

Capone Island

From Swampland to
Broward County's
Deerfield Island Park:

150 Years of Florida Land History

by William G. Crawford, Jr.

PREFACE

One tale has it that gangster Al Capone, fleeing federal agents, hid on a primitive fifty-five-acre, then-peninsula-shaped tract of land known for years as Capone Island and transformed in the 1970s by Broward County planners into what is now known as Deerfield Island Park. Another story recites that the Chicago mobster used the property at the

confluence of the Intracoastal Waterway and Hillsboro Canal for bootlegging operations during Prohibition.¹ The island seemingly acquired its nefarious reputation when one of the Chicago gangster's Miami attorneys, Vincent Giblin, purchased the parcel in June, 1930, as trustee for an undisclosed beneficiary. That Capone's lawyer had been Broward County's first circuit judge less than a year before the acquisition only increased

speculation surrounding the transaction that America's Public Enemy No. 1 had indeed gained a foothold in Broward County.

While the Capone legend is a fascinating if not entirely truthful account, the histories of the tracts comprising the island are far more important to our understanding of the development of much of the land of southeast Florida. Indeed the early histories of the separate but contiguous parcels comprising the so-called Capone Island tract typify the record of much of the land development of southeast Florida in the late nineteenth and early twentieth centuries. In the burgeoning development of southeast Florida the parcels' histories demonstrate not only the importance of the federal swamp and overflowed lands act passed by Congress in 1850 but also the impact of the construction of the Florida east coast railway and canal systems. Federal and state public land policies as well as the development of rail and water transportation infrastructure would prove to be dominating factors in the cultivation and settlement of thousands of acres of wild, undeveloped

This single-article issue of Broward Legacy is devoted to the history of Broward County's Deerfield Island Park, popularly known as "Capone Island." For years this designation has inspired rumors, speculations, and legends concerning notorious gangster Al Capone's connection to the property. As author William G. Crawford, Jr., carefully documents, the tract's actual history is even more rich and intriguing than the legends, involving a diverse parade of figures from Florida history including, among others, Arthur T. Williams, Henry Flagler, Thomas M. Rickards, Addison Mizner, Commodore A. H. Brook, and, perhaps indirectly, Capone.

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Plat of the Capone Island tract, showing Government Lots Two and Three, and the southern tip of the property.

southeast Florida land in the latter part of the nineteenth century and early 1900s.

The federal swamp and overflowed lands act in particular became the source of significant southeast Florida public lands, including the parcels comprising the Capone Island tract, that later found their way into the hands of private individuals as well as railroad and canal construction companies. From the beginning, it appears, early public land speculators had foreseen the potential of the swamp lands for use not only in agriculture but in commercial real estate development as well.

Early owners of the eastern portion of the Capone Island tract along the East Coast Canal (Intracoastal Waterway) would include important Florida pioneers such as Nassau County entrepreneur Arthur T. Williams, acclaimed Marion County citrus grower James A. Harris, Harris's neighbor Thomas M. Rickards, an early founder of the Boca Raton settlement, and pioneer Deerfield FEC railway agent Leonard V. Waldron.

In the real estate boom-times of the mid-1920s the easterly ten-acre portion of the Capone tract would join

the Mizner Development Corporation's extensive real estate holdings, then concentrated to the north in the developing Palm Beach County town of Boca Raton; the small parcel would later become embroiled in the firm's bankruptcy after the collapse of the Florida land boom.

In 1896, the western and southern parts of the Capone Island tract would be conveyed among almost 25,000 acres of swamp and overflowed lands to Henry Flagler's Model Land Company in exchange for the land baron's investment in dredging activities that would extend the East Coast Canal into the southern portions of the Florida peninsula; that same year, Flagler's Florida East Coast Railway system would also reach Miami. These two parcels would remain in the land company's hands for more than thirty years.

The three Capone parcels' histories converged in 1930 when a West Palm Beach real estate investment company, Chrisbar Corporation, acquired the eastern tract at a foreclosure sale; the firm had already purchased the western and southern parcels from Flagler's Model Land Company a few months earlier in the latter part of 1929. Capone's Miami

lawyer, former Broward Circuit Judge Vincent C. Giblin, would acquire the combined property in June of 1930 from a company owned by West Palm Beach real estate broker E. B. Davis.

Three years later, Giblin's successor in office, Judge George Tedder, would enter a judgment ousting the Town of Deerfield from exercising jurisdiction over the Capone tract. In 1934 the Florida Inland Navigation District, the current owner of the tract, would purchase the property at a tax foreclosure sale for \$1,200, for use as a spoil depository in the District's efforts to enlarge the Intracoastal Waterway.

Chicago Mobster Al Capone and Broward Judge Vincent Giblin

The history of the island's association with Chicago gangster Al Capone begins with Vincent C. Giblin in 1927 when Florida Governor John W. Martin appointed the twenty-nine-year-old Fort Lauderdale lawyer as Broward's first circuit judge. The 1918 Notre Dame law school graduate would serve on the Broward bench only two and a half years, however, suffering a stunning defeat in the 1928 Democratic primary at the hands of former Madison County Judge George W. Tedder. While Tedder took office a year later on June 20, 1929, Giblin would refuse to relinquish his seat on the bench until his resignation almost four months later in November, 1929.²

By that time the former Broward jurist had already moved to Miami, and soon he was practicing law with J. P. Gordon.³ By early March 1930, Giblin and Gordon were representing America's Public Enemy No. 1, Al Capone.⁴ Released from a Pennsylvania prison after serving a brief sentence on minor charges, the Chicago crime boss was then attempting to take up residence in a mansion purchased from Clarence Busch on Miami Beach's Palm Island. Reacting to the potential threat of an organized crime figure coming to live in his state, Florida Governor Doyle Carlton issued an injunction instructing the State's sheriffs to bar Capone from assuming residency.⁵

In a cleverly-executed legal ma-

neuver Giblin and Gordon succeeded in persuading Miami federal judge Halstead Ritter to issue an injunction in March stopping the sheriffs from implementing the Governor's statewide order. The next month, Dade County State Attorney N. Vernon Hawthorne instituted proceedings seeking to padlock the Capone mansion as a nuisance; and in May, Capone was arrested on four separate occasions for vagrancy. In June, 1930, Hawthorne's injunction proceedings went to trial before Dade Circuit Judge Paul Barns, ending in dismissal at the close of the State's case after Giblin argued that the State had failed to prove the existence of a "nuisance" at the Capone residence.⁶

Giblin Purchases Tract as Trustee

Within days of his victory in the padlocking suit, in the latter part of June, 1930, Giblin, as trustee, acquired title to a then-peninsula-shaped tract of land in Broward County, later known as Capone Island, and now known as Deerfield Island Park. According to a deed filed for record on June 30, 1930, Giblin as trustee for an undisclosed beneficiary acquired title to property described as that part of Government Lot 2 lying west of the Florida East Coast Canal in Section 5, Township 48 South, Range 43 East, all of that part of Government Lot 3 lying north of the Hillsboro Canal, and that part of the Southeast One-Quarter of the Northwest One-Quarter of Section 5 lying west of the East Coast Canal.⁷ Noting that Capone's attorney had been Broward's first circuit judge, a Miami *Herald* newspaper article reporting the transaction described the parcel as "part of the former Mizner development at Boca Raton and is south of the Boca Raton club [now, Boca Raton Resort and Club] developed by Clarence Geist at a cost of \$6,000,000." Invoking client's right to anonymity, the Miami attorney declined at the time to identify the client or clients for whom he had taken title.⁸

In a spectacular banner-headline story reporting the transaction the Fort Lauderdale *Daily News*



Al Capone (left) and his Florida attorney, former Broward circuit judge Vincent C. Giblin.

speculated on the possibility of the Chicago gangster moving to Broward County in almost hysterical terms:

*What is believed to be a move on the part of Al Capone, Chicago beer and brothel baron, to establish residence and headquarters in Broward county was seen today with the filing of a deed at the Broward courthouse for transfer of a large tract of land lying between the Florida East Coast and Hillsborough canals at Deerfield . . .*⁹

The July 2, 1930 article described Capone's lawyer as having "served with distinction as first judge of the Twenty-second circuit, for Broward county, until his resignation from that office to enter the private practice of law several months ago."¹⁰ Asked to confirm reports that Capone intended to take up residence there, the former Broward judge curtly remarked: "When I find that out, I'll let you know."¹¹

In a newspaper account almost two weeks later, Giblin's law partner J. P. Gordon apparently confirmed the report that Capone had purchased the property when he was quoted as saying that "his client [Capone] had considered such a proposition [moving to Broward County] but that all plans had been tentative."¹²

A third account described the property as "inaccessible, being two miles from the nearest road and four miles south of an \$8 million development at Boca Raton" and stated that Giblin "neither affirmed or [sic] denied that he purchased the property for Capone who is known to have been seeking property for a home in the vicinity."¹³ The account stated that the filing of the deed was "[v]irtual verification of rumors existent here several weeks ago that Al Capone, notorious Chicago racketeer, intended to purchase property at or near Boca Raton."¹⁴

Geist Purchases Mizner Properties in Boca Raton

The "former Mizner development" consisted of sixteen thousand acres in the Town of Boca Raton which had been purchased in the 1920s by Palm Beach architect Addison Mizner. On November 1, 1927, following the collapse of the Florida land boom, wealthy Philadelphia utilities magnate Clarence Geist purchased the development including the Cloister Inn from the then-bankrupt Mizner Development Corporation estate for the sum of \$71,500 and the assumption of the Mizner debts totalling an estimated \$7 million.¹⁵ Geist then formed Boca Raton Club, Inc. to take title to the Cloister Inn and invested an additional \$2

million to make refurbishments; the Philadelphia investor also created the Spanish River Land Company to take title to all remaining Mizner properties, including the Boca Raton parcels to the north of the Giblin tract.¹⁶ The newly-renovated inn officially opened as the exclusive Boca Raton Club on January 5, 1930.¹⁷ To the south, in Broward County, the neighboring Giblin tract, like so many early southeast Florida land parcels, would find its genesis in the millions of acres of swamp and overflowed lands the federal government had granted the State under the federal swamp act of 1850.



Chapter One

FLORIDA PUBLIC LANDS AND THE CAPONE TRACT: THE EASTERLY PARCEL

Capone Tract Was Originally "Swamp and Overflowed" Land

More than a hundred years before Giblin's purchase of the so-called "Capone tract," after an 1822 act of Congress established the Territory of Florida, the federal government continued to own the East and West Floridas that Spain had ceded the United States in 1819. Federal policy was then "to preserve the lands under navigable bodies of water and tide lands for the benefit of the future state of Florida and to so utilize the uplands including swamp and overflowed lands as to encourage their settlement, reclamation and cultivation."¹⁸ When Florida was admitted into the union in 1845, the state became entitled to all lands under navigable waters and tidelands within its territorial limits, on "equal footing" with all other states. Uplands, including swamp and overflowed lands, however, remained the property of the federal government, and were held for the purposes of such grants as were to be made or authorized by Congress.¹⁹

Under an act of Congress approved September 28, 1850, the fed-

eral government began to select and patent to the new State of Florida certain swamp and overflowed lands.²⁰ "Swamp" lands were those lands designated as requiring "drainage to dispose of needless water or moisture on or in the lands, in order to make them fit for successful cultivation;" "overflowed" lands, on the other hand, were those "covered by non-navigable waters" or were "subject to such periodical or frequent overflows of water, salt or fresh ... as to require drainage or levees or embankments to keep out the waters, and thereby render the lands suitable for successful cultivation."²¹

Under an 1855 act of the Florida Legislature, title to federally-patented swamp and overflowed lands vested in the governor and four other state officers, now the comptroller, state treasurer, attorney general and commissioner of agriculture, and their successors in office, as trustees of the internal improvement fund. Comprised not only of swamp and overflowed lands, but also other state lands and the proceeds of their sale, the fund was to be used to secure essential state "internal improvements" and to foster settlement and cultivation of state lands.²² To encourage the development of those improvements, the Florida Legislature, in 1879, authorized fund trustees to convey to railroad and canal construction companies the alternate sections of swamp and overflowed lands lying within six miles on either side of each six miles of railroad or canal constructed.²³

On February 14, 1880, only thirty-five years after Florida attained statehood, the federal government patented to the state lands that would later become the Capone Island tract in what was then Dade County among more than two million acres of swamp and overflowed lands, pursuant to the provisions of the federal swamp lands act. Under the act, the federal government would grant to the new State of Florida nearly twenty-two million acres of such lands, approximately fifty-eight percent of the state's total land area.²⁴

In 1880, the Florida peninsula was still a vast, undeveloped expanse of largely unpopulated land. The

geographical limits of what was then Dade County encompassed an area of 7,200 square miles and extended from the St. Lucie Inlet to the southern end of the Florida peninsula. Including lands now within Martin, Palm Beach, Broward, and Dade counties, the county was then home to only 257 settlers. The 1880 federal Census of Agriculture described Dade County's geography as "[w]oodland, a strip along the coast and in the northern part of the county, about 500 square miles; of the rest, everglades, marsh, prairie, savanna, and swamp, it is impossible to give a trustworthy estimate of the proportions." According to the census, there were no tilled lands in the county.²⁵

In 1881, the state improvement fund trustees' sale of four million acres of swamp and overflowed lands to Philadelphia investor Hamilton Disston for \$1 million resolved certain federal litigation that had placed the improvement fund in receivership and frozen the sale of public lands beginning in 1870.²⁶ The sale freed up the balance of the fund's swamp and overflowed lands including parcels comprising the Capone Island tract. The transaction enabled the trustees to sell land to private individuals and to convey parcels to railroad and canal companies in exchange for their efforts in developing Florida's transportation infrastructure. The ensuing grant of public lands would lead to "a new era of development and progress in Florida, particularly the southern, eastern and western portions of the State;"²⁷ railroad and canal development, in particular, which had been substantially halted by the enjoining of the fund for more than a decade, would begin again.

Florida Pioneers Arthur T. Williams and James A. Harris Purchase Easterly Lot Two

Only a year after the Disston purchase, in 1882, Governor W. D. Bloxham and the remaining members of the Florida Cabinet acting as improvement fund trustees sold a tract of swamp and overflowed land described as Government Lot Two of