

2013

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Recommended Citation

Denham, James M. (2013) "Creating the United States District Court for the Middle District of Florida," *Florida Historical Quarterly*: Vol. 92: No. 2, Article 5.

Available at: <https://stars.library.ucf.edu/fhq/vol92/iss2/5>

Creating the United States District Court for the Middle District of Florida

by James M. Denham

The creation of the Middle District was tied up in fundamental changes that, in the mid-1950s, were working social, cultural, political, and all manner of other revolutions in the Sunshine State. The Middle District was carved out of the Southern District of Florida, a huge district that spanned the entire peninsula from the Georgia border to the Florida Keys. The new district resembled a cross ways slash of territory running from the Georgia border as far south as Brevard County before it swung west and south all the way down the peninsula to the southern boundary of Lee County. After 1962 the Southern District included Florida's high density population centers of the Gold Coast to the Keys. The new Middle District contained thirty-three counties and the new Southern District contained twelve.¹

The Middle District of Florida was the first federal district created by Congress since 1928, and Florida's burgeoning population growth caused the move. As early as 1953 a federal

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- 1 Kermit L. Hall and Eric Rise, *From Local Courts to National Tribunals*, (Brooklyn, NY: Carlson, 1991), 111-12; 28 U.S.C., United States Code, 2008 Edition, Title 28 - JUDICIARY AND JUDICIAL PROCEDURE, PART I - ORGANIZATION OF COURTS, CHAPTER 5 - DISTRICT COURTS, Sec. 89 - Florida <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title28/html/USCODE-2008-title28-partI-chap5-sec89.htm> (accessed June 20, 2013).

grand jury for the Southern District of Florida had called for a new district to ease the overwhelming caseload.² By 1960 the Southern District's case load had reached crisis levels. As one source noted the previous year, the district had the largest number of criminal cases filed per judge of all the federal districts in the nation. Only the Southern District of New York exceeded the Southern District of Florida in the number of civil cases filed per judge. The district contained only five judges who heard an average of 526 cases each. The national average was 219.³

Population in the Southern District grew faster than any area in the country. With slightly less than three million inhabitants in 1950 to nearly five million in 1960, Florida could claim the highest population growth rate of any state. Most of the growth was centered in Dade, Broward, Hillsborough, Pinellas, Orange, and Duval counties. Miami jumped to capture the honor as the state's largest city by 1950, with a quarter million inhabitants. By mid-decade that figure had tripled. Formerly tiny communities emerged as thriving cities, among them Fort Lauderdale, Miami Beach, Orlando, West Palm Beach, St. Petersburg, and Daytona Beach.

Florida's rapid growth during the Eisenhower Years (1952-1960) stemmed from many causes. World War II veterans who had received training in the Sunshine State returned to pursue the "Florida" lifestyle they had experienced. The GI Bill opened up educational opportunities at the rapidly expanding University of Florida and newly transformed Florida State University. FHA loans spurred housing developments and infused millions of dollars into the Florida economy. Mosquito control and air-conditioning made Florida's torrid heat livable for newcomers and retirees seeking respite from snow and icy winters in the North. Tourism boosted Florida's economy. Low taxes and other inducements also drew military contractors such as Martin Marietta to the Sunshine State. In 1959 Cuba's Revolution sent thousands of refugees to Florida, mostly Miami. The influx of Cubans into Florida was closely related to the Cold War and the Eisenhower years saw a continuation and expansion of army and air bases in Florida, such as those in Tampa, Orlando, and Jacksonville. Military expenditures and the good

² Hall and Rise, 111-12.

³ John Crews, "The Hands are Busy But So is the Mind," *Daytona Beach Morning Journal*, December 27, 1960.

salaries that came with them boosted Florida's economy. Criminal or civil disputes occurring on these federal military bases would be adjudicated in the federal courts.

Florida's growth also benefitted from the Space Race. In 1958 at Cape Canaveral, one year after the successful launching of the Soviet rocket Sputnik, America's first earth satellite, Explorer I was launched. Within three years, answering President John F. Kennedy's call for sending a man to the moon, Congress authorized the massive expansion of the Cape Canaveral site. Nearly 140,000 acres were eventually acquired for the site. The federal acquisition of land from private property owners for the new space center proved a windfall for some. Yet there were numerous disputes regarding the value of the land. And these disputes would be settled in federal court.

Most trials in the Southern District of Florida took place in Jacksonville, Tampa and Miami. Some cases were also heard in Fort Myers and Orlando. Most of the actions in the latter two locations involved processing work done by U. S. commissioners (the precursor of modern day U. S. magistrate judges) who essentially performed a "justice of the peace" type federal function. According to Paul Game, who was appointed commissioner in Tampa in 1962, U. S. Commissioners could issue warrants, set bail, hold probable cause hearings, and perform other mundane tasks. They were usually part-time positions, had no salary, and were paid on a fee basis for what they did.⁴ George T. Swartz performed similar duties in Fort Myers in the 1960s.

Tampa first heard federal cases in 1879. After 1905, trials were held in Tampa's large four-story federal building whose primary function was a post office. When the building opened in 1904 it was celebrated as the "finest public building south of Washington D. C." The court shared the third floor with the district attorney and the U. S. Weather Service. Ocala (1900), Fernandina (beginning in 1905), and Miami (beginning in 1906) held district courts. By 1931 Miami had a huge federal building which housed the court and other federal agencies. In 1933 the first federal court was held in Orlando. By 1941 the town had a new federal building to accommodate trials. A session of federal court was added in

4 Paul Game, interview transcript, June 27, 2007, 13, Samuel Proctor Oral History Program, University of Florida (hereinafter SPOHP).

Fort Pierce in 1935.⁵ In 1949 Congress created a “roving judge” position and that official held court in selected locations in both the Northern and the Southern districts. In 1952 sessions of the federal court in the Southern District were established in West Palm Beach and Fort Myers. Built of coquina rock in 1933, the federal building in Fort Myers had one courtroom. As George T. Swartz recalled it was “beautiful . . . all mahogany and inlaid wood—it was gorgeous.”⁶

In the years immediately preceding the Middle District's creation Judges William Barker, George Whitehurst, Bryan Simpson and Joseph P. Lieb held appointments to the Southern District of Florida. William J. Barker was born on June 25, 1886 in Marietta, Georgia, but his family relocated to Tallahassee where Barker attended high school at West Florida Seminary, a precursor to Florida State University. After a brief career in business in Jacksonville, Barker pursued legal studies at the University of Florida and one of his classmates was future governor and senator, Spessard Holland. Returning to Jacksonville, Barker practiced in a large firm and served as assistant city attorney and city councilman from 1916-1925. He served as a circuit judge from 1925 to 1939 when President Franklin Roosevelt appointed him district judge of the U. S. Southern District of Florida.

George W. Whitehurst was appointed district judge in 1950 by President Harry Truman. Whitehurst was born in Zolfo Springs, Florida, on May 18, 1891. He attended Stetson University and after one year of legal studies at the University of Florida, passed the bar exam. Practicing law in Wauchula, Florida, from 1915-1916, Whitehurst became a DeSoto County Judge and in 1919 he became judge in the Twelfth Circuit, serving until 1947. Whitehurst retired from the federal bench in 1962, but like Barker, he continued to fill in as needs arose, especially in Fort Myers and Tampa. An avid outdoorsman, Whitehurst had a famous hunting camp in Lee County where he entertained friends, including Judge Barker. He maintained a close relationship with communities in southwest Florida and Fort Myers. George T. Swartz recalled “every once in the while he would come down just to keep the place active and hold a series of cases down there, and that was as a senior judge.” One lawyer who practiced before Judge Whitehurst recalled that

5 Hall and Rise, 64, 79, 91, 149-50.

6 George T. Swartz, interview transcript, January 17, 2007 16, (SPOHP).

he was “stern” and “was a very keen observer. . . [H]e used to talk to you with his eyes. He would penetrate his eyes into a lawyer trying to figure out, ‘Is this lawyer telling me the truth, is he telling me half-truths, how much of what he’s telling me can I believe, can I rely on?’ We always had a high opinion of the old man who was tough.” Another impressive trait that the lawyer remembered was Judge Whitehurst’s ability to make instructions to the jury from memory and completely without notes. “We did not have what we now call standard jury instructions These old-timers did not have that and they had memorized, committed to memory, the law that they were going to give the juries. And we were always in awe how these Old Men were able to quickly recite and tell the jury what is reasonable doubt and how to define circumstantial evidence . . . and the law of accomplice and the law of a co-conspirator and it would just flow naturally, and that is not found today.”⁷

Another lawyer who practiced before Judge Whitehurst remembered him as a “wonderful gentleman” and a “big man physically, very fit, huge hands, an avid outdoorsman. . . . He did have one idiosyncrasy I remember,” the lawyer noted. “He would listen to your argument and with his huge hand he would point his index finger toward the ceiling at the end of the argument and begin to sum up the pros and cons of what he had heard. . . . Thinking out loud with his finger up like this, pointing toward the ceiling about shoulder height. Then his finger would start arching down toward the top of the table. Whatever he was saying at the moment would be it because once that finger reached the top of the table. Lord help the lawyer that wanted to interrupt him or begin to argue with him at that point, because he had decided. But in the instant before that finger touched the table,” the lawyer continued, “if you didn’t like what he was saying, if you interrupted him, got his attention somehow and suggested to him that you weren’t sure that you had made the argument the best way you could and stated it again, you might get that finger to come back,

7 Hall and Rise, 173-74; Swartz, 16; John T. Carlton, “Pepper Stalling Judicial Appointment,” *Miami News*, August 5, 1950; Morison Buck, “George W. Whitehurst: Panoramic Jurist Extraordinaire, 1891-1974.” (1998). *Digital Collection - Florida Studies Center Publications*, Paper 2501. http://scholarcommons.usf.edu/flstud_pub/2501 (accessed June 20, 2013); E. J. Salcines, interview transcript, July 26, 2010, Lawton Chiles Center for Florida History Oral History Program, Florida Southern College, 8-9 (Hereinafter LCCFH).

which I saw happen once or twice. But once that finger hit the table it was done, it was over.”⁸

Two other Southern District judges who would eventually join the Middle District of Florida were Bryan Simpson and Joseph P. Lieb. John Milton Bryan Simpson was born in Kissimmee, Florida, on May 30, 1903. He was the son of Arthur Allen Simpson and Mary Elizabeth Bryan. Simpson’s father was the principal of Osceola County High School. Simpson had two distinguished uncles on his mother’s side: Nathan P. and William Bryan. Nathan P. served as a U. S. Senator and a federal judge. William also served in the U. S. Senate.

Bryan Simpson graduated from the University of Florida in 1926. One person described him as a “rangy young man” of twenty-three “who came to the big city [of Jacksonville] fresh from Florida’s cow country to practice law.” He was a man “equipped not only to bulldoze a legal opponent,” the man continued, “but it is reported he . . . could play a credible game of poker.” He worked in the Jacksonville law firm of Cooper, Knight, Adair, Cooper, and Osborne. From 1933 to 1937, he served as assistant state attorney for the Fourth Judicial Circuit which at that time was composed of Duval, Clay, and Nassau Counties. After returning briefly to private practice, he served as judge of the Duval County Criminal Court beginning in 1939. In 1943 Bryan Simpson entered the United States Army, serving in Europe during World War II. After the war he served briefly as a Duval Circuit Judge until his appointment to the federal bench by President Harry Truman in 1950.⁹ Upon his appointment in 1950, a newspaper asserted that Judge Simpson’s “conduct, demeanor, ability and competence on the bench . . . have won him the highest esteem within the ranks of his profession.”¹⁰

Nicknamed “Cowboy” because of his roots in Osceola County, Judge Simpson was an impressive figure in the courtroom. In 1960, he was fifty-seven years old and stood nearly six foot two and his bronze complexion was set off by a thatch of white hair. John

8 Hon. William Terrell Hodges, interview transcript, May 29, 2012, LCCFH, 4.

9 Ander Crenshaw, “New Jacksonville Courthouse named for Judge Bryan Simpson,” and Corrine Brown, “A Man of Great Courage and Exquisite Fairness,” *11th Circuit Historical News*, 5 (Fall 2008): 12-14; John R. Barry, “Judge’s Star Still Rising,” *Jacksonville Florida Times-Union*, October 15, 1961; Hall and Rise, 170-71.

10 Crews.



Judge Bryan Simpson on the occasion of his swearing in, October 6, 1950. (l. to r.): William Barker, George Whitehurst, Louis Strum, Bryan Simpson, Dozier DeVane. (Hodges Collection, U.S. Middle District Court of Florida Archives, Orlando, Florida).

Crews, a frequent observer of Simpson's courtroom demeanor, noted that when he "stands to his full height on the raised bench, any attorney who draws his wrath is bound to feel mighty small below him."¹¹

Another Southern District judge who eventually served on the Middle District Court of Florida was Joseph Patrick Lieb, born on September 4, 1901, in Faribault, Minnesota. Lieb received scholarships to play football at St. Thomas College in St. Paul, and later, Georgetown University. Receiving his law degree from Georgetown in 1924, Lieb worked as a junior attorney in the War Fraud Section of the Department of Justice. He later worked for the FBI as a special agent and eventually became Director of the Fingerprint or Identification Section of the FBI. Lieb eventually settled in Florida, practicing first in Tampa before his appointment

¹¹ Ibid.

as assistant U. S. Attorney for the Southern District of Florida. Handling cases in Miami until 1934, Lieb resigned and entered private practice in Tampa until 1955, when President Dwight Eisenhower appointed him to the Federal District Court in Miami. Lieb became known to Eisenhower in a number of ways. For one, he was a well-respected Republican in a state dominated by Democrats. Lieb's brother John had been a classmate of Eisenhower's at West Point. Also, Lieb's wife, Helen Bowman Lieb, was active in state and national Republican politics for years. In 1961, after sitting on the bench in Miami for five years, Lieb was transferred to Tampa to fill the vacancy left by retiring Judge George Whitehurst.¹²

Judge Lieb was known for his calm, easy going demeanor in the courtroom. According to one lawyer who practiced before him in the early 1960s, he was a "perfect gentleman in the courtroom, always welcoming you. When two lawyers would get a bit loud," the lawyer continued, "he would try to calm them down, and if not, he would say, 'Look, Mr. Marshal, the court is going to take a brief recess.' And then he would look at the lawyers and say, 'Gentleman, why don't you join me in my chambers for a cup of coffee?' Well, when he got us in the chambers, he would quickly tell us, 'Look, I know that you're fighting for your case and so forth, but you need to settle down, you need to calm down, you're beginning to get out of hand.' And that's how he controlled his courtroom in a very nice manner. The public never knew it because he had that civility, natural civility."¹³

U. S. Magistrate Judge Thomas Wilson who clerked for Lieb from 1964-1965 after finishing Duke Law School, and then practiced before the judge as assistant U. S. attorney, agreed with the previous assessment. Wilson also observed that the judge still bore scars from the football field as he looked like he had his nose broken a few times. But his courtroom temperament was superb. "He had extraordinary patience," Wilson remembered. "He used the golden rule with lawyers. He had a great sense of humor. He was an

12 United States District Court, Middle District of Florida, "Memorial Proceedings for the Honorable Chief Judge Joseph P. Lieb," Tampa, March 30, 1973, 358 F. Supp.; Hall and Rise, 164; Morison Buck, "Joseph P. Lieb, Gentleman, Gentle Judge, 1901-1971." (1990). *Digital Collection - Florida Studies Center Publications*, Paper 2456. http://scholarcommons.usf.edu/flstud_pub/2456 (accessed June 20, 2013).

13 Salcines, 7.



Joseph P. Lieb joined the court in 1955 and served until his death in 1971. Image courtesy of the University of South Florida Library, Tampa, Florida.

outstanding trial judge—not a legal scholar—[but he] applied the law with great common sense.”¹⁴ A lawyer who practiced before him in the early 1960s remembered Lieb as a “gentleman’s gentleman. I never knew him to be discourteous to anybody. He was not an

¹⁴ Thomas Wilson, interview by author, Tampa, FL, October 14, 2010.

active participant from the bench, he didn't ask a lot of questions or interrogate witnesses but he would listen and make his ruling or take it under submission and that was that."¹⁵ Lieb was also a devout Catholic. Nearly every day he attended Mass at Sacred Heart Catholic Church next to the Tampa courthouse.

One of Judge Lieb's clerks in Miami was Alexander Paskay, a Hungarian war refugee. Born in Mohacs, Hungary in 1922, the son of a prominent attorney, Paskay attended "humanistic" gymnasium and eventually graduated from the University of Budapest Law School in June 1944. Paskay was working for an anti-Nazi newspaper when the Germans occupied the country in October 1944. Along with other Hungarian men in Budapest, he found himself conscripted into work gangs. He was transported to Vienna, Linz, Prague, and eventually wound up on the Dutch border building defenses. He escaped from the Germans and after the D-Day invasion he was eventually picked up by a squad of British soldiers. He served briefly as an aide to a British officer who interrogated German soldiers. As a "displaced person" he worked in Baden Baden in the French occupation zone of Germany until immigrating to the United States. After arriving at New Orleans in September 1949 he went to Miami and lived with an aunt and uncle. He worked at various odd jobs until he was able to enter the University of Miami Law School, graduating in 1958. He clerked for Judge Lieb in Miami for five-and-a-half years. During that time, Paskay began reviewing bankruptcy cases for Lieb and Judge Emmett Choate. As Paskay himself later explained, "All bankruptcy at that time was called, not an appeal, but a review of the decisions of the referees and it had to be reviewed by a district judge. The review material presented for the judge was so terrible that the judge told me that you straighten this business out because we have no idea what was the reasoning, because we can't rule on this thing. So I handled all the appeals at that time called the reviews." Paskay told Judge Lieb that if there was an opening, he wanted the job. The judges eventually selected Paskay to replace an older bankruptcy referee and he was officially sworn in at Tampa on July 1, 1963.¹⁶

¹⁵ Hodges, 3.

¹⁶ Alexander Paskay, interview transcript, August 3, 2006, SPOHP, 1-18.

The rulings of the “Warren Court” transformed jurisprudence in America from 1954 through 1968 in the areas of the rights of the accused, school desegregation, legislative redistricting, and civil and voting rights. According to legal scholar Paul Finkelman, the Warren Court is “remembered for modernizing and rationalizing criminal procedure, striking down almost all forms of racial discrimination, strengthening the wall of separation between church and state, and expanding individual liberty in such areas as privacy, speech, and political expression.”¹⁷ The rulings of the Warren court were controversial, and nowhere more so than in the South. In Florida the winds of change blew forcefully and rapidly, conflicting with and undermining traditional legal precepts and customs.

In 1954, Floridians, like other southerners, greeted the Warren Court’s ruling in *Brown v. Board of Education, Topeka, Kansas*, that segregated schools were unconstitutional, with a mixture of shock, disbelief, and outrage. Another ruling the next year ordering that schools be desegregated with “all deliberate speed” found a similar response. In 1956 a “Declaration of 96 Southern Congressmen” denounced the decision as a clear violation of the Constitution and a dangerous intrusion upon the rights of the states by the federal government. The next year the Little Rock crisis galvanized public attention when President Eisenhower called out the National Guard to enforce court-ordered integration of Central High School. Florida and other southern states adopted the stance of “Massive Resistance.” It is certainly within reason to state that the vast majority of Florida’s white citizens, lawyers, and judges deplored the *Brown* decision. Glenn Terrell, associate justice of the Florida Supreme Court, denounced the decision in no uncertain terms. Former governor Millard F. Caldwell (and an eventual member of Florida’s highest court) labeled members of the United States Supreme Court “Communists.” Leroy Collins was elected governor the same year that the *Brown* decision came down. The Tallahasseean, a moderate, pledged to maintain segregation by all lawful means. Even so, Collins and his attorney general, Richard W. Ervin, attempted to calm the public reaction to the *Brown* decision but there were any number of local and state politicians

17 Paul Finkelman, “Earl Warren,” in *The Oxford Companion to American Law*, ed. Kermit Hall (New York: Oxford University Press, 2002), 827-828.

who were eager to fan the flames, and the heat grew hotter as years progressed.¹⁸

Florida's federal judges took these dire omens into account, while understanding that these matters would eventually find their way in their courts. In 1958, while addressing a bar function at Stetson University in its new location in Gulfport, Judge Bryan Simpson warned his audience that there were "deeply held and widely divergent views in regard to integration in public schools, and the problem's solution will 'tax to the utmost the wisdom of both races.'" The issue could not be swept under the rug. "It's going to stay with us and not go away because we wish it to," he declared.¹⁹

The pressure on Judge Simpson mounted as Florida reached the end of the decade. One commentator noted in December 1960 that Judge Simpson "like all federal judges in the South today . . . is occupying the hot seat." At that moment Simpson was hearing two desegregation suits—one for Duval and another for Volusia County. A week earlier he had ruled against the City of Jacksonville in its attempt to restrict the use of recreational facilities along racial lines. Simpson understood it was his responsibility to interpret the law in line with rulings of the Supreme Court, but his decision made him unpopular. While his life time tenure as an Article III federal judge protected Simpson's job, it did not shield him from the abuse that he and his court brethren would receive for their unpopular rulings. By 1960, Simpson was already receiving angry phone calls and letters. He accepted the fact that it was the people's right to criticize him but he was concerned about the long term effect of criticizing the court as an institution. "I grant anybody the privilege to criticize this Court, the Supreme Court or any other Court," he said. "If a person doesn't like the way we're doing the job, he has the right to complain," but some of the criticism, he thought, was "of the sort tending to bring the courts into ill repute."²⁰

18 For the immediate reaction to the Brown decision in Florida see Walter Manley and Canter Brown, *The Supreme Court of Florida, 1917-1972*, (Gainesville: University Press of Florida, 2006), 256-58.

19 Roy Mills, "Private Schools Seen Key Source of Future Leaders," *Jacksonville Florida Times Union*, November 16, 1958.

20 Crews.

The Warren Court's rulings were also crucial for protecting the rights of the accused. *Map v. Ohio* (1961), excluded evidence seized without a warrant. *Gideon v. Wainwright* (1963), a case originating in Florida, guaranteed the right to council in criminal cases. *Miranda v. Arizona* (1966) enjoined the police to read each person their rights after arrests. While laudable to modern ears, it must be remembered that many of the Warren court's rulings were unpopular, especially among law enforcement personnel. Expressing attitudes typical of the time, one commentator charged that the "Supreme Court's movement into the field of law enforcement violated traditional American attitudes toward state predominance in enforcement of criminal law and represented a substantial increase in federal judicial power." This discomfort was true especially in the South—and Florida. As Fred P. Graham, a southerner who covered the court in the 1960s noted, "It was 'as painful as turning around in a briar patch.'"²¹

Warren court rulings also made significant strides in democratizing the voting process. *Gomillion v. Lightfoot* (1957) declared that racial gerrymandering violated voting rights guaranteed by the 15th Amendment. *Baker v. Carr* (1962) paved the way for the "one man, one vote" concept and in *Reynolds v. Sims* (1964), Warren himself "articulated the need for legislative districts based on population size. He noted that 'Legislatures represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests.' He declared that the right to be represented equally in a legislature was the 'bedrock of our political system.'"²² The question of civil and voting rights for African Americans would be taken up by Congress in the early 1960s and during the first years of the Middle District's operation, pivotal cases would be heard in the various courts in the district.

As the decade came to a close, Americans and Floridians looked to the upcoming presidential election of 1960 with great anticipation. The two candidates, John F. Kennedy (Democrat) and Richard Nixon (Republican), while nearly the same age, provided striking contrasts. Nixon, Eisenhower's sitting vice president, seemed a tired holdover from a previous generation—a candidate committed to staying the course—while Kennedy exuded

21 Graham, quoted in Herbert A. Johnson and Nancy Travis Wolfe, *History of Criminal Justice*, (Cincinnati: Anderson Publishing Company, 2010), 244-45.

22 Finkelman, 827.

youth, confidence, idealism, and promoted the need to change. The candidates contrasted strikingly on television. As a Harvard-educated war hero, Kennedy captured the imagination of many Americans and his vigorous campaign promised to "get the country moving again." Great changes were in the offing. Kennedy's running mate, Lyndon Johnson, also inspired confidence, and his Texas drawl was more reassuring to Floridians, even if Kennedy's Boston accent was not.

Kennedy was particularly impressive to Burke Kibler, one of Florida's leading lawyers, who eventually became chairman of the Holland and Knight Law firm. Of Kennedy, the Lakelander remembered, "He was just absolutely a magnificent speaker with an extra-ordinary memory He had that incredible vitality about him and charisma." Kibler confessed many years later that Kennedy was the only Democratic presidential candidate for whom he ever voted.²³ In the end, Florida went for Nixon as it had for Eisenhower in 1952 and 1956, but Kennedy won the national election by a razor thin majority. The Kennedy-Johnson Era began officially in January 1961, the day that Kennedy announced that the "torch had been passed to a new generation of Americans."

Kennedy's election was crucial for the courts because circumstances would permit him to make many appointments, and thus the federal judiciary would bear Kennedy's imprint for years to come. Also, in the selection of his brother Robert Kennedy as attorney general, the Kennedy administration would vigorously enforce federal laws in the civil rights area. Another of the new attorney general's passions would be a vigorous attack against organized crime. Both of these interests would have great relevance to Florida. Of course, in the selection of judges "senatorial courtesy" played a crucial role and both Florida's Senators Spessard Holland and George Smathers were Democrats—albeit conservative ones. Spessard Holland had been in the U. S. Senate since 1946, winning his seat only one year after he left the governor's chair. A World War I hero, prosecutor, state legislator, and judge before becoming governor in 1940, the Bartow native was the most respected politician in the state. The fact that he had signed the "Declaration" did little to diminish his popularity. Holland had worked hard to ban the poll tax in the Florida legislature. Banning

²³ Bill Rufty, "Local Leaders Recall Meeting John Kennedy," *Lakeland Ledger*, November 22, 2003.

the institution by constitutional amendment became his *cause celeb* in the Senate, yet he vigorously opposed civil rights measures as a blatant violation of state's rights.

By 1960, George Smathers had been Florida's junior senator for ten years. Raised in Miami and the son of a prominent lawyer, Smathers was successful in almost everything he attempted. A basketball star at the University of Florida, Smathers excelled in debate and attained nearly every available accolade and leadership position at the university. Graduating in 1936, Smathers immediately entered the law school and his circle of influential friends expanded. Smathers's good looks and his winning personality destined him for a life in politics. During his first year in law school he met U. S. Senator Claude Pepper and eventually ran the senator's re-election campaign in Alachua County. After law school, Smathers returned to Miami and worked in his father's law firm. In 1940 he took a job as assistant U. S. Attorney in the Southern District of Florida. Based in Miami, Smathers soon gained the reputation as a tough prosecutor. According to one historian, Smathers "was blessed with a series of cases that propelled his name onto the front page. His cases fascinated the public, usually featuring sex, greed, and attractive women."²⁴

After Pearl Harbor, Smathers volunteered for service, became a Marine and served in the Pacific theater. In 1946 Smathers was elected to the U. S. House of Representatives, convincing one of his closest friends from law school, George C. Young, to run his Washington office. Joining Smathers in the House were two other young veterans elected that same year: Richard M. Nixon and John F. Kennedy. Smathers made friends rapidly in the House of Representatives and Kennedy was among his closest friends. . They made quite a pair.

It didn't take long for the ambitious Smathers to begin eying greater opportunities, and Pepper's senate seat became the target. While other Democrats contemplated deserting Harry Truman in 1948, Smathers held true and reaped the benefits two years later when the president supported the congressman's goal of challenging Pepper. Smathers hammered Pepper's New Deal liberalism, and charged that his soft stance on communism was out of touch with Florida voters, and it was. In one of the nastiest

24 James C. Clark, *Red Pepper and Gorgeous George: Claude Pepper's Epic Defeat in the 1950 Democratic Primary*, (Gainesville: University Press of Florida, 2011), 96-98.

political campaigns in Florida history, and a bell-weather for the nation, Smathers prevailed. That same year in the California senatorial race, mirroring Smathers's tactics, Richard Nixon bested Helen Gahagan Douglas. Smathers labeled his opponent "Red Pepper," while Nixon dubbed Douglas the "Pink Lady" (that is, "pink right down to her underwear.") Two years later, John Kennedy, also a rising star, entered the U. S. Senate.

While Smathers and Kennedy were close personal friends and members of the Democratic Party, their views on important issues often diverged. Both were "cold warriors" but Smathers believed that questions regarding state's rights and civil rights had to be in line with the majority of white voters in Florida. But these matters were not immediately of concern to Smathers in 1960. For the moment he could revel in Kennedy's election and feel sorry for his old friend Richard Nixon. As a Florida Senator, even as the junior one, Smathers was ready to play an important role in Kennedy's appointments to the court. And that involvement would come quickly as Congress soon after the election authorized a large expansion of the federal judiciary.

The Omnibus Judgeship Act (1960) created seventy-one new judgeships. In less than two years, Kennedy appointed 147 persons to the federal bench. As one writer has concluded, "in one slam-bang stretch of 47 days, from August 11 through September 27, 1961, 69 judges were nominated or appointed, an average of almost eleven per week. By mid-summer 1962 almost 40 percent of federal judges were Kennedy appointees."²⁵

On February 20, 1961, William A. McRae became President Kennedy's first nomination for a federal judgeship. He was nominated to replace William Barker who had recently retired from the Southern District of Florida. A Bartow, Florida, attorney at the time of his nomination, McRae was practicing in Senator Spessard Holland's law firm. Holland, Bevis, McRae, and Smith, the precursor of modern-day Holland and Knight, under the leadership of Chesterfield Smith at that time, was poised to become one of Florida's and the nation's "power law firms." The 51 year old lawyer had one of the most distinguished backgrounds of any Florida Judge. Born in 1909 in Marianna, Florida, McRae graduated from the University of Florida in 1932, and from its law school one year later. McRae won a Rhodes

25 Joseph C. Goulden, *The Bench Warmers* (New York: Ballantine Books, 2012), 298.



Judge William A. McRae on the Occasion of his Swearing In, March 20, 1961. (l. to r.): George W. Whitehurst, McRae, Bryan Simpson, and Julian Blake. (Hodges Collection, U.S. Middle District Court of Florida Archives, Orlando, Florida.)

scholarship and continued his legal and literature studies at Christ College of Oxford University. Returning to the United States, McRae practiced law in Jacksonville from 1936-1940 and was on the law faculty at the University of Florida when World War II broke out. He joined the U. S. Army Air Force, attained the rank of colonel and served on Gen. "Hap" Arnold's staff. According to Ted Mack, who served as McRae's court reporter, McRae was Arnold's "top aide and paperwork man." McRae and Arnold, he declared, "attended all the Summit Conferences of that day, meeting Josef Stalin, Winston Churchill, Anthony Eden (whom McRae had known at Oxford) and many other celebrities." After the war, McRae served as an advisor to the First General Assembly in the United Nations and as senior consultant to the Atomic Energy Commission. In 1946 McRae joined Senator Holland's law firm adding his name to the firm: Bevis, Holland, and McRae. In 1952, McRae became president of the Florida Bar.²⁶

26 Hall and Rise, 165-66; "William McRae is Nominated as U. S. Judge," *St. Petersburg Times*, February 21, 1961; Ed McNeely, "McRae Gets Mention in Judgeship Speculation," *Lakeland Ledger*, June 15, 1960; Edward "Ted" Mack, "Some Recollections of Federal Courts in Tampa, 1940-1970," (1991), 11. Unpublished paper in possession of author.

With Holland's support, as well as the nominee's sterling credentials, McRae's confirmation was a foregone conclusion. McRae lived in Lake Wales at the time of his appointment and most assumed that he would choose to reside in Tampa. Instead McRae chose Jacksonville, a move that was disappointing to Kennedy's next appointee to the federal bench.

Born 1916 in Cincinnati, Ohio, George C. Young's family moved to Daytona Beach during the Florida Boom in the 1920s. Young attended Seabreeze High School, worked on the high school newspaper, and excelled in debate. Young enrolled at Rollins College and then transferred to the University of Florida, where he became president of Sigma Alpha Epsilon social fraternity and President of Blue Key. Young became president of the University of Florida Debating Club, where he and his fraternity brother George Smathers excelled. Both men attended law school together. Young graduated in 1940 and worked briefly as assistant city attorney of Winter Haven, Florida. After the Japanese attack on Pearl Harbor, Young entered the Navy as communications officer, serving in Key West, Miami, Grand Cayman, and Nassau. At the close of the European war, Young was sent to Manila, Philippines, and became a communications officer in what was one of the busiest ports in the Pacific at that time.²⁷

After the war, Young took classes in taxation and administrative law at Harvard University. In 1947, Young joined George Smathers's father's law firm until he became chief of staff to the congressman. Young worked in Washington for Smathers until resuming his lawcareer in Jacksonville in 1952. While in Washington, Young became attracted to a young secretary in Florida Congressman J. Hardin's Peterson's office. Young and Iris June Hart were married in October 1951. As Smathers's chief of staff, Young interacted frequently with other congressmen, including Congressman John F. Kennedy, who presented him with an autographed copy of *Profiles in Courage*. In later years, George and Iris Young both remembered fondly their Washington going away party hosted by Smathers which Congressman Kennedy and his beautiful fiancée Jacqueline Bouvier attended.²⁸

27 George C. Young, interview transcript, June 2003, SPOHP, 1-10, 14, 16; Jim Leusner, "George Young: A Life of Sound Judgment," *Orlando Sentinel*, July 28, 2008; Hall and Rise, 174.

28 George C. Young, interview transcript, August 4, 2011, LCCFH, 4.



Judge George C. Young on the Occasion of his Swearing In, September 1961. Front: (l. to r.): Julian A. Blake, Young; back row (l. to r.): William A. McRae, Joseph P. Lieb, George W. Whitehurst, Bryan Simpson, two unidentified, and Dozier DeVane. (Hodges Collection, U.S. Middle District Court of Florida Archives, Orlando, Florida).

In 1952 George and Iris Young settled in Jacksonville where Young served briefly as Assistant U. S. Attorney until joining the firm of Knight, Knight, Walrath, and Pegues. Young was very active in the Jacksonville Bar association, served as its president, and became a member of the Board of Governors of the Florida Bar. By 1960, Young was one of the most respected lawyers in Florida and his nomination by President Kennedy came as no surprise. With Smathers and Holland each literally at his side before the Senate Judiciary committee, his hearing as he recalled, “consisted of the senators asking me my name, and was it true that I went to Harvard.”²⁹

After his confirmation, Young expected to be assigned to Jacksonville. As he explained, “I thought at the time of the appointment that McRae, who lived in Lake Wales, would be

29 Young, interview transcript, June 2003, SPOHP, 10.

in Tampa because Tampa only had one judge, Judge Joseph Lieb. . . . Then I was going to be in Jacksonville where I had my home and raised my children, because there was only one judge there. As it turned out, Judge McRae decided he'd like to go to Jacksonville, so he designated Jacksonville just a day or two before I was invested." Instead, Young was designated a "roving judge" for both the Southern and Northern Districts.³⁰ Young was a "floater" for several years until he became permanently located in Orlando. It was hard duty and he was often away from home for extended periods of time. He recollected, "I was traveling to Miami every year [for] about three months and then Tampa for about three months or more, and then I came here to Orlando because they didn't have a judge here at all, and I would hear cases here. Then I went to north Florida for two cases then in Jacksonville, I would sit there and hear cases."³¹

That year President Kennedy also appointed Edward Boardman U. S. Attorney and John E. McGuire U. S. Marshal for the Southern District of Florida. Edward Francis "Eddie" Boardman was born in New York City in 1912 but relocated as a child with his family to Miami, Florida. Enrolling in the University of Florida in 1933, Boardman earned two degrees, including a law degree. At Florida Boardman excelled in academic, athletic, and social activities. After graduation in 1938, Boardman returned to Miami and formed the firm of Boardman & Bolles. In Miami he also served in numerous public positions such as municipal judge, Dade County School Board Attorney, and City Attorney for North Miami. In 1956 he served as Adlai Stevenson's campaign manager in Florida, and he also worked for the Kennedy campaign in 1960.³²

John E. Maguire was a native of Dobbs Ferry, New York, and forty-four years old when his old Navy friend John F. Kennedy appointed him U. S. Marshal of the Southern District of Florida. Maguire served with the new president on board *P. T. 109* in the Pacific. With his official tie tack commemorating his service in the navy, Maguire cut an impressive figure in the courtroom or when performing official duties. Officials and persons around the court referred to him as "109 Maguire."³³ As U. S. Marshal, Maguire was

30 Ibid, 10.

31 Ibid, 11.

32 Morison Buck. "Edward Francis Boardman: Judge Gregarious The First, 1912-1990." (2000). *Digital Collection - Florida Studies Center Publications*, Paper 2474. http://scholarcommons.usf.edu/flstud_pub/2474 (accessed June 20, 2013).

responsible for maintaining the security of courtrooms and federal proceedings. He was also responsible for the personal protection of judges, jurors, witnesses, prosecutors, and officers of the court.³⁴

Within a year after McRae, Young, Boardman, and Maguire joined the U. S. Southern District of Florida, Congress, at Senators Holland and Smathers's urging, created the U. S. Middle District of Florida. The legislation had been a long time in coming. The growth of South Florida and the distances involved necessitated the move. As Judge Young explained, "the people in Miami wanted to have their own clerk and their own marshal and their own U. S. attorney, which they did not have up until that time mainly because the district was in Jacksonville. That's where the clerk was. The U. S. attorney, prior to the creation of the Middle District, was in Tampa. After the district was created, Miami had their own people that they wanted to have."³⁵

The act creating the Middle District of Florida took effect on October 30, 1962 and the first sessions of the court met soon thereafter. The legislation creating the new district contained no authorization for new judges so the district inherited three judges from the Southern District. Judges Bryan Simpson, Joseph P. Lieb, and William A. McRae were permanently transferred to the Middle District. Judge Lieb and his bankruptcy assistant, Alexander Paskay, remained in Tampa. Judges Simpson and McRae remained in Jacksonville. Judge George C. Young continued as a "roving judge" for all three districts until 1964 when he was assigned to Orlando as a permanent member of the Middle District of Florida.³⁶ Judges George Whitehurst and William Barker, though retired, maintained chambers in Tampa and filled in as needed. The district also made use of visiting judges to handle heavy case loads.

By most accounts the transition from the Southern to the Middle District of Florida was not difficult. If not exactly seamless, it moved forward with little disruption. Of course, new stationary and forms had to be created, but in most cases the administrative personnel were simply retained in their old jobs at the various courthouses and federal buildings where they had labored before. The Southern District's Clerk at the time was Julian A Blake, who

33 Salcines, *Orlando Sentinel*, December 20, 1990.

34 Robert Sabbag, *Too Tough to Die: Down and Dangerous with the U. S. Marshals* (New York: Simon & Schuster, 1992), 53.

35 George Young Oral History, June 2003, SPOHP, p. 12.

36 Hall and Rise, *From Local Courts to National Tribunals*, 104, 112-13.

had been with the clerk's office in Jacksonville for forty-one years. The transition was a smooth one for Blake. He simply remained in place. All that was necessary was to strike the word "Southern" and add the word "Middle" to his stationary and office window.

Throughout its fifty year history the District has been the scene of hundreds of cases that have contributed to the shaping of our nation's judicial history. Civil rights cases, desegregation cases, redistricting, First Amendment cases, employment discrimination, voters rights, environmental rulings, death penalty, abortion rights, the right to die, terrorist and espionage cases, and a whole host of other types of cases have been litigated in its courtrooms. Some of the nation's first major drug prosecutions came through the Middle District of Florida. An interesting and sometimes notorious cast of characters made up the defendants in Middle Florida courtrooms, including Jimmy Hoffa, Manuel Noriega, Ted Bundy, Santo Trafficante, Carlos Lehder, Glenn Turner, Donald Segretti (of Watergate fame), and Hollywood movie star Wesley Snipes. Many of America's most skilled trial lawyers argued cases there as well. Florida political figures such as governors Farris Bryant and Claude "Claudius Maximus" Kirk and Senator Ed Gurney also appeared in Middle Florida courtrooms.