges. Giblin fought the case without a fee and won the man's acquittal.¹¹⁶

His appointment a second time to the bench as a Dade County circuit court judge led *The Miami Herald* to observe the many "contradictions" in his life. During the McCarthy years, Giblin mirrored the times in which he lived, leading popular attempts to root out Communists in south Florida despite the questionable constitutionality of his actions. Reportedly, Giblin became the first judge in the nation to disbar a lawyer practicing before him for alleged Communist ties.

Giblin's actions in disbaring Miami attorney Leo Sheiner may have been a popular move at the time. But, for Sheiner, the consequences were personally devastating. Authorities pursued Sheiner for more than five years before the Florida Supreme Court finally vindicated him.

Giblin campaigned for truth in divorce cases, arguing that a divorce case deserved no less in the administration of justice. He fought for a longer residency requirement before the granting of a divorce to stop the sham of people traveling to Florida for a divorce after only a brief stay here. Today, one must reside here for at least six months before filing a divorce suit, the same length of time Giblin advocated.¹¹⁷

We may never be able to reconcile the many contradictions in the life of Vincent Claude Giblin, the orphaned son of a Mobile police chief who sued Al Capone for his fee and lived to collect it.

Whatever may be said and written about Giblin, much more remains to be discovered and written about this legal giant of many contradictions.

Endnotes

- 1 The author wishes to acknowledge the assistance of Fort Lauderdale attorney Patrick S. Scott, a graduate of both the College of Arts and Letters and the Law School of the University of Notre Dame, in researching this article and providing several historically important Dade County Bar Association directories as well as Philip S. Moore's *A Century of Law at Notre Dame*. The author also acknowledges Frank Dumenigo, Coral Gables, Fla, for sharing his impressive collection of Giblin memorabilia, including the Judge's gavel, as well as numerous newspaper clippings recounting Judge Giblin's career in the law. Papers such as telegrams in the possession of Dumenigo will hereinafter be referred to more specifically as "Dumenigo Papers." For an earlier and brief account of Giblin focusing on his judgeship in Broward County, see, William G. Crawford, Jr., "Judge Vincent C. Giblin: Broward's First Circuit Judge was Capone's Lawyer, Dade Judge in the 50's," *Broward Legacy*, Vol. 19 (Summer/Fall, 1995), 2-12. For biographical information on Giblin at age 20, see, *World War I Draft Registration Cards, 1917-1918*, online, www.Ancestry.com. for Vincent Claude Giblin signed on September 12, 1918. Author interview with Tom Jennings, Public Information Officer, City of Mobile (Ala.) Police Department on April 20, 1995. Giblin, Vincent, 1910 *U.S. Census*, Mobile, Ala; Giblin, Vincent, 1920 *U.S. Census*, Jacksonville, Fla. The author also expresses his gratitude to the Honorable James Lawrence King, U.S. District Court Judge, Southern District of Florida (Miami) for interviews on March 3, 2009 and March 23, 2009, a letter to the author dated March 6, 2009, and various materials, particularly a copy of the Brief of Appellant in *Giblin v. State of Florida*, 29 So.2d 18 (Fla. 1947), and por-

tions of the impeachment proceedings known as “Conduct of Halsted L. Ritter,” hereinafter cited. King was in partnership with Giblin when the firm was known as Sibley, Giblin, King & Levenson, Miami Beach, Florida. The author also thanks Miami attorney Irving B. Levenson, Esq., a law partner in the Sibley, Giblin law firm, for an interview conducted on March 23, 2009.

- 2 *The Dome* (South Bend, Ind.: University of Notre Dame, 1918), 65.
- 3 *Ibid.* The word “skive” is archaic; it meant “to absent oneself from a hall, without permission, after hours, at night, for private reasons.” If apprehended, the skiver was “compelled immediately to pack [his] trunk and forever go.” Richard Sullivan, *Notre Dame: Reminiscences of an Era* (South Bend, Ind.: University of Notre Dame Press, 1951), 146-147. The term “Skivers’ Court” apparently referred to a college disciplinary court. The “Father Morrissey” here may be the Father Andrew Morrissey [spelled with two r’s and two s’s] who became the eighth president of the University of Notre Dame in 1893 and remained in office until his resignation in 1905. Arthur J. Hope, *Notre Dame: One Hundred Years* (South Bend, Ind.: University of Notre Dame Press, 1943), 252, 279, 352. For a general description of the course of study leading to a three-year bachelor’s degree in law during Giblin’s years at the law school, see Philip S. Moore, *A Century of Law at Notre Dame* (Notre Dame, Ind.: University of Notre Dame Press, 1970), 4-46.
- 4 Giblin letter to Philip Weidling dated September 29, 1964, in the collections of the Fort Lauderdale Historical Society. General biographical information on Giblin, see, also, Florida State Archives, Tallahassee, Fla. For biographical information on Blount, see, James Grafton Rogers, *American Bar Leaders* (Chicago, Ill.: American Bar Ass’n, 1932), 208-212. Blount served as president of the Uniform Law Commissioners, a body responsible for publishing uniform state laws. Rogers’ book may be found at the Lamar Warren Law Library of Broward County, Fort Lauderdale, Fla. Giblin’s date of admission to practice before the bar of Florida and other early dates of bar admission may be found in the “Brief on behalf of Appellant,” 15 in *Giblin v. State of Florida*, 29 So.2d 18 (Fla. 1947). The Florida State Bar Association is now known as The Florida Bar. The author thanks U.S. District Judge James Lawrence King for making available to him a copy of this brief.
- 5 A comprehensive description of Giblin’s business ventures outside the practice of law from 1925 until 1945 is found in *Giblin v. Comm’r of Internal Revenue*, 227 F.2d 692 (5th Cir. 1955).
- 6 *Giblin v. Comm’r of Internal Revenue*; Author interview with longtime Fort Lauderdale attorney Granville Harold Martin on January 25, 1991.

- 7 “Both Houses Pass Act on Circuit Court,” *Fort Lauderdale Daily News* (hereinafter abbreviated as FLDN), April 15, 1927. *Laws of Florida* (1927), c. 12433. *Laws of Florida* (1927), c. 11808. Executive Department, State of Florida, Governor of Florida, Transcript of Commission of Vincent C. Giblin, signed by Governor John W. Martin on June 8, 1927, and recorded on June 10, 1927, in Book 2 of the Minutes of the Broward County Circuit Court, 411. “Judge Giblin’s Appointment is Confirmed,” FLDN, June 1, 1927; “Commission of Judge Giblin is Expected Here,” FLDN, June 6, 1927; “Judge Giblin has Received Commission,” FLDN, June 10, 1927; “Judge Giblin Presides Over Circuit Court,” FLDN, June 13, 1927; Giblin letter to Philip Weidling, *op. cit.*
- 8 Philip Weidling Letter to Henry J. Prominski, dated May 20, 1976, private collection of author. *City of Jacksonville v. Broward*, 122 So. 521 (Fla. 1929); *Seaboard Airline Ry. Co. v. Tampa Southern R. Co.*, 121 So. 477 (Fla. 1929); *Brett v. First National Bank of Marianna*, 120 So. 554 (Fla. 1929); *McKinney v. Gainey*, 118 So. 917 (Fla. 1929); *Vance v. Rovers*, 118 So. 205 (Fla. 1929).
- 9 See W. T. Cash, *The Story of Florida*, vol. IV (New York: The American Historical Society, Inc., 1938), 485, for a biographical precis’ of George Walter Tedder. The author acknowledges Donald G. Lester, “Broward Politics, 1928-1938: Political Influence in Depression Era Broward,” *Broward Legacy* (Summer/Fall 1990) as the starting point for researching Judge Giblin’s biography. This article contains background information on Broward County’s political, legal, and judicial affairs in the late 1920s and early 1930s. See, also, Donald G. Lester, “The Darsey Case: Little Scottsboro Revisited,” *Broward Legacy* (Winter/Spring 1988) for additional background material on Giblin and other lawyers in Fort Lauderdale in the late 1920s. “Lawyers Give Reasons for Supporting Judge Vincent Giblin,” Adv., FLDN, June 1, 1928 (for example).
- 10 “The Banks and the Circuit Judge — A Statement by Louis F. Maire, State Attorney,” Adv., FLDN, June 21, 1928.
- 11 “Miami Beach City Council Hounds Scarface Capone,” FLDN, June 28, 1928.
- 12 *Minutes*, Miami Beach (Fla.) City Council, June 27, 1928. *Resolution No. 1813*, Miami Beach (Fla.) City Council, adopted June 27, 1928.
- 13 “Judge Giblin Explains His Actions on Matter of Extension of His Term,” FLDN, May 11, 1929.
- 14 “Commission Term of Jurist Expires Midnight Thursday,” FLDN, June 14, 1929. “Signing of Orders by Claimants Cause of Action Brought,” FLDN, June 25, 1929. See, e.g., the following orders signed by Giblin

- after Tedder took office: *Bell v. Enos, et ux.*, et al., Broward Circuit Court Chancery Case No. 5596, June 21, 1929 Order, Chancery Order Book No. 40, 332; *Marion Mortgage Co. v. Jones, et ux., et al.*, Broward Circuit Court Chancery Case No. 5442, September 5, 1929 Order, Chancery Order Book No. 48, 162; *Trust Co. of Florida v. Hollywood Land & Water Co.*, Broward Circuit Court Chancery Case No. 5434, September 5, 1929 Decree Confirming Sale, Chancery Order Book No. 48, 164.
- 15 *State ex rel. Giblin v. Tedder*, Broward County Circuit Case, a *quo warranto* proceeding filed on October 7, 1929. "Quo Warranto Proceedings Against Judge," FLDN, October 8, 1929. The Latin phrase *quo warranto* literally means "by what authority." A *quo warranto* proceeding is a law suit designed to test the right of a public official to hold office.
- 16 "Tedder to Leave for Court Fight," FLDN, July 3, 1929. "Judge Tedder and Attorneys Return to City," FLDN, July 8, 1929.
- 17 *State ex rel. Giblin v. Tedder*, Broward Circuit Case, *quo warranto* proceeding filed on October 7, 1929. "Quo Warranto Proceedings Against Judge," FLDN, October 8, 1929. "Giblin - Tedder in Legal Skirmishing—Sheriff Refuses to Serve Papers Giblin Presents Them Himself," FLDN, October 18, 1929. *State ex rel. Davis v. Giblin*, 98 Fla. 802, 124 So. 375 (Fla. 1929).
- 18 "Amos Ordered to Pay Giblin," *Sunday Times-Union* (Jacksonville, Fla.), December 29, 1929, 4. See also, *State ex rel. Giblin v. Amos*, Case No. 1661, Docket 5, Page 161, Second Judicial Circuit Court in and for Leon County, Florida (Peremptory Writ of Mandamus issued December 28, 1929). Granville H. Martin to Henry J. Prominski, November 11, 1975, private collection of author. Martin states that friends of both judges reached an agreement to reimburse Giblin's expenses if he resigned. Martin further states that prominent Fort Lauderdale criminal defense attorney Charles E. Farrington advanced the money to pay Giblin.
- 19 Memorandum, John Edgar Hoover, Director, U. S. Bureau of Investigation, January 7, 1933, I.C. 69-180, "Alphonse Capone: Contempt of Court," Federal Bureau of Investigation, U. S. Department of Justice. Web access: <http://foia.fbi.gov/foiaindex/capone.htm>. Extensive corroborating documents, including affidavits obtained by the FBI, accompany the Memorandum at this web address.
- 20 Memorandum, John Edgar Hoover, January 7, 1933. "Capone Goes to Trial in U.S. Contempt Case; seized on 'Vag' Charge," *Chicago Daily News*, February 25, 1931.
- 21 "Capone Goes To Trial," *Chicago Daily News*, February 25, 1931. Almost two years later, on March 2, 1931, U.S. District Judge James Wilkerson of Chicago sentenced Capone to serve six months in the Cook County Jail. After Capone appealed the conviction, Wilkerson later sentenced Capone to serve his contempt sentence concurrently with a term of imprisonment for income tax evasion. Kobler, *Mr. Capone, op. cit.*, 216-229.

- 22 “Coming Out Party,” *Time*, March 24, 1930. “Capone Enters Jail to Serve One Year,” *New York Times* (hereinafter abbreviated as NYT), May 18, 1929. The arrest of Capone on weapons charges so fascinated the public, even *The Times* (London), May 18, 1929, reported the arrest and subsequent one-year sentence under a May 17, 1929, New York, N.Y., byline.
- 23 Paragraph 12 of Bill of Complaint (verified) signed by Gordon and Giblin on March 22, 1930, and Temporary Restraining Order entered on March 22, 1930, both in *Capone v. Morrow, et al.*, Equity Case No. 790, U.S. District Court, Southern District of Florida, National Archives and Records Administration (NARA), Southeast Region, Atlanta, Ga. Hereinafter this lawsuit will be referred to as *Capone v. Morrow, et al.* The Morrow cited here was G. L. Morrow, the Sheriff of Madison County, Fla. The author wishes to thank Rob Richards of NARA, Atlanta, Ga., for his assistance in locating this court file. Numerous newspapers throughout the country published accounts of Ritter’s injunction. “Capone Is Here (Editorial),” *Miami Daily News* (hereinafter abbreviated as MDN), April 21, 1930. Secondary source material may be found in Robert J. Schoenberg, *Mr. Capone* (New York: William Morrow, 1992), 252, and endnotes for source materials, and John Kobler, *Capone: The Life and World of Al Capone*, 1992 repro. paper (New York: Da Capo Press, 1971), 283.
- 24 *Bench and Bar of Florida*, Vol.1 (Tallahassee, Fla.: Horace Evans, 1935), 42; *Bench and Bar of Dade County*, sponsored by Dade County Bar Association, published by Harry J. Murray (1949), 152. See also, 1930 U.S. *Census*, Miami, District 64, “Gordon, James F.”
- 25 Docket, *Capone v. Morrow, et al.* See, e.g., “Florida Restrained from Seizing Capone,” NYT, March 23, 1930, as one of many such reports nationwide of the Ritter’s injunction. King related to the author that Giblin told him that Cox asked Giblin to represent Capone. King interview with author, March 3, 2009, *supra*, note 1.
- 26 Ritter, Halsted Lockwood, Federal Judicial Center, Biographical Directory of Federal Judges. <http://www.fjc.gov> and *Bench and Bar of Florida*, Vol. 1 (Tallahassee, Fla.: Horace Evans, 1935), 10. See Maximilian Longley, *What Measure Ye Mete: The Life and Times of Judge Halsted Ritter* (New York: iUniverse, Inc., 2003), 6, 25-32 on Ritter’s relationship with Shutts.
- 27 Longley, *What Measure Ye Mete, op. cit.*, pp. 38-40. For more information on the life of Ritter, his service on the bench, impeachment, and removal from office see, Kermit L. Hall and Eric W. Rise, *From Local Courts to National Tribunals: The Federal Districts Courts of Florida, 1821 – 1990* (Brooklyn, N.Y.: Carlson Publishing, Inc., 1991), 80, 88-90, 168-169.
- 28 Bill of Complaint (verified), *Capone v. Morrow, et al.*, 8.
- 29 Bill of Complaint (verified) signed by Gordon and Giblin March 22, 1930; Temporary Restraining Order entered on March 22, 1930, *Capone v. Morrow, et al.* The order was signed in Judge Ritter’s “rooms” at the Whitehall Hotel, Palm Beach, not in his Miami chambers, according to

- the sworn testimony of Giblin at the House Judiciary Subcommittee impeachment hearing on the conduct of Ritter, November 21-23, 1934, in Miami. "Conduct of Halsted L. Ritter, United States District Judge, Southern District of Florida," U.S. House of Representatives, Subcommittee of the Committee of the Judiciary, Transcript of Testimony and Proceedings, 191-192. The Order, later made permanent in Order Making Temporary Injunction Permanent entered on April 25, 1930, restrained the sheriffs of twenty counties in Florida, including Dade County Sheriff M. H. Lehman, from harassing Capone while in transit to his residence on Palm Island. "Sheriff's Office Still Lacks Writ Protecting Capone," *Palm Beach Post* (hereinafter abbreviated as *PBP*), April 1, 1930. Ritter set a hearing on a request to make permanent the temporary injunction for Friday, April 25, 1930, at 10:00 a.m. "Capone Injunction Hearing Is Ordered," *PBP*, April 22, 1930. "Capone Protected By Permanent Writ," *Washington Post*, April 26, 1930.
- 30 "Capone, Finally Arriving in Miami, Wants Only Peace and Quiet During His Vacation," *PBP*, April 21, 1930. "Capone Is Here" (Editorial), *MDN*, April 21, 1930. "Al Capone Is in Miami for a Rest," *FLDN*, April 21, 1930. "Crime Board Names Capone," *PBP*, April 24, 1930. A copy of Judge Ritter's temporary Order did not reach the Sheriff of Palm Beach County until Wednesday, April 30, 1930, five days after he made the Order permanent. "Order Clearing Way for Capone Served on Sheriff's Office," *PBP*, April 30, 1930. For Easter sunrise service documentation, see, "Vincent Giblin, Ex-Judge, Dies; Had Been Lawyer for Capone," *NYT*, March 22, 1965, and author interview with King on March 3, 2009, *supra*, note 1.
- 31 "50 Witnesses Called for Capone Hearing," *Miami Herald* (hereinafter abbreviated as "MH"), June 10, 1930. "Business Men Visit Capone, Witness Says," *MH*, June 11, 1930.
- 32 "Capone Protected by Permanent Writ," *Washington Post*, April 26, 1930. "Capone Is Protected by Permanent Order," *PBP*, April 26, 1930. Order Making Temporary Injunction Permanent, April 25, 1930, *Capone v. Morrow, et al.*
- 33 "Grand Jury Assails Capone in Florida," *NYT*, April 26, 1930.
- 34 "Miami Jails Capone, Demands He Leave," *NYT*, May 9, 1930. For a short contemporary biographical sketch of Thompson, see, Thompson, Uly O., *Florida: "The East Coast..."* (Miami, Fla.: The Miami Herald, [1924?]), 168, 262. *Habeas corpus*, which literally means, "you shall have the body," is a means for testing the legality of a jailing. "Arrest Injunction Denied Al Capone," *Washington Post*, May 10, 1930. See, also, "Capone's Week," *Time*, May 19, 1930, recounting Capone's trip to Cuba, his arrest on Biscayne Boulevard, jailing for "investigation," and release on writ of habeas corpus by Miami Circuit Judge Uly O. Thompson.

- 35 *Time*, May 19, 1930. On Giblin breaking down the front door to Barns's house, see, author interview with Irwin B. Levenson, Esq., March 23, 2009. The source of Capone's allegation that Cox was behind the harassment of Capone is "Capone's Week," *Time*, May 19, 1930.
- 36 "Miami Judge Holds Man in Capone Case," NYT, May 11, 1930.
- 37 "Capone and 3 Friends Spend Night in Jail," MH, May 14, 1930. Author interview with King, March 3, 2009, *supra*, note 1.
- 38 "Miami Law Hits Capone," NYT, May 24, 1930. The article quotes the language of the ordinance *verbatim*. The intent of the ordinance was so obvious that the *New York Times* titled the article "The Banks and the Circuit Judge—A Statement by Louis F. Maire, State Attorney"; Adv., FLDN, June 21, 1928.
- 39 "Perjury Hinted in Capone Trial," FLDN, June 10, 1930; "50 Witnesses Called for Capone Hearing," MH, June 10, 1930. *State ex rel. Grebstein v. Lehman*, 128 So. 811 (Fla. June 9, 1930), *State ex rel. Grebstein v. Lehman*, 129 So. 818 (Fla. August 1, 1930), after a motion for rehearing had been considered a revised opinion issued. "More Knave than Fool, Is Comment of Barns," MH, June 11, 1930.
- 40 "Capone Trial Decision Due at 10 A.M. Today," MH, June 14, 1930; "Al's Association with Nugent Given Spotlight," and "Baptist Preacher in Al Capone Case," FLDN, June 11, 1930.
- 41 "Business Men Visit Capone, Witness Says," MH, June 11, 1930.
- 42 "Capone Trial to Be Resumed at 2 P.M. Today," MH, June 12, 1930.
- 43 *Ibid.*
- 44 "Burdine Gives His Definition of Gangster," MH, June 13, 1930. See, Stephen C. Bousquet, "The Gangster In Our Midst: Al Capone in South Florida, 1930-1947," *Florida Historical Quarterly*, vol. LXXVI (Winter 1998), 297-308, for an examination of the varying viewpoints of the *Miami Herald* and the Cox-owned *Miami Daily News* as rival newspapers in reporting on Hawthorne's padlocking suit.
- 45 *Ibid.*
- 46 *Ibid.*
- 47 *Ibid.*
- 48 "Well Dressed, Al Capone Is Hearing Story," FLDN, June 13, 1930.
- 49 "Capone Trial Decision Due at 10 A.M. Today," MH, June 14, 1930.
- 50 "Padlock Attempt Failure in Miami," FLDN, June 14, 1930. "New Capone Charges Filed by McCaskill," MH, June 15, 1930. See, Supreme Court of Florida website for Barns's years of service: <http://www.florida-supremecourt.org/justices/chrono.shtml>.
- 51 "New Capone Charges Filed by McCaskill," MH, June 15, 1930.
- 52 "New Capone Charges," *Miami Herald*, June 15, 1930; "Judge Collins Ready To Try Capone Case," MH, June 17, 1930.
- 53 Transcript, State of Florida V. S.D. McCreary, June 1930. In the possession of Judge Scott Silverman, Eleventh Judicial Circuit, Miami, Fla.

- (Partial Cover on Transcript has made it impossible to ascertain case number). "Capone's Prosecutor Appears as Attorney in McCreary Hearing," MH, June 18, 1930. See, also, "McCaskill Fails to Act for Trial of Capone," MH, June 18, 1930 and "Business of Public Waits as McCaskill Carries On Campaign," MH, June 19, 1930. For accounts on McCaskill failing to request the setting of Capone's trial before Criminal Court of Record Judge E.C. Collins while facing a runoff election with Fred Pine to retain his post as county solicitor.
- 54 "Blunder Seen Aiding Capone to Freedom," MH, June 20, 1930. "Hunt Seeks Solace for McCaskill in Capone Wreckage," MH, June 21, 1930, for the *Miami Herald's* view of the McCreary perjury charges nearly a week before the close of the underlying case as a political ploy to retain his post as county solicitor.
- 55 "Capone to be Called Today for Hearing," MH, July 10, 1930.
- 56 "Capone Lawyer in a Land Deal," *Everglades News* (Canal Point), June 6, 1930. See, William G. Crawford, Jr., "Capone Island: From Swampland to Broward County's Deerfield Island Park, 150 years of Florida Land History," *Broward Legacy*, 19 (Summer/Fall, 1996), 14-15, for a detailed account of Stovall's involvement in Giblin's Deerfield Beach purchase. See, also, Jeanne Bellamy, "Newspapers of America's Last Frontier," *Tequesta*, 52,(1952), 11-12 for a brief account of the *East Beach News* published by Stovall. See, August Burghardt, *Half a Century in Florida: Land of Matters Unforgotten* (Fort Lauderdale, Fla.: Manatee Books, 1982), 145-165, for a brief account of the life of Stovall based on the author's contemporaneous personal experiences as a journalist. Burghardt states that Capone met Stovall through Giblin. According to Burghardt, Capone hired Stovall to gather game for a dinner Capone gave for journalists attending the Jack Sharkey-Young (W. L.) Stribling heavyweight boxing title elimination fight held on February 27, 1929 at Flamingo Park on Miami Beach. This is consistent with various contemporaneous newspaper accounts.
- 57 Warranty Deed executed by E. B. Davis, Incorporated, in favor of Vincent C. Giblin, Trustee, on June 7, 1930, and recorded on June 30, 1930 in Deed Book 216, p. 519, of the Public Records of Broward County, Florida. "35-Acre Deeds Filed By Capone Attorney," MH, July 3, 1930. "Capone's Attorney Buys Tract of Land," PBP, July 3, 1930.
- 58 "Capone Seeks Foothold in Broward," FLDN, July 2, 1930.
- 59 "Rumors Continue that Capone Is To Move," FLDN, July 14, 1930. "Work To Start Soon on New Capone Home," PBP, July 15, 1930. A review of the minutes of the Boca Raton town council by the author failed to disclose any recorded discussion concerning the property which lies mostly in Broward County and within what was then the Town of Deerfield. However, the only land access to the property was then from the north through Boca Raton in Palm Beach County. See, also, "McCaskill Will Drop Charges Against Capone," FLDN, July 15, 1930, "Work To

- Start Soon on New Capone Home,” PBP, July 15, 1930, and “Work to Start on Capone Home,” *Lake Worth Herald*, July 18, 1930, confirming Stovall’s account that work was about to begin. Considerable credence may be placed in Stovall’s accounts. During a long career as a right-of-way agent for the State Road Department, Stovall created Florida’s ubiquitous wayside parks and landscaped the Ronald Reagan (Sunshine State) Parkway. See, Crawford, “Capone Island,” *op. cit.*, 14-15.
- 60 “Miami Ending Drive Against Al Capone; Charges Dropped,” PBP, July 16, 1930.
- 61 Final Decree, *Town of Deerfield, etc. v. First Hollywood Bank, etc., et al.*, Chancery Case No. 6924, filed for record on November 3, 1934 in Minutes Circuit Court Book 17, p. 413, and recorded in Book 73, p. 413 *et seq.*, of the Public Records of Broward County, Florida. Judge Giblin’s nemesis in the 1928 election, Judge George W. Tedder, signed a final decree foreclosing any interest Giblin may have had in the property. Tax Collector’s Deed executed by R. R. Richardson, as Tax Collector of the Town of Deerfield, in favor of the Board of Commissioners of the Florida Inland Navigation District on December 11, 1934, and recorded on December 21, 1934 in Deed Book 253, p. 425, of the Public Records of Broward County, Florida. For a detailed history of the so-called ‘Capone’ tract, its acquisition and subsequent loss at a tax sale, see, William G. Crawford, Jr., “Capone Island: From Swampland to Broward County’s Deerfield Island Park, 150 years of Florida Land History,” *Broward Legacy*, 19 (Summer/Fall, 1996), 14-24.
- 62 “Jails Three as Plotters To Kill Gov. Carlton,” NYT, August 18, 1930.
- 63 “Capone Attorney Tells ‘Plot’ Story,” NYT, August 29, 1930; “Disputes Testimony of Capone Attorney,” NYT, August 30, 1930.
- 64 Fred D. Pasley, *Al Capone: The Biography of a Self-Made Man* (New York: Ives Eashburn., n.d.); NYT, October 26, 1930.
- 65 John Kobler, *Capone: The Life and World of Al Capone*, 1992 repro. ppr. (New York: Da Capo Press, 1971), 284; Robert J. Schoenberg, *Mr. Capone* (New York: William Morrow, 1992), 311-12. This author’s account is well-documented.
- 66 “Attach His Florida Home,” NYT, June 7, 1931; “Giblin Is After Home of Capone,” *Tallahassee Daily Democrat*, June 10, 1931 (Judge Freeland stops removal because although Al Capone owed Giblin, Mae Capone, Al Capone’s wife, also maintained an interest in the home); “Florida Seizure to Be Pressed,” NYT, June 8, 1931; “Capone Aide Surrenders,” NYT, June 16, 1931, Associated Press (AP) story under Chicago byline and second AP story below this story with a Miami byline, bearing a reporting date of June 15, 1931. Giblin letter to Philip Weidling dated September 29, 1964, in the collections of the Fort Lauderdale Historical Society. Along with August Burghardt, Weidling later co-authored *Checkered Sunshine: The Story of Fort Lauderdale, 1793-1955* (Gainesville, Fla.: University of

Florida Press, 1966), which contains brief references to Giblin's service on the Broward bench.

- 67 Giblin letter to Weidling, September 29, 1964; NYT, June 16, 1931.
- 68 Schoenberg, *Mr. Capone, op. cit.*, 315, 346. "Ex-Judge Giblin Dies at 67," MH, March 21, 1965. "Vincent Giblin, Ex-Judge, Dies; Had Been Lawyer for Capone," NYT, March 22, 1965.
- 69 *Giblin v. Commissioner of Internal Revenue*, 227 F.2d 692 (5th Cir. 1955). Cf. *Pompano Horse Club v. State*, 111 So. 801 (Fla. 1927); Donald G. Lester, "The Pompano Race Track Confronts the Martin Administration," *Broward Legacy*, 17, (Winter/Spring 1994); William P. Cahill, "The First Sheriffs of Broward County, Florida: 1915-1933," *Broward Legacy*, 24 (2003-2004), 19-20. The Florida Supreme Court's opinion issued on March 9, 1927, and the two *Broward Legacy* articles recount the operation of the Pompano Horse Club and its forced closing as a public nuisance on a complaint filed by a Broward County Commissioner, John M. Bryan. Governor Martin did not issue a commission authorizing Giblin to act as a Broward circuit judge until June 8, 1927, almost a month later. Giblin also participated as counsel for the track owner in a proceeding before Broward County Judge Fred B. Shippey after the Florida Supreme Court had already ruled the track's operations illegal. To great public acclaim, County Court Judge Shippey 'overruled' the high court. Governor Martin, however, telegraphed Broward Sheriff Paul C. Bryan, advising the sheriff that he would remove him from office if he did not close the track in accordance with the high court ruling. Bryan complied.
- 70 *Giblin v. Commissioner of Internal Revenue*, 227 F.2d 692. Online records of the Florida Secretary of State for Biscayne Bonding Company at <http://www.sunbiz.org>.
- 71 *Giblin v. Commissioner of Internal Revenue*, 227 F.2d 692 (5th Cir. 1955). *Gimbel v. Peabody*, 178 A. 62 (N.J. 1935).
- 72 *Ibid.*
- 73 *Giblin v. Commissioner of Internal Revenue*, 227 F.2d 692 (5th Cir. 1955).
- 74 Sworn testimony of Giblin at the House Judiciary Subcommittee impeachment hearing on the conduct of Ritter, November 21-23, 1934, in Miami in "Conduct of Halsted L. Ritter, United States District Judge, Southern District of Florida," U.S. House of Representatives, Subcommittee of the Committee of the Judiciary, Transcript of Testimony and Proceedings., 191-192, supra n.1. Longley, *What Measure Ye Mete*, *op. cit.*, 69-89.
- 75 "Judge Ritter Convicted by Senate; Ousted From Bench by 56-28 Vote," NYT, May 17, 1936. "New Move Is in View for Ritter Eviction," NYT, May 17, 1936. Longley, *What Measure Ye Mete*, *op. cit.*., 69-89. Hall & Rise, *From Local Courts to National Tribunals, op. cit.*, 88-90. *Ritter v. U.S.*, 84 Ct. Cl. 293 (1936), cert. denied, *Ritter v. U.S.*, 300 U.S. 668 (1937).

- The *Ritter* case holds that impeachment and removal from office is a purely political decision to be made by the legislative branch of government.
- 76 *Giblin v. Commissioner of Internal Revenue*, 227 F.2d 692 (5th Cir. 1955).
- 77 Capone Dead at 48; Dry Era Gang Chief,” NYT, January 26, 1947.
- 78 Memorandum from SAC, Miami to Director FBI, April 13, 1945, File 62-39128, FBI Freedom of Information Act Files (Capone) (<http://foia.fbi.gov/capone>).
- 79 *Ibid.*
- 80 “Look for Purple Pigeons: Master Magician Giblin About To Perform Again,” MH, March 3, 1946.
- 81 “Ex-Judge Giblin Dies at 67,” MH, March 21, 1965. AP Wire Report, February 14, 1947, Florida Collection, State Library of Florida (Tallahassee). *State ex rel. Giblin v. Sullivan*, 26 So.2d 509 (Fla. 1946).
- 82 “Ex-Judge Giblin Dies at 67,” MH, March 21, 1965. *State ex rel. Giblin v. Sullivan*, 26 So.2d 509 (Fla. 1946). Brief of Appellant in *Giblin v. State of Florida*, 29 So.2d 18 (Fla. 1947), 1-17, in the possession of the Honorable James Lawrence King, U.S. District Court Judge, Southern District of Florida (Miami).
- 83 *State ex rel. Giblin v. Sullivan*, 26 So.2d 509 (Fla. 1946). Brief of Appellant in *Giblin v. State of Florida*, 29 So.2d 18 (Fla. 1947), pp. 1-17, in the possession of the Honorable James Lawrence King, U.S. District Court Judge, Southern District of Florida (Miami). The statute requiring the filing of an affidavit in support of a motion to dismiss an action to abate a nuisance, section 64.13, Florida Statutes (1941), was later repealed. The current authority for the filing of an action to abate a nuisance is found at section 60.05, Florida Statutes (2008). “Courthouse Is Alive With Rumors Wake of Raid on Club 86,” MH, February 22, 1946. Club 86 was located at 8600 Biscayne Boulevard, Miami, Florida. “Sheriff Staged ‘Phoney’ Raid in Club 86, Giblin Charges,” MDN, February 22, 1946.
- 84 “Giblin Spends 94 Minutes in ‘Jail,’” MH, April 6, 1946. “Giblin Free On Bond Pending Appeal,” MH, July 2, 1946. *State ex rel. Giblin v. Sullivan*, 26 So.2d 509 (Fla. 1946).
- 85 “Carroll To Conduct Giblin Contempt Case,” MDN, June 18, 1946. “Giblin Free On Bond Pending Appeal Action,” MH, July 2, 1946. Brief of Appellant in *Giblin v. State of Florida*, 29 So.2d 18 (Fla. 1947), 1-17. *Giblin v. State*, 29 So.2d 18 (Fla. 1947). Although Dade Circuit Judge Paul D. Barns had by now become a member of the high court, Barns did not participate in Giblin’s appeal since he had been a Dade circuit judge when the case started. “Giblin’s Free Speech Upheld,” *Evening Sun & Daily Tropics* (Miami Beach, Fla.), February 11, 1947, Dumenigo Papers. Giblin retained Marion Sibley to represent him in this second appeal. Giblin later practiced law with Sibley until his death in 1965.
- 86 “Giblin Joins Beach Bar,” *Miami Beach Sunday Sun-Star*, October 6, 1946. Dumenigo Papers, *supra* no. 1. “Dade Bar Rejects Anti-Giblin Action,

- MDN*, October 22, 1946. "Giblin Slugs Chief Melchen, Hurls 'Lie' at Witness as Huttoe Hearing Explodes," *MH*, October 28, 1947.
- 87 "Ex-Capone Lawyer Sued for Divorce," *MH*, March 19, 1949. Mrs. Giblin Wins Divorce," *MH*, March 29, 1949. "Visitors in Havana City," *The Havana Post*, April 10, 1949. There appears in one of the early Giblin scrapbooks an undated news clipping entitled, "Mrs. Julia Lund Blow and Judge Giblin Quietly Married Yesterday Morning," but without a publisher's name or date, that implies by its references to "Judge Giblin," his living in Fort Lauderdale's Hotel Broward, and its early appearance chronologically in his scrapbook that this marriage took place between 1927 and 1929 during Vicent's short-lived Broward County judgeship. This would imply that Giblin and Julia had been married for at least nineteen years. Dumenigo Papers, *supra* no. 1.
- 88 Western Union telegram from Florida Governor Fuller Warren to Vincent Giblin, December 26, 1950, informing Giblin of his appointment as circuit judge, Dumenigo Papers, *supra* n.1. "In Judgeships," *MH*, December 27, 1950.
- 89 "Final Report of the Grand Jury," In the Circuit Court of the 11th Judicial Circuit of Florida in and for Dade County, Fall Term A.D. 1951, filed May 12, 1952, 4, 7. Online Grand Jury Reports of the Office of the State Attorney, Miami-Dade County, Florida may be found at http://www.miamisao.com/publications/grand_jury/1950s. AP Wire Report, August 12, 1952, Florida Collection, State Library of Florida (Tallahassee).
- 90 AP Wire Report, August 12, 1952, Florida Collection, State Library of Florida (Tallahassee).
- 91 AP Wire Report, August 12, 1952, October 15, 1952, Florida Collection, State Library of Florida (Tallahassee). Emmett W. Bashful, "The Florida Supreme Court: A Study in Judicial Selection," (Tallahassee, Fla.: Florida State University, Bureau of Governmental Research and Service, School of Public Administration, 1958), 42-44. "Bar Favors Giblin for High Court," *MH*, October 16, 1951. In "Judge Giblin Would Make Excellent Replacement for Justice Adams," *FLDN*, October 17, 1951, the editor of the *Fort Lauderdale Daily News* recommended Giblin in the election.
- 92 Comments made by Fort Lauderdale attorney John H. Payne, III, Esq., at a lecture on Giblin by the author for the Broward County Historical Commission held on Tuesday, November 22, 1994, at the Broward County Main Library. A tape-recording of the lecture and comments made by Payne and others who knew Giblin is in the Commission's archives.
- 93 "'Quickie' Divorces Here Bring Charges of Fraud," *MDN*, May 10, 1953; "All 1953 Divorces Face Fraud Study By Giblin's Order," *MDN*, September 17, 1953. AP Wire Report, September 17, 1953, Florida Collection, State Library of Florida (Tallahassee).

- 94 "Anti-Red Judge Slaps at Apathy," MH, November 28, 1954. "Final Report of the Grand Jury," In the Circuit Court of the 11th Judicial Circuit of Florida in and for Dade County, Spring Term A.D. 1954, filed November 9, 1954, 2-3. See, Chapter 876, Florida Statutes Annotated (2008), for an annotated history of this law titled, "An Act to Outlaw in the State of Florida the Communist Party, the German-American Bund, and All Organizations, Groups, or Individuals Associated Therewith Who Seek to Overthrow the Government of the United States by Force and Violence Through the Advocacy of Criminal Anarchy, Criminal Communism, Criminal Nazism, and Criminal Fascism." Laws (1941), c. 20216, §1. The term "criminal communism" is nowhere defined in the Act. Because this Act was patterned after the federal government's Smith Act (18 U.S.C.A § 2385), the Florida Supreme Court has held that the interpretation of this state law should follow the federal courts' interpretation of the federal Smith Act. *State ex rel. Feldman v. Kelly*, 76 So.2d 798 (Fla. 1954) (Fourteen defendants appealing convictions and actually jailed sought relief through habeas corpus proceedings filed in the Dade County Circuit Court or the Florida Supreme Court and were discharged from custody. These fourteen cases were consolidated for the purpose of expediting disposition).
- 95 "Anti-Red Judge Slaps at Apathy," MH, November 28, 1954. In *Sheiner v. State*, 82 So. 2d 657 (Fla. 1955), the Florida Supreme Court reversed Giblin's judgment disbaring Sheiner on due process grounds. That decision was reiterated in a second proceeding brought to disbar Sheiner which, like the first, did not succeed. *State v. Sheiner*, 112 So.2d 571 (Fla. 1959).
- 96 Harry T. Moore, Executive Director, Florida State Conference, NAACP, Mims, Fla., October 20, 1947, #33360, "Florida Branches of NAACP Continue Fight for Justice," Harry T. & Harriette V. Moore Research Papers, Harry T. & Harriette V. Moore Memorial Park, Mims, Fla. This summary by Moore may be found online at <http://www.nbbd.com/godo/moore/research/HTMnaacp471020.html>, *State ex rel. Norman v. Holmer*, 35 So.2d 396 (Fla. 1948).
- 97 Sarah Hart Brown, "Pensacola Progressive: John Moreno Coe and the Campaign of 1948," *Florida Historical Quarterly*, vol. LXVIII (July 1989), 1-26.
- 98 *Sheiner v. State*, 82 So.2d 657 (Fla. 1955). Sheiner attempted to preempt the hearing by bringing an action in the Supreme Court of Florida to prohibit Judge Giblin from acting in the matter. The court denied Sheiner's request on July 20, 1954. *State ex rel. Sheiner v. Giblin*, 73 So.2d 851 (Fla. 1954).
- 99 *Sheiner v. State*, 82 So.2d 657 (Fla. 1955). "Disbarred Over Loyalty," *NYT*, September 4, 1954. "Fifth Amendment Disbarment Issue," *NYT*, April 7, 1955; "Giblin Denounces Intellectuals as Pygmies on Stilts," (Fort Pierce, Fla.) *News-Tribune*, September 9, 1954. "The Limits of Immunity," *Time*,

- September 13, 1954. See Gregory W. Bush, “‘We Must Picture an Octopus’: Anticommunism, Desegregation, and Local News in Miami, 1945-1960,” *Tequesta*, LXV (2005), 48-63, for an account of post-World War II anticommunism and desegregation in Miami and a summary of Giblin’s disbarment of Sheiner.
- 100 *Sheiner v. State*, 82 So.2d 657 (Fla. 1955). “Bar Plans Fight on ‘Red’ Lawyers,” NYT, February 23, 1955.
- 101 *Sheiner v. State*, 82 So.2d 657 (Fla. 1955). Florida Attorney General [Ellis S. Rubin], “Report on Investigation of Subversive Activities in Florida,” [Miami?] 1955. Copy in University of Miami Libraries, Special Collections, ASC Florida. “Fifth Amendment Disbarment Issue,” NYT, April 7, 1955. The Florida Supreme Court instructed officials of the Florida State Bar Association to proceed in forming a unified bar under the high court’s jurisdiction known as The Florida Bar following the former organization’s April 1950 meeting. See, “History of The Florida Bar,” <http://www.floridabar.org/tfb/TFBOrgan.nsf/2FC809811C0105238525671100692F1C/9C81ADC9FC9FC8A585256B2F006CD27B?OpenDocument>, for the formation of The Florida Bar.
- 102 *Sheiner v. State*, 82 So.2d 657 (Fla. 1955).
- 103 *Petition for Revision of, or Amendment to, the Integration Rule of the Florida Bar*, 103 So.2d 873 (Fla. 1956). “Reds To Be Disbarred,” NYT, July 14, 1956.
- 104 *State ex rel. Benemovsky v. Sullivan*, 37 So. 2d 907 (Fla. 1948). “Witness Tells of 1948 Order To Pave Way for Red Invasion,” *Middletown (N.Y.) Times Herald*, July 3, 1956. The American Jewish Committee summarized the actions of Dade County Circuit Judges Holt and Giblin in its 1955 edition, *American Jewish Yearbook*, Vol. 56 (1955), “Civil Liberties,” by Maurice J. Goldbloom,. 192-193, online at http://www.ajcarchives.org/AJC_DATA/Files/1955_5_USCivicPolitical.pdf. The Chillingworths were later determined to have been murdered by persons with no relationship to Communism.
- 105 *Mesarosh v. United States*, 352 U. S. 1 (1956). “Federal Witness in Red Case Hit,” NYT, September 29, 1956. *State v. Sheiner*, 112 So.2d 571 (Fla. 1959).
- 106 *Porter v. Meigs*, 74 So.2d 82 (Fla. 1954); *In re Peterson’s Estate*, 73 So.2d 225 (Fla. 1954); *Elkins v. Imperial Crown Toy Corp.*, 73 So.2d 64 (Fla. 1954); *Wurn v. Board of Public Instruction of Duval County*, 73 So.2d 61 (Fla. 1954); *State ex rel. Allen v. Harlow*, 72 So.2d 666 (Fla. 1954); *Dickler v. Gates*, 72 So.2d 393 (Fla. 1954); *Philbrick v. Buff*, 73 So.2d 273 (Fla. 1954) (specially concurring opinion). *Lindgren v. Spechler*, 112 So.2d 881 (Fla. 3rd DCA 1959); *Lindgren v. Van Fleet*, 101 So.2d 155 (Fla. 3rd DCA 1958).
- 107 *City of Coral Gables v. Giblin*, 127 So.2d 914 (Fla. 3rd DCA 1961), affirmed, *Giblin v. City of Coral Gables*, 149 So.2d 561 (Fla. 1963). Virginia Giblin would continue the litigation long after her husband, Vincent, had passed away. See, *Giblin v. City of Coral Gables*, 206 So.2d 434 (Fla. 3rd DCA 1968). Support for the Bar association’s disapproval of

- Giblin's controversies may be found in "Vincent Giblin, Ex-Judge, Dies; Had Been Lawyer for Capone," *NYT*, March 22, 1965.
- 108 *NYT*, March 22, 1958/ King's description of Giblin's abilities is found in U. S. District Court Judge James Lawrence King's letter to the author dated March 6, 2009. Author interview with Irving B. Levenson, Esq., on March 23, 2009.
- 109 Giblin to Television Station WTVJ, Miami, Florida, dated May 21, 1960 [unsigned]; *Farris Bryant Papers, 1956-1970*, Campaign Materials, 1956-1970, Correspondence – 1960 May-June, University of Florida, George A. Smathers Libraries, Gainesville, Fla.
- 110 "Vincent Giblin, Ex-Judge, Dies; Had Been Lawyer for Capone," *NYT*, March 22, 1965.
- 111 "Ex-Judge Giblin Dies at 67," *MH*, March 21, 1965.
- 112 *NYT*, March 22, 1965.
- 113 "Died. Vincent Claude Giblin, 67," *Time*, April 2, 1965.
- 114 Author interview with Irving B. Levenson, Esq., and U.S. District Court Judge James Lawrence King on March 23, 2009.
- 115 U. S. District Court Judge James Lawrence King's letter to the author dated March 6, 2009.
- 116 "Look for Purple Pigeons: Master Magician Giblin About To Perform Again," *MH*, March 3, 1946.
- 117 Section 61.021, Florida Statutes (2009).



Laura Woodward. Trail at Palm Beach.
Watercolor. Private collection.