



Official portrait of Judge
Joseph William Woodrough
(1873-1977). NSHS 13001-2 01

THE WAYFARING JUDGE

WOODROUGH AND ORGANIZED
CRIME IN THE U.S. DISTRICT COURT

BY NICK BATTER

*I*n 1897, a twenty-four-year-old attorney came to Omaha to start his career in earnest. He lacked a law degree—or any degree for that matter—but had been admitted to the profession on the basis of having read a few legal treatises and because some prominent citizens vouched for his character. As the century came to a close, the attorney—Joseph William Woodrough—had grown to become one of the “leading legal lights of the State.”¹

By pure coincidence, just as Woodrough was arriving in Omaha, the city’s four biggest crime bosses were leaving in a hurry, under mysterious circumstances. Their power vacuum would be filled almost instantly by another recent arrival, Tom Dennison, whose career up until that point had consisted almost exclusively of gambling and theft across a variety of frontier towns. By the turn of the century, the gambler was king of Omaha’s underworld, having consolidated power by leveraging corrupt police officials to rout his rivals.²

ON THE BENCH AT 21-FEDERAL JUDGE AT 42 - JOSEPH W. WOODROUGH



Unusual Career of Young Lawyer Appointed Successor of Late Judge Munger

...and during the past few years...
...the late Judge Munger...
...the young man...
...the court...
...the law...
...the judge...
...the case...
...the trial...
...the verdict...
...the appeal...
...the final...
...the end...
...the result...
...the conclusion...
...the outcome...
...the final...
...the end...
...the result...
...the conclusion...
...the outcome...

Woodrough was preceded on the bench by William Henry Munger, no relation to Thomas Charles Munger, a judge with whom Woodrough often clashed. *Omaha World-Herald*, March 26, 1916

Like Dennison, Woodrough's path to Omaha was meandering. Born into family of renowned Ohio sawmakers, Woodrough developed wanderlust in his teenage years. He traversed Europe by foot with a nephew of future President Theodore Roosevelt and met with Wilhelm II, the newly coronated German emperor.³ Woodrough took classes at Annenschulen and Heidelberg University but, running out of both money and enchantment for German pedagogy, he left without graduating. He celebrated his eighteenth birthday in the middle of the Atlantic Ocean, aboard the *Wieland* en route home to America.⁴

Woodrough lingered briefly in Omaha, joining a cohort of twenty-one students attending classes in the inaugural year of the Omaha Law School. While a student, he worked under his uncle, William Beckett, attorney for Byron Reed and for wealthy heirs to the Creighton family estate. However, Woodrough hardly lasted the year. His uncle was a firebrand, banned from one courtroom for throwing a punch at a judge (he missed his target, but hit the bailiff square in the face).⁵

Woodrough departed to join even rougher company, arriving in remote Ward County Texas in 1894, an expanse of the Pecos Valley named for a local peg-legged hero whose natural leg was lost to a cannonball during the fight for Texan independence. Woodrough set to work raising cattle, farming onions, and practicing law.⁶ The

nascent lawyer ran for, and was elected, county judge the same year. The county's population, which hovered around one hundred, was "as unlearned in civil and criminal codes as it was proficient in the art of quick draw and steady trigger finger." Undaunted, the twenty-one-year-old judge had gunslingers hauled into his red sandstone courthouse, where they were fined \$25 for carrying sidearms in public.⁷ Thanks to Woodrough's enforcement of the laws, "peace soon reigned in the Pecos [Valley]." His contributions to onion farming, perhaps, also warrant note: a Ward County onion would go on to win top prize at the World's Fair in Saint Louis.⁸

Woodrough's connections to the Nebraska legal community led him back up tornado alley, to partner in law with William Gurley, a veteran litigator in downtown Omaha. In Woodrough's first year back, Omaha was capturing the attention of the world with the dazzling electric lights of the Trans-Mississippi Exhibition. Yet the growth and notoriety that would follow contained equal parts darkness. As Dennison's political machine grew, Omaha continued to garner national infamy for brazen kidnappings, racial violence, and xenophobia.⁹ Meanwhile, inefficiencies in the judiciary slowed adjudication to a crawl. Woodrough complained that new cases were simply left "mouldering, like John Brown's body" (though apparently without marching on in spirit).¹⁰ Woodrough hoped to combat organized crime and disorganized law.

His legal mentor, Gurley, was a prominent enemy of Dennison's patron, Edward Rosewater. Their feud was such a spectacle that crowds filled the Orpheum theater just to hear them argue—a show "well worth the price of admission." The *Omaha World-Herald* recounted Gurley's eloquence against Rosewater, who retorted while "teetering on tiptoe as he shrieked in high falsetto." Rosewater, who had the benefit of owning his own newspaper, printed more glamorous accounts of himself. Gurley turned the debate toward Rosewater's use of cronies and favoritism to build a political machine with men like Dennison working in the shadows. In the end it was a humiliating defeat for Rosewater, who had only "cleaned up" against Gurley "like the man cleaned up the packing house when he was dragged through it by the heels."¹¹

The rivalry would soon impact Woodrough. He was nominated as the Democratic candidate for county judge in 1905. Although his opponent was "not as well versed in the law," Rosewater campaigned strongly against Woodrough,

contributing to his defeat in the general election.¹² Omaha would prove more vexing to Woodrough than any of his previous adventures. Dennison and his associates would be not be disarmed as easily as the frontier gunslingers Woodrough was accustomed to.

Nonetheless, as the years progressed and his legal practice grew, Woodrough formed a philosophy and lifestyle that would undergird the rest of his life. He complained: "We have elaborate systems of courts in this state that cost the people millions of annual outlay, and they take five years to decide a dispute about a bill of goods. We have legislatures that often follow dark and devious ways, and bosses in every city that can deliver votes with unholy certainty."¹³ Just as previous generations had fought against the evils of "kingship" and "slavery," he saw his generation as needing soldiers, too. This new fight "will take the brain and courage of men to fire their hearts and spur them on to heroism as grand as the race has seen." He called on his peers to reject corruption, bossism, and bureaucracy, and referred to men who used their talents merely for wealth as "vulgar."¹⁴

Woodrough was energized when a progressive intellectual threw his hat into the 1912 presidential race; he "worked and organized day and night for the election of Woodrow Wilson."¹⁵ Fortune was on Wilson's side. Republicans faced a crisis in 1912 when their incumbent, Taft, was challenged by former President Theodore Roosevelt. Working alongside William Jennings Bryan, Woodrough's Wilson League of Nebraska helped contribute Nebraska's eight electoral votes to a Wilson victory.

Federal District Judge William Munger died during Wilson's first term, in the autumn of 1915. Because of Woodrough's support of Wilson, his name appeared high on lists of possible successors, although he had not solicited an appointment. Bryan, whose relationship with Wilson had cooled due to the ongoing war in Europe, initially supported Woodrough, but Bryan and other populists suddenly revoked their support days before a White House official arrived in Nebraska to meet various candidates. "Why Woodrough's chances should wane does not appear on the surface," said the *World-Herald*, "but it is said that Bryan workers have been turning their attention to other candidates."¹⁶ Bryan formally threw his support behind an attorney from Grand Island, whom the administration almost immediately disregarded due to his advanced age. Although Bryan's eleventh-hour change of heart

mystified reporters, it probably didn't surprise Woodrough, whose law partner, Gurley, was also a longtime public critic of Bryan.¹⁷ And at a time when Bryan was panning Wilson's foreign policy, Woodrough was extolling it.

Rejecting a direct appeal from Bryan to appoint a different candidate, President Wilson chose Woodrough. By the first of April 1916, Woodrough had been sworn in and seated on the bench.¹⁸ He was the youngest federal judge in the country.

Woodrough increasingly adopted military analogs as his guiding philosophy when the United States entered the Great War in Europe. In a 1918 article, sandwiched between an advertisement for war bonds and a firsthand account from the front, Woodrough referred to himself as "a new recruit in a very important unit of democracy's far-flung battle line." He continued: "the coming years will subject each and all of our basic institutions to tests as severe as they have ever encountered in the past. The maelstrom of war will surge about the foundations of them all." These foundations, Woodrough urged, must be defended both by "the blood of martyrs on fields as battle" as well as "judicial tribunals . . . in the quiet chambers of the courts."¹⁹



A prohibition official closes up a building in Omaha. From the Bostwick-Frohardt Collection, owned by KMTV-Channel 3 and on permanent loan to the Durham Museum, Omaha.



Robert Samardlck, dubbed "Raiding Bob" by the press, routinely tested the limits of the Fourth and Fifth Amendments. From the Bostwick-Frohardt Collection, owned by KMTV-Channel 3 and on permanent loan to the Durham Museum, Omaha.

His philosophy permeated more than his rhetoric; Woodrough adopted a strict personal regimen. A colleague on the federal bench, Richard Robinson, would later remember him as "Spartan in his tastes and in the way he lived. He shunned luxury hotels, he spent little time in clubs . . . he disliked ostentation or pomposity in any form [and] believed in physical fitness." Woodrough usually marched the ten miles from his home to the courthouse and, when hearing cases in Lincoln or elsewhere in the state, was known to travel the distance on foot. Justice Blackmun would later recollect: "woe unto the law clerk . . . not able to keep up with

him." He prescribed his clerks with outside reading on a wide variety of topics. He would regularly order the "whole platoon" to report to his house, where he would offer "good, if simple food" before showing them "a tree to chop down, or a fence to paint, or some other household chore requiring strong young backs."²⁰

However, despite Woodrough's simple tastes, serious philosophy, and habit of walking tremendous distances on foot, he was not a severe figure. Rather, above all else, former friends and clerks remembered his friendliness and sense of humor. "He was a peach, just a great guy. Didn't go to law school. Didn't write any articles. Just a real human being."²¹ Throughout his career, without ever seeming to compromise his values or strict self-discipline, he managed to maintain a boyish demeanor and optimism. In his chambers, which were often "full of laughter," he would use stacks of legal tomes to perform afternoon calisthenics, or as an improvised bed for a mid-day nap.²² In 1918, as fledgling Allied air forces were bombing Cologne, Woodrough was unexpectedly absent from court, missing the plea hearing of a hotel clerk facing charges of selling whiskey to soldiers. The judge, apparently more concerned with what soldiers were eating, was discovered at home, "doing his bit" by tilling up his lawn to make a victory garden. He even registered for the draft, despite being past the cut-off age. Unsurprisingly, the draft board's physical examiners found him perfectly fit to fight.²³

Woodrough's good humor, coupled with his distaste for the exclusive social clubs where his

colleagues spent much of their free time, allowed the judge to remain grounded and empathetic to ordinary, working-class Nebraskans. Chief Judge Robert Van Pelt would remember him as "the most human judge the District Court of Nebraska has ever had."²⁴ An (apparently) amateur poet would go further, penning:

He sits upon that bench, just like you and me
And the office does not swell his head in the slightest degree
For he belongs to the people they call the Common Herd
For degrees of self-importance to him they are absurd
He cares for no one in so far as their success
For he treats the wealthy just like the widow in distress
And while upon the bench he is patient all the while
And carries with him a nice and lovely smile.²⁵

He seemed to charm many of those who entered his court. On one occasion, despite receiving a \$50 fine from Woodrough, a repentant haberdasher blurted out: "Judge, any time you want your hats cleaned or reblocked it won't cost you a cent." The day prior, an apropos editorial in the *World-Herald* had quipped: "It makes us almost sad that we can't stand up before Judge Woodrough to be sentenced."²⁶

Woodrough's ascension to the bench would also coincide with a reform movement sweeping the state. Nebraska amended its state constitution to prohibit alcohol in 1917. Those in Omaha frustrated at rampant corruption orchestrated by underworld boss Dennison "argued strongly and persuasively about the need for cleaning and change."²⁷ Dennison's crony, "Cowboy" Jim Dahlman, who had served as mayor for twelve years, was unseated by Edward Smith in 1918. Smith and Woodrough were well acquainted, due to Smith's close friendship with Woodrough's former law partner. While in private practice, Smith and Woodrough shared neighboring offices and both taught at Creighton Law School.²⁸ Dennison, sore at Smith's electoral success, remarked, "let the bastards have it their way for awhile [and by the next election] they'll be glad to see us back."²⁹

To make good on his promise, Dennison stirred up racial violence. *The Omaha Bee*, now published by Edward Rosewater's son, Victor, "printed whatever [Dennison] wanted" and repeatedly ran stories of crimes against whites at the hands of

blacks. Many of these crimes are thought to have actually been committed by Dennison thugs in blackface.³⁰ When in September 1919 a black man named Will Brown was accused of raping a white woman, *The Bee* sprang on the opportunity to run incendiary articles. A livid mob of thousands stormed the courthouse intent on lynching him. They besieged the building and set it on fire.

Mayor Smith, inside the courthouse when the arson began, was an embodiment of Woodrough's ideal of jurists as soldiers. While working for the Attorney General years before, Smith trained Nebraskan volunteers to fight in the Spanish American War.³¹ Now he strode out of the burning courthouse, telling the mob: "I will not give up the man. I'm going to enforce the law even with my own life. If you must hang somebody, then let it be me."³² He fought as the angry crowd closed in on him, but was knocked unconscious and, with a noose placed around his neck, dragged behind a car and strung up from a traffic pole before he was rescued. Back at the courthouse, the police lacked the mayor's grit; they surrendered their prisoner. Brown was hanged from a telephone pole and shot repeatedly, dragged behind a stolen police car, and set on fire. Mayor Smith, drifting in and out of consciousness for days, kept muttering: "Mob rule will not prevail in Omaha."³³

A leadership crisis appeared on the national level as well when Woodrough's idol, President Wilson, suffered a major stroke in October 1919 and remained incapacitated for the remainder of his term. Meanwhile, both nationally and in Nebraska, the anti-corruption activists that had elected leaders like Mayor Smith over their criminally-backed rivals were mobilizing behind the Prohibition movement. The Eighteenth Amendment was ratified following a decisive vote by the Nebraska legislature on January 16, 1919.

Although Nebraska already had state prohibition laws in effect, national prohibition meant that bootleggers—and the bosses of larger underworld machines—would face Woodrough and his colleagues in federal court. The impact on the courts was immediate and dramatic. At one point, liquor violations constituted two thirds of all criminal indictments. Courts accustomed to seeing major cases involving issues of federal concern instead found themselves flooded with indictments against petty offenders. The influx was so extreme that Woodrough suggested bringing a third federal judge to Nebraska, devoted entirely to disposing of prohibition cases.³⁴

The man chiefly responsible for the deluge on the courts was Robert Samardick. An immigrant from the Balkans, Samardick found his way to South Omaha's growing Serbian community after working as a boy in the iron mines of northern Minnesota. After service in counter-intelligence during the war, he served briefly in the Omaha Police Department before resigning to become a federal prohibition agent in 1920.³⁵ With a teetotaler's zeal for punishing libertines, Samardick tested the limits of the Fourth and Fifth Amendments. He violently rounded up hundreds of bootleggers and innocent bystanders alike, becoming a familiar face before Woodrough's bench.

CLOSE PRIVATE HOMES WHERE BOOZE IS MADE

**Kinsler Prepares Injunction
Against 75 Places Under
Old Revenue Law.**

RULING SALE NECESSARY

United States District Attorney Kinsler announced yesterday that in all liquor cases where it is found that people are using their residences in whole or in part, for the sale or for the manufacture of liquor, the court will be asked to close the residence by injunction for one year. Approximately 75 injunction suits of that nature are now being prepared in the district attorney's office.

Omaha World-Herald,
July 14, 1923, 2.

Samardick took his post just as the Eighteenth Amendment and National Prohibition Act came into effect. He wasted no time. When investigating possible liquor violations, rather than knocking, Samardick would chop through doors with a large steel axe. The press quickly dubbed him "Raiding Bob."³⁶ He was frequently in court, testifying against suspected bootleggers and defending himself against assault charges. Shortly after a case in which Samardick stood accused of punching a cab driver in the face, he was again brought into court for assaulting a friend of Senator

Robert Howell. After smashing through the door of the woman's grandmother's house, she alleged he pinned her to the ground, twisting her arm while catechizing her about possible liquor in the house.³⁷ In a later episode, he pleaded guilty to assaulting a postal worker, and was fined \$150 by Judge Thomas Munger. Understandably, the *World-*

Herald began referring to those he raided as his "victims," but his tactics were supported by high ranking prohibition officials, who brought him to the east coast to train their agents.³⁸

Unlike Samardick, Woodrough was sympathetic to low level offenders. A former colleague, Harold Rock, recalled: "I wouldn't say he was soft on



The Hotel Fontenelle 1922, looking west on Douglas from 17th Street in Omaha. The following year, prohibition agent Samardick sought to close the hotel after bellboys sold liquor there, but Woodrough ruled against the government's "padlock" injunction. NSHS RG2341-266v

anybody, but he was not a headhunter. He had a great affection for the little fellow. He looked around and saw what the times were. He didn't consider brewing a mortal sin."³⁹

Although known for his austere personal tastes, prior to joining the bench Woodrough would commonly enjoy drinks with friends. "He wasn't a rouster . . . but he would have a scotch now and then." He criticized those who believed "that the country is going to pot and everybody is crooked" and put his "faith in the honesty of the human race."⁴⁰

Samardick and Woodrough seemed destined for conflict. Samardick's harsh enforcement of liquor laws steadily pushed Woodrough to hand down decisions limiting the government's ability to enforce prohibition. In 1923, Samardick obtained a warrant and raided an Omaha pharmacy, finding clear evidence of liquor violations.⁴¹ At trial, however, Woodrough dismissed the case. The judge determined that Samardick in particular, and prohibition agents in general, were not "federal officers," and thus any search warrant executed by them was unreasonable and illegal. He wrote: "it is probable that no greater hindrance to the effective and successful enforcement of the [law] could arise than a persistent ignoring of the limitation put by law upon searches and seizures."⁴²

Although the case sent shockwaves across the country, it had little practical effect at home. The bootlegging pharmacist, who had barely escaped conviction thanks to Woodrough's ruling, continued selling booze from his pharmacy. Although the pharmacist did not learn his lesson in court, Samardick had. He raided the pharmacy again, bringing along a U.S. marshal to serve the warrant. Woodrough presided over a jury trial and the pharmacist was found guilty on all thirteen counts.⁴³

Rather than checking their power to avoid running afoul of the law, prohibition forces grew bolder. Samardick and his counterparts in the U.S. Attorney's office began looking for other sanctions they could levy against bootleggers, which they found in section 22 of the National Prohibition Act, called the padlock provision. The law, in essence, gave federal prosecutors the power to lock up any home or business suspected of being involved in the illegal sale or manufacture of liquor.⁴⁴ The regional prohibition chief warned the public that his goal was to file a nuisance action against every home, business, and factory where a liquor violation had occurred and "close them all up for a year and a day."⁴⁵

Prosecutors began to make good on the threat in early 1923. When Samardick's undercover agents discovered a handful of entrepreneurial bellboys at a local hotel selling whiskey to patrons, unbeknownst to the hotel's management, Samardick promptly raided the building. Despite failing to find a drop of liquor on the premises, the agents carted off two bellboys and petitioned Woodrough to padlock the entire hotel.⁴⁶

Woodrough was skeptical, and demanded that the government justify its request. The government was so focused on getting Woodrough to recognize its padlock powers that it gave the guilty bellboys favorable plea deals in exchange for their testimony at the injunction hearing against the hotel. Woodrough grilled the hotel's operator about the liquor scheme.⁴⁷ In the end, it was determined that management had no knowledge or involvement, and prohibition agents had overstated their case against the hotel. Woodrough denied them the power to padlock the hotel. Samardick, imaginably dejected by Woodrough's ruling, "evidenced keen disappointment at the decision."⁴⁸

Woodrough's ruling would prove fortuitous for Omaha. The hotel, named the Fontenelle, was an early venture of Eugene Eppley, who called the decision "vindication" and a "decisive victory." Eppley turned the Fontenelle into the flagship property of a large chain of upscale hotels, and with his fortune became one of the greatest philanthropists in Omaha's history. Had Woodrough allowed the government to shutter Eppley's fledgling business, it would have snuffed out one of the brightest lights of Omaha's mid-century growth.⁴⁹

In the case of the Fontenelle Hotel, Woodrough made a provisional ruling against the government's specific padlock injunction. Undeterred, prohibition agents continued applying for padlocks. Woodrough occasionally acceded, granting two injunctions in late 1923 against businesses that refused to clean up. Emboldened, the agents increased the scope and tempo of their requests. In early 1924, an older husband and wife appeared in court to defend against a padlock provision on their home.⁵⁰ The previous year, the husband confessed that he had sold small quantities of wine from the house and he was subsequently sentenced. No further liquor violations were alleged to have happened. Nonetheless, prohibition agents followed up with a padlock request, asking Woodrough to seal the home and its contents for a year—effectively throwing the pair out into the streets without their belongings.

Rather than simply deny the motion, Woodrough deemed the entire section of the law unconstitutional. To Woodrough, the padlock law gave the government unconstitutionally broad power in violation of the Sixth Amendment's guarantees that crimes be tried to a jury. "The federal government cannot put offenders against its criminal laws on trial, except before a jury. This is a very fundamental feature of the federal institution and must be scrupulously safeguarded by the court."⁵¹

In Illinois, where courts had allowed padlocking of hundreds of homes and businesses, one reporter excitedly called it "the most important court ruling affecting personal liberties since the famous Dred Scott case."⁵² Papers from Omaha to New York City predicted a swift Supreme Court ruling to iron out the issue. None came. Unfettered, Woodrough used similar reasoning to invalidate even more provisions of the Prohibition Act.⁵³

With Woodrough constantly chipping away at the government's prohibition powers on constitutional grounds, prohibition officials did everything in their power to avoid Woodrough's court. Samardick would wait until Woodrough left town before bringing cases against suspected

bootleggers. When Woodrough was holding court in western Nebraska, his usual substitute in Omaha was Judge John McGee from the Minnesota District. McGee, a recent Harding appointee, was known for his ability to strike "fear into the hearts of Omaha bootleggers." His record of harsh sentences for minor liquor offenses won him the nickname "Ten-year" McGee.⁵⁴ As soon as McGee arrived to replace Woodrough, Samardick happily unloaded his backlog of cases on the tougher judge, flooding the court's docket with hundreds of new defendants. Although McGee again proved himself an enemy of bootleggers in his court, the salvo of cases was his undoing.⁵⁵ After finishing out the year as Woodrough's substitute, McGee returned to his chambers in Minneapolis and shot himself in the head. His colleagues, citing a suicide note, declared him "cracked by the burden of [a] calendar overcrowded with bootleg cases."⁵⁶

Woodrough managed his own heavy case burden differently, applying lenity in place of stringency. This encouraged more defendants to enter guilty pleas, avoiding lengthy trials. Woodrough also allowed prosecutors wide berth in striking plea deals. When criticized, the judge merely responded that "he knew of no other way in

which the hundreds of liquor cases could be disposed of, and that he believes no real injustice is [being] done."⁵⁷

Despite taking away much of the punitive powers of prohibition forces, Woodrough had initially allowed them broad discretion in investigating potential bootlegging operations. When agents raided a downtown Omaha distillery after claiming to smell hints of fermenting mash in the air, defendants brought in a meteorologist and a chemist to dispute the possibility that any fumes could have been detected by a human nose. While the agents confiscated truckloads of equipment and supplies—clearly the tools of a large scale operation—they ultimately found only four small containers of actual mash.⁵⁸ Nonetheless, Woodrough upheld the validity of their

Bootleg liquor was often manufactured in isolated rural areas, such as this still discovered near North Platte in 1933.
NSHS RG2613-1



search, reasoning that “[o]fficers must go where their senses tell them a crime is being committed.”⁵⁹

Over time, warrantless raids became bolder while underlying probable cause became more scant. In one case, agents raided a farmhouse after claiming to smell fermenting mash from two hundred yards away, despite a strong wind at their backs. Woodrough expressed “sickening doubt” that agents had smelled anything and invalidated their search. Seeing the raids as an abuse of power, Woodrough set out to carve a bright line, ruling that “the mere odor of fermenting mash would not justify a raid” in any case. The “protection of the inalienable rights of the American citizen is of more important than easy enforcement of the prohibition law,” he commented. Following the ruling, Woodrough quickly disposed of a dozen pending liquor cases.⁶⁰

The decision caused a national stir. One Omaha reporter mailed photographs of Woodrough to his colleagues across the country, predicting that “Woodrough’s pictures will be in good demand.”⁶¹ He received national praise from prohibition critics. The *New York Herald Tribune* editorialized:

[Woodrough] is expressing a philosophy of government that lies at the foundation of American institutions. Needless to say, the vast majority of his fellow countrymen will agree with him; they will applaud his refreshing reassertion of a principle which in the last 10 years has been made to yield right and left to enforcement expediency. . . The confidence of the people in the federal bench as a bulwark of their rights would be greatly strengthened were it graced with more men of the caliber and fearlessness of this Omaha jurist.⁶²

Of this the U.S. Attorney in Nebraska complained: “It is equivalent to saying that a man cannot break into a house without a warrant, even if he can see or hear a felony—even a murder—being committed.”⁶³

However, Woodrough’s main critic on the issue was Judge Thomas Munger, who recognized the evidentiary fruits of warrantless sniff searches. While the colleagues kept their disagreement cordial and private, their differing philosophies played out in their courtrooms. The disagreement came to a head when Woodrough dismissed the case of a defendant that Judge Munger had ruled against just days prior. “Federal Judges Clash” read the front page of the *World-Herald*.⁶⁴ Munger



was partially vindicated when Woodrough’s bright line rule was erased by the Eighth Circuit, which held that probable cause could exist “where an officer of the law has direct personal knowledge [of the crime] from one or more of his five senses of sight, hearing, smell, touch, or taste.”⁶⁵ The ruling still allowed Woodrough to invalidate overreaching searches case-by-case. The relationship between the Fourth Amendment’s privacy protections and the senses of law enforcement officers has continued to vex courts and legal scholars ever since.⁶⁶

Controversial decisions and backlash from his colleagues did not faze Woodrough. He was not sentimental, and loved attempts at change. When a block of historic buildings was torn down near his office, the public was incensed. Woodrough, however, was transfixed by the construction site. “He knew every day what had happened and what was going on over there.”⁶⁷ Perched on his windowsill, with his legs resting across the radiator, he would stare out the window as steamshovels, cranes, and a regiment of construction workers erected the new building.⁶⁸ To Woodrough, the march of public progress was more compelling than maintaining a status quo. “The judge wasn’t one to sit there and admire old buildings, he’d rather see new things going.” Prohibition forces discovered that Woodrough held a similar outlook as a jurist. He had no qualms about striking down existing law in order to foster liberties more important to the public. “He didn’t mind causing

A basement still found in a Lincoln home in 1932.
NSHS RG2183-1932-724-1

a stir . . . he probably got a bang out of it. Seeing those prohibition [agents] staggering around in their underwear would be kind of entertaining [to him].⁶⁹

Woodrough's distaste for the unending liquor prosecutions grew as he witnessed ordinary people dragged into court and threatened with all manner of punishment. But as poor immigrants were losing their savings for purchasing small quantities of wine, major bootlegging operations were thriving beyond the reach of the law. The crime bosses like Dennison, who amassed fortunes from bootlegging and whose corruption had been catalyst for ratifying the Eighteenth Amendment in the first place, were rarely brought to justice. To the public, the National Prohibition Act seemed ineffective at routing serious crime.

The Dennison crime machine had fully matured by the mid-twenties. New growth was fed by upstarts, the most prominent of whom was a young immigrant named Louise Vinciguerra, known more commonly among bootleggers as Queen Louise. By the first few years of the decade, the twenty-two-year-old's income was more than four times that of the state governor.⁷⁰ "Her home oozed opulence," said the *World-Herald*, and she drove a Packard high-luxury sedan.⁷¹ Unlike Dennison, who avoided law enforcement and operated behind layers of cronies, Vinciguerra worked in plain sight, treating prohibition fines as if they were taxes of a legitimate enterprise. She routinely appeared before Woodrough's bench, pleaded guilty to bootlegging, and paid her fines before immediately returning to her distilleries. Her cavalier approach attracted a tremendous amount of legal and media attention, which Dennison was happy to avoid. Although he was technically a competitor, Dennison sometimes bankrolled the legal expenses of Vinciguerra's colorful court appearances.⁷²

Much of Vinciguerra's success can be attributed to a number of associates she had working within law enforcement. Prohibition agents raided her facilities only to find the lingering smell of mash and signs of recently-moved equipment.⁷³ But her insiders aided her with more than tips. Prohibition Agent Earl Haning, who was in love with Vinciguerra, conducted raids on her rivals, confiscating their supplies and equipment. Where some suitors may have sent boxes of chocolates, Haning sent Vinciguerra hundred-pound sacks of distilling sugar. Haning's scheme was uncovered by his boss Samardick who, true to form, left Haning "badly beaten" before stripping him of his badge and sending him the federal penitentiary.⁷⁴

Federal officials continued peppering Vinciguerra's enterprise with fines and raids, to hardly any effect.

Woodrough was not alone in his frustration at seeing petty offenders torn apart by the law as major criminals carried on with impunity. By the mid-1920s, federal prosecutors elsewhere in the country had succeeded in tackling their region's crime bosses. Assistant Attorney General Mabel Walker Willebrandt did this by breaking with her contemporaries: "I have no patience with this policy of going after the hip-pocket and speakeasy cases. That's like trying to dry up the Atlantic Ocean with a blotter." Decades earlier, around the time a young Woodrough was traveling south to Texas, Willebrandt had been traveling west by covered wagon with her parents from Missouri to Oklahoma. She eventually made it to California to study law, serving as public defender before going to work with the Justice Department. In the first few years of her appointment, she took down a major figure in Woodrough's hometown: Cincinnati bootleg king George Remus.⁷⁵

Woodrough and Willebrandt would only truly cross paths once, during a tax dispute that would be one of Willebrandt's last cases in federal court. Although the panel ruled against the government, Woodrough penned a thorough dissent in favor of Willebrandt's arguments.⁷⁶ Willebrandt, an expert in both tax and prohibition law, had been one of an early contingent of prosecutors who saw the possibility of punishing crime bosses through the tax code. In time, Woodrough found himself supporting that view. By holding major bootleggers liable for tax offenses, the government was able to reach crime bosses who otherwise had escaped the law.

This new sword was brought to Omaha by twenty-four-year-old assistant U.S. Attorney Edson Smith. A native Nebraskan, Smith had won regional honors serving on the offensive lines of both his college football and debate teams. Within four months of his graduation from Harvard Law School, he was given the onerous task of leading all bootlegging prosecutions in the state. Smith wasted no time—within weeks of being hired, he briefed and argued his first case before the Eighth Circuit, arguing against an appellant who sought to have one of Woodrough's decisions reversed.⁷⁷

As the roaring twenties came to a close, Smith brought over a hundred tax evasion cases against Omaha's major bootleggers. A winter raid by prohibition agents against notorious liquor baron and reputed John Dillinger associate Gene Livingston gave Smith his first notable target.

Livingston, an eclectic and violent criminal, was known as "the man of many rackets."⁷⁸ In addition to bringing criminal charges against Livingston, Smith used inventory and empty grain sacks to calculate the amount of illicit business Livingston had failed to pay taxes on, hitting him further under an "old internal revenue statute." The government's fines exceeded a quarter of a million dollars.⁷⁹

Livingston, accustomed to favorable treatment, light penalties, and a protective network of bribed public officials, received a rude awakening when Smith brought his case to Woodrough's court. Livingston hoped to conclude the trial early, but Woodrough denied all requests. Smith made it clear that Livingston's days of special treatment were over: "In view of the fact that there are more than one hundred defendants now awaiting trial, it will be necessary for Livingston to wait his turn."⁸⁰ When the trial came, Livingston took the stand in his own defense. He weaved a far-fetched tale to the jury, recounting in detail how he had only run from police in a burst of excitement, accidentally fell into a hiding spot, and failed to respond to officers due to dizziness. Rather than pick apart his story in cross-examination, Smith let Livingston dig his own grave with the apparent dishonesty. Smith asked only a single question of the career criminal ("Were you ever convicted of a felony?") before concluding cross-examination.⁸¹

The government's terse argument convinced the jury, and Woodrough sentenced Livingston to prison. However, it quickly became clear why Livingston had been so eager to have his trial schedule accelerated: he was trying to leave town. Livingston, likely Omaha's third major bootlegger behind Denison and Vinciguerra, had borrowed his expensive distilling equipment from two of Al Capone's Chicago lieutenants.⁸² With his equipment in government possession, and funds frozen by Smith's tax charges, Livingston found himself unable to cure his criminal debts. Despite the conviction, he would never see the inside of a federal prison. Shortly after the trial, a car with Chicago license plates pulled up beside him in traffic, destroying his vehicle in a maelstrom of bullets. Livingston miraculously escaped, and began hiding out in a speakeasy. As he sat in the back of the bar, an assassin thrust a shotgun through a nearby window, killing Livingston instantly with a shot that nearly cut him in half.⁸³

This and similar episodes of violence, all rooted in organized crime, only bolstered Smith's focus on tackling major crime bosses rather than low-level offenders. Woodrough, who had



U.S. Assistant Attorney General Mabel Walker Willebrandt. An expert in both tax and prohibition law, she was one of the first prosecutors to use the tax code against crime bosses. Library of Congress, Prints and Photographs Division

always been sympathetic and lenient toward small time bootleggers, would prove much harsher toward the lieutenants and leaders of the bigger criminal enterprises. However, Smith's tax evasion cases would drive a new wedge between Judges Woodrough and Munger, who disagreed on the validity of Smith's tax prosecutions. This led to prohibition cases ending in dramatically different conclusions in Nebraska, depending on which courtroom they landed. A colleague later summarized the period succinctly: "[Judge] Munger believed in the National Prohibition Act prosecutions. Judge Woodrough did not. Judge Woodrough believed in prosecuting intoxicating liquor violators through the Internal Revenue Act for failure to pay taxes. Judge Munger did not."⁸⁴ Smith, however, did not leave anything to chance once this judicial divide became evident. As a young attorney, he was known to wear both a belt and suspenders.⁸⁵ Likewise, his charges against major bootleggers began to show a similar degree of prudence and redundancy, invariably arguing for both tax evasion and conventional liquor violations.

Louise Vinciguerra's enterprise continued to grow during this same period. After divorcing her first husband (following a heavy exchange of gunfire in their bedroom), she married the fallen prohibition agent Earl Haning, recently released from prison for his corruption and participation in

Vinciguerra's criminal enterprise. They celebrated their reunion with a string of small crimes.⁸⁶ Vinciguerra, as much as any other figure, was the type that kept Woodrough up at night. Unlike the small offenders, stripped of their savings for enjoying a single bottle of wine, Vinciguerra lived as quasi-royalty while publicly ignoring the laws.

On an early September evening in 1930, prohibition agents crept into the overgrown weeds along Blondo Street, near Vinciguerra's home. Already tipped off about the impending raid, Vinciguerra was outside, directing a team of men hauling casks of whiskey down the sidewalk into waiting trucks. Agents rushed into the garage, dodging a jug of whiskey lobbed at them by Vinciguerra's young son. Both Vinciguerra and Haning were placed under arrest. Vinciguerra made a calm phone call to an associate to arrange her release, and asked an officer to escort her to jail in her Packard so she could return home more easily later that day.⁸⁷ But Vinciguerra would not be allowed to return home so easily. Smith levied heavy charges against her entire

enterprise, resulting in multiple convictions in Woodrough's court. With Queen Louise and most of her major associates behind bars, her operation came to a crashing end.

Economic downturn in the summer of 1929 gave root to widespread depression by mid-autumn. President Hoover's utilitarian focus, though often effective, ultimately ruined the public support he had worked so tirelessly to curry. As economic catastrophe grew, public sentiment became hostile toward leaders seen as out of touch, and public anger at political bosses reached a fever pitch.

However, old members of Omaha's establishment were either too intertwined

or too intimidated to take on Dennison's syndicate directly. Although violence increased steadily, the victims were usually members of criminal gangs or the innocent poor. By the early 1930s, the hardline Samardick had left service as a prohibition agent to join the Omaha police force. However, despite being an "honest and faithful officer," the local force struggled with his "radical and sometimes ruthless methods," and he was forced to resign. To the relief of organized crime, he was replaced by softer, possibly corrupt, enforcers.⁸⁸ A local businessman named Harry Lapidus reached out to officials in Washington, requesting they reinstate Samardick to his prohibition post.⁸⁹ With the Livingston and Vinciguerra rackets already dismantled by Smith in Woodrough's court, the return of "Raiding Bob" Samardick posed an existential threat to Dennison's empire. Woodrough, Smith, and Samardick represented three public officials Dennison could not bribe, and who together were capable of sending him to prison. "We can't control Samardick. It would mean our ruination," Dennison lamented. To prevent Lapidus's efforts to bring Samardick back, Dennison had him silenced. As Lapidus drove home from the Jewish Community Center, two nights before the start of Hanukkah, an assailant rushed up to his car and shot him three times in the head.⁹⁰

Dennison succeeded in preventing Samardick's return to federal service, but in so doing he turned other powerful interests against him. Unlike previous victims of Dennison's machine, Lapidus "was a ranking member of Omaha's legitimate business community."⁹¹ The murder gave the U.S. Attorney the political capital he needed to pursue charges against Dennison and more than fifty of his associates.⁹² The goal was to smash the Dennison political machine, roots and all. Smith was assigned to prosecute the case. Woodrough would preside.

Smith issued over one hundred subpoenas, and Louise Vinciguerra was brought down from Dodge County Jail to testify for the government.⁹³ Worried that Dennison's wide influence in both underworld and political circles could compromise the case, the prosecution implemented strict secrecy instructions on subpoenas, requiring they be kept off the books and that responsive documents be personally hand-delivered to Smith.⁹⁴ One of Smith's star witnesses was "guarded like the rajah's ruby," hidden away on an upper floor of the courthouse. Smith "waited until after employes [sic] in the building had gone home and then smuggled . . . cots from the first to the fourth floor" where the witness lived, flanked by bodyguards around the clock.⁹⁵

Dry's Son Sworn In



Omaha Evening Bee-News, June 21, 1929, 1.

Edson Smith, son of Robert Smith, clerk of the district court and well-known dry leader, has a job as rum crusader. He was sworn in Friday as assistant United States district attorney, and is shown here looking at the evidence in his first case.

Dennison's attorneys sought to postpone the trial due to health issues, claiming that an "early trial will risk Dennison's life" due to a mild stroke he had suffered that summer.⁹⁶ Woodrough, unsympathetic, ordered Dennison to be examined by a physician, and eventually moved forward with the trial. However, Dennison's claims were not merely a stalling tactic. The *New York Times* described the crime boss as entered the courtroom as a "palsied old man racked by a long series of illnesses from which he has not yet recovered." At one point in the trial, his "weakened condition led to pneumonia, and he lingered near death for several days."⁹⁷ Woodrough continued proceedings even in Dennison's absence.

The trial lasted nearly two months. Detailed accounts of Dennison's enterprise of political corruption and vice were daily front page news. The papers parroted courtroom allegations of Dennison's personal hit lists, secret meetings with Al Capone, and over forty years of corruption and control over Omaha.

Smith's arguments had strong appeal in the court of public opinion, but Dennison's culpability was a matter for the jury. While Smith had taken precautions to ensure the security of his witnesses and evidence, no similar precautions had been taken for the jurors. Though he was a gambler by nature, Dennison did not leave his freedom to chance. Before the trial, his thugs paid visits to the homes of prospective jurors, leaving them fearful for their lives if they convicted the crime boss. Another juror was simply bribed for a favorable vote.⁹⁸

The jury locked itself on the fourth floor of the federal courthouse for days, deliberating long into the evenings. Holdouts, later revealed to be bribed or threatened, refused to cast a vote to convict Dennison, who the other jurors thought "guilty as hell." For a week, "waste baskets full of torn up ballots were carried from the jury



room." Woodrough urged them to come to a decision. None came. Losing hope, Woodrough questioned the jurors before declaring a hung jury, commenting that "while a verdict is obviously highly desirable, it seems to be futile to keep the jury any longer."⁹⁹ Dennison went free and the government weighed its options.

What the courts failed to achieve in 1932, the public accomplished in 1933. With the trial testimony fresh in mind, Omaha voters swept the last remnants of Dennison's political allies out of power in citywide elections. Radio stations broadcast the victory songs of his opponents, an elegy to a political machine that had controlled the city for a generation. The government, perhaps satisfied that Dennison's machine had been destroyed, perhaps unsure of its ability to convict in a new trial, eventually dropped its case. But the old gambler's luck ended there. Soon after the trial, Dennison was seriously injured in a car accident, snapping his collarbone and suffering massive trauma. He developed pneumonia and a brain hemorrhage in the hospital.¹⁰⁰ He took nineteen days to die.

Vinciguerra never recovered from her incarceration. After spending two years behind bars, she returned home and struggled to make

Built between 1892 and 1906, the Omaha Post Office at 16th and Capitol also served as the U.S. District Courthouse during Woodrough's tenure. NSHS RG2341-248a

Nick Batten is an attorney in Omaha. He would like to thank Judge Laurie Smith Camp for her support of this project. This article is derived from research for a forthcoming book narrating the history of the Federal District Court of Nebraska, currently being written by Dr. John Wunder, Professor of History Emeritus at the University of Nebraska-Lincoln and Dr. Mark Scherer, Professor of History at the University of Nebraska-Omaha. All or portions of the article will also appear in that book.

ends meet. Sorrow plagued the remainder of her life. Her ex-husband killed Haning in her garage on the Fourth of July. The widow moved west, hoping to start a new enterprise outside an Arizona mining town. Although she succeeded in escaping the Omaha underworld, the violence of her lifestyle ultimately caught up to her. After a falling out with criminal elements in the southwest, her bones were found in the desert, intermingled with the flowering branches of a red ocotillo bush.¹⁰¹

The elections that destroyed the Dennison machine also saw Raiding Bob Samardick return to the Omaha police force. Within a year, he was chief of police.¹⁰²

Smith moved from public to private practice, where he enjoyed a prominent legal career spanning half a century. He would argue three cases before the United States Supreme Court. Woodrough observed that it was "very few and rare who have given so much" as Smith.¹⁰³

Shortly after the Dennison trial, Woodrough was elevated by President Franklin Roosevelt to a seat on the Eighth Circuit Court of Appeals—the new president's first major judicial appointment.¹⁰⁴ Despite his rise to prominence, Woodrough maintained the good cheer, compassion, and love of long walks that had always been the hallmarks of his legal career. A former appellate clerk, himself appointed to the federal bench, would reflect on Woodrough's time in the circuit court:

He never thought any case was unimportant or that any individual was not worthy of justice or that any cause was so unpopular that he didn't want to get involved with it. He never lost that sense of compassion. His hobby and his life was the law. But he never took it so seriously or himself so seriously that he ever lost his ability to have a good time with people.¹⁰⁵

Woodrough's most prominent work came, perhaps, in 1958, when he penned orders upholding the desegregation of public schools in Little Rock, Arkansas.¹⁰⁶ He served as a judge until his death at age 104. He remains the longest serving federal judge in American history.¹⁰⁷

Dennison and Woodrough are buried in the same cemetery. Dennison is memorialized by an oversized piece of white marble spilling across multiple burial plots, in a section reserved for the powerful elite with whom Dennison associated. Woodrough is laid to rest a just a few hundred yards downhill, his small gravestone hardly visible in the grass. Though Woodrough was never in the

military, the plots that surround him are exclusively the simple, uniform headstones of Nebraska's Civil War and World War veterans. The judge often drew inspiration between soldiers on the battlefield and jurists in the courtroom. Appropriately, Woodrough and the soldier's shared memorial reads: "These men pass away as a tale that is told, but their work will endure forever."¹⁰⁸ ❏

NOTES

¹ *The American Lawyer* 8 (March 1900): 121. The practice of admitting attorneys who had "read the law" was common during this period, and was sometimes coupled with a brief period of apprenticeship under a practicing attorney.

² Orville D. Menard, *Political Bossism in Mid-America: Tom Dennison's Omaha, 1900-1933* (Lanham, MD: University Press of America, 1989), 54-56. The story of Dennison's empire, though alluded to herein to the extent that it parallels Woodrough's career, has been more fully and ably explored by other historians, most notably, Menard, referenced here; also, Laurie Smith Camp, "When Clerks of the District Court Had Real Power: Robert Smith's Omaha, 1908-1950," *The Nebraska Lawyer* (April 2001): 26.

³ *Cincinnati Daily Gazette*, Mar. 23, 1874; family background comes from correspondence between the author and Margot Woodrough, in consultation of her Woodrough family genealogy book (unpublished); *Memorial Proceedings for The Honorable Joseph W. Woodrough*, transcribed proceedings reported in 583 F.2d 5 (May 17, 1978), digital recording available on the Nebraska U.S. District Court's website at http://www.ned.uscourts.gov/internetDocs/judicialArchive/Woodrough_Resolution.mp3. It was an exciting time to visit. Otto von Bismarck had succeeded in unifying the Germanic states, but was succumbing to pressure to resign from Wilhelm, due to Bismarck's opposition to the young kaiser's aggressive foreign policies. The German Empire was also in the midst of a twenty year process of drafting its civil code.

⁴ Author correspondence with Heidelberg University (Germany) Historian, summer 2014. Annenschulen: Louis Brandeis, another jurist native to the Ohio valley, credited this school for inspiring him to study law during his time there twenty years prior. Heidelberg University: Some sources mistakenly claim that Woodrough studied at Heidelberg University in Ohio, near his home, but he was never a student there. Correspondence with Heidelberg University (Ohio) Archivist, summer 2014; *Wieland* manifest, Aug. 31, 1891, courtesy Margot Woodrough.

⁵ *Omaha World-Herald* (hereafter, *OWH*), Sept. 14, 1892, 5; Sunrise Edition, Jan. 12, 1903; "Enraged the Court, Lawyer Beckett Raised a Rumpus at Omaha," *San Francisco Call*, Aug. 13, 1895; *OWH*, Aug. 12, 1895, 1.

⁶ Irrigation records in a collection of unsorted papers relating to Judge Woodrough, scans of which were provided to the author by Donnita Barber of the Ward County Archives; *Handbook of Texas Online*, David C. Humphrey, "Ward, Thomas William," accessed March 18, 2016, <http://www.tshaonline.org/handbook/online/articles/fwa52>. Uploaded on June 15, 2010. Modified on October 30, 2012. Published by the Texas State Historical Association; *Memorial Proceedings*.

⁷ *Memorial Proceedings*. This policy, and two weddings officiated by Woodrough, are the only judicial acts for which records survive. *Ward County Marriages 1893-1945*, Vol. 1. USGenWeb, http://www.rootsweb.ancestry.com/~txward/ward_county_marriages_1893.htm.

⁸ "Judge Met King, Lived Amid Guns," *OWH*, morning ed., Oct. 4, 1977; author correspondence with Donnita Barber, Ward County Archives. Woodrough's foray into cattle ranching, however, would be a misadventure. After nearly exhausting the county's grain supply in an unsuccessful attempt to fatten his herd for market, all of his livestock broke free and stampeded into Mexico. He never recovered them. He later considered it to be a blessing, as the cost of continued feed for the cattle would have bankrupted him.

⁹ Lawrence H. Larsen and Barbara J. Cottrell, *The Gate City: A History of Omaha* (Boulder, CO: Pruett, 1982), 166. Liz Rea, *History at a Glance*, Douglas County Historical Society, <http://www.omahahistory.org/History%20at%20a%20Glance%209-2007.pdf>.

¹⁰ The judicial backlog is evident by the fact that cases brought by Woodrough and Beckett, who ended their practice together in 1899, were still caught up in the courts as late as 1905. Joseph W. Woodrough, "Reform of Legal Procedure," *The Creighton Chronicle* 4, no. 3 (Dec. 1, 1912): 167.

¹¹ *OWH*, May 30, 1902, 12; *Omaha Bee*, May 31, 1902, 5; *OWH*, May 31, 1902, 9.

¹² Edward F. Morearty, *Omaha Memories: Recollections of Events, Men and Affairs in Omaha, Nebraska, from 1879 to 1917* (Omaha: Swartz Printing Co., 1917), 201. Morearty, a local attorney, incorrectly recalls the race as being in 1902.

¹³ Joseph W. Woodrough, "The Game You Can't Lose," *The Creighton Chronicle* 3, no. 7 (Apr. 1, 1912): 309.

¹⁴ Woodrough, "The Game You Can't Lose," 306, 308.

¹⁵ Morearty, *Omaha Memories*, 201.

¹⁶ *OWH*, Mar. 14, 1916. See also, *Nebraska State Journal*, Nov. 5, 6, 1915.

¹⁷ *Nebraska State Journal*, Nov. 6, 1915; *OWH*, Mar. 14, 1916; "W. F. Gurley of Omaha Speaks of Bryanism at Chicago," *New York Times*, Apr. 10, 1900, 1.

¹⁸ *OWH*, Mar. 26, 1916.

¹⁹ Joseph W. Woodrough, "Beginning My Work on the Federal Bench," *The Creighton Chronicle* 9, no. 7 (Apr. 20, 1918): 409.

²⁰ *Memorial Proceedings*.

²¹ Author interview with Harold Rock, former law clerk for Woodrough, January 2015.

²² *Memorial Proceedings*; Harold Rock interview.

²³ *OWH*, May 17, 1918, 8; Draft Registration Card, 1331, Sept. 3, 1918.

²⁴ *Memorial Proceedings*.

²⁵ Ed F. Morearty, "Judge Woodrough," *OWH*, May 21, 1924, 13.

²⁶ *OWH*, Nov. 18, 1929, 8; Nov. 19, 1929, 7.

²⁷ Menard, *Political Bossism*, 114. See also, "Bootlegger's Carnival," *Nebraska Timeline* (May 2012), Nebraska State Historical Society, www.nebraskahistory.org/publicat/publicat/timeline/bootleggers_carnival.htm

²⁸ *OWH*, May 22, 1930, 33; Corinne Jacox, *A Century of Creighton University School of Law Faculty Publications, 1904-2004* (Creighton University Klutznick Law Library, August 2009), www.creighton.edu/fileadmin/user/law-school/faculty/publications/RetrospectiveFacultyBibliography.pdf. Their tenure as adjuncts overlapped by six years. Smith moved into Woodrough's old office when Woodrough relocated to the newly-constructed Brandeis building in 1906. *The Creighton Brief* (1909): 23, 33.

²⁹ Menard, *Political Bossism*, 113.

³⁰ *Ibid.*, 246-47; Orville D. Menard, "Lest We Forget: The Lynching of Will Brown, Omaha's 1919 Race Riot," *Nebraska History* 91 (2010): 159.

³¹ *Omaha Mercury*, Apr. 8, 1898. He was prepared to fight himself, but was medically disqualified by the regular army: *Omaha Mercury*, July 1, 1898.

³² *Omaha's Riot in Story and Picture* (Omaha, NE: Educational Publishing Co., [1919?]), <http://www.historicomaha.com/riot.htm>; Menard, "Lest We Forget," 159; Menard, *Political Bossism*, 249.

³³ Menard, "Lest We Forget," 159-60; Menard, *Political Bossism*, 250; *Omaha's Riot in Story and Picture*. Mayor Smith survived.

³⁴ *OWH*, Jan. 13, 1927, 1.

³⁵ *OWH*, June 26, 1964, 34. Samardick went on to serve multiple terms as Omaha's police chief.

³⁶ *OWH*, June 26, 1964, 1; *Lincoln Evening Journal*, Dec. 26, 1929, 2.

- ³⁷ *St. Petersburg Times*, Feb. 20, 1925, 31.
- ³⁸ *OWH*, Jan. 3, 1929; July 14, 1923, 1; June 26, 1964, 1.
- ³⁹ Harold Rock interview.
- ⁴⁰ *The American Lawyer* 8 (1900): 121; Harold Rock interview; *OWH*, sunrise ed., Mar. 7, 1924.
- ⁴¹ *OWH*, Nov. 28, 1923, 6.
- ⁴² *United States v. Musgrave*, 293 F. 203, 207 (D. Neb. 1923).
- ⁴³ "U.S. Judge Rules Dry Agents Lack Right to Serve Search Warrants," *San Francisco Chronicle*, Dec. 5, 1923, 1; "Search Warrant Service Barred to Dry Agents," *Chicago Daily Tribune*, Dec. 5, 1923, 10; "Not Civil Officers," *Little Rock Arkansas Gazette*, Dec. 5, 1923, 16; "Testimony of Robert Samardick" and "Verdict," *U.S. v. Musgrave*, crim. 3716, National Archives (1924).
- ⁴⁴ *United States Statutes at Large*, Sixty-Sixth Congress, Sess. 1, 305. www.legisworks.org/congress/66/publaw-66.pdf sec.22
- ⁴⁵ *OWH*, Feb. 1, 1923, 1.
- ⁴⁶ *Ibid.*
- ⁴⁷ *OWH*, Mar. 7, 1923, 1, 19.
- ⁴⁸ *OWH*, May 9, 1923, 15.
- ⁴⁹ *Ibid.* A lessee at the time, Eppley was struggling to obtain title to the Fontanelle from its bankrupt owners. He ultimately succeeded, and spent the rest of his life living in the Fontanelle, from which he ran his multistate enterprise.
- ⁵⁰ *OWH*, Dec. 21, 1923, 12; Motion to Dismiss, No 573 Equity, undated, *U.S. v. Lot 29 Block 16, Highland Place, City of Omaha*, Neb., 296 F. 729 (D. Neb. 1924). Copied from National Archives.
- ⁵¹ *United States v. Lot 29, Block 16, Highland Place, City of Omaha, Neb.*, 296 F. 729, 735 (D. Neb. 1924).
- ⁵² *Daily Register Gazette* (Rockford, IL), May 27, 1924, 6.
- ⁵³ *OWH*, May 31, 1924, 6; *Trenton (NJ) Evening Times*, May 29, 1924, 6. Reprinted from *New York World*; *U.S. v. Cunningham*, 37 F.2d 349.
- ⁵⁴ *OWH*, July 21, 1924, 3; Feb. 17, 1925. When defendants were found guilty, McGee often charged them additionally with perjury for having claimed they were innocent.
- ⁵⁵ Thomas H. Boyd, "The Life and Career of the Honorable John B. Sanborn, Jr.," *William Mitchell Law Review* 23, Issue 2 (1997), <http://open.mitchellhamline.edu/wmlr/vol23/iss2/4>. McGee's ability to dispose of cases was truly prolific. He held court in the evenings and on Saturdays. On one day, he imposed 112 sentences in 130 minutes. Tour buses had to be commandeered to transport all of the convicts to prison.
- ⁵⁶ *Milwaukee Journal*, Feb. 17, 1925, 3.
- ⁵⁷ *OWH*, May 4, 1928, 1.
- ⁵⁸ Affidavit of Meteorologist M. V. Robins, Sept. 5, 1928; Affidavit of Chemist John O'Brien, Sept. 4, 1928; Receipt, Search Warrant, Feb. 23, 1928, Ralph W. Jones, prohibition agent. All from National Archives, Kansas City, criminal case record #5973.
- ⁵⁹ *United States v. White*, 29 F.2d 294, 295 (D. Neb. 1928).
- ⁶⁰ *OWH*, Jan. 4, 1930, 2; Nov. 28, 1929, 11; Dec. 3, 1929, 10; Nov. 28, 1929, 11.
- ⁶¹ Photo of Woodrough with note on the back by Homer Gruenther of the *Omaha Daily Tribune*, dated Jan. 9, 1930. Author's collection.
- ⁶² "A Rock in a Weary Land," *New York Herald Tribune*, reprinted in *OWH*, Dec. 3, 1929, 10.
- ⁶³ *OWH*, Nov. 28, 1929, 11.
- ⁶⁴ *OWH*, Dec. 3, 1929, 1.
- ⁶⁵ *Day v. U.S.*, 37 F.2d 80 (8th Cir. 1929).
- ⁶⁶ Stephen A. Simon, "Dog Sniffs, Robot Spiders, and the Contraband Exception to the Fourth Amendment," *Charleston Law Review* 7 (2012): 111.
- ⁶⁷ Harold Rock interview.
- ⁶⁸ Photo, "Judge Woodrough sitting in a windowsill looking at construction," Robert Paskach Collection, Durham Museum, Omaha.
- ⁶⁹ Harold Rock interview.
- ⁷⁰ *OWH*, Dec. 16, 1948, 1; *Nebraska Blue Book, 1922*, 137.
- ⁷¹ *OWH*, Dec. 16, 1948, 1; Affidavit of William Pauley, Oct. 6, 1931. National Archives, Kansas City, criminal case record #7025.
- ⁷² *OWH*, Nov. 17, 1922, 21; Oct. 18, 1932, 2.
- ⁷³ See, for example, *OWH*, Sept. 8, 1929, 16, describing a raid in which mash was found, but all equipment and finished liquor had been recently removed. See also 1931 testimony regarding Vinciguerra being warned and moving her equipment and product. Affidavit of Claude Williams (agent), Oct. 6, 1931. National Archives, Kansas City, criminal case record #7025.
- ⁷⁴ *OWH*, Oct. 9, 1928, 1; Apr. 1, 1932, 1, 10.
- ⁷⁵ Jack O'Donnell, "Can This Woman Make America Dry?," *Collier's Magazine*, Aug. 6, 1924.
- ⁷⁶ *Kansas City Structural Steel Co. v. Com'r of Int. Revenue*, 33 F. 2d 53. Willebrandt expected to be appointed attorney

general by Hoover following his 1928 victory, and resigned when no advancement came.

⁷⁷ *OWH*, Dec. 12, 1924, 36; April 11, 1926, 16; Oct. 15, 1929, 6; *Day v. U.S.*, 37 F.2d 80 (8th Cir. 1929). The circuit court found for the appellant and reversed Woodrough's judgment. Edson Smith was no relation to Mayor Smith.

⁷⁸ *OWH*, Mar. 4, 1930, 1; "Omaha's First Century," series of articles in *OWH*, 1954. <http://www.historicomaha.com/ofcchap8.htm>; *OWH*, Jan. 11, 1930, 1.

⁷⁹ *OWH*, Mar. 4, 1930, 1; Apr. 17, 1930, 29.

⁸⁰ *OWH*, Apr. 22, 1930, 4.

⁸¹ *OWH*, Apr. 19, 1930, 2.

⁸² Menard, *Political Bossism*, 262, 292. The strategy of tax prosecution used against Livingston was also used months later to send Al Capone to Alcatraz. Chicago prosecutors relied heavily on the testimony of Capone's defecting attorney, Ed O'Hare (whose son Butch, a WWII flying ace, is the namesake of the city's primary airport). Similarly in Omaha, Eugene O'Sullivan, an attorney associated with the Dennison machine, later worked with authorities against Dennison.

⁸³ *OWH*, May 2, 1930, 1.

⁸⁴ *Memorial Proceedings*.

⁸⁵ Harold Rock interview.

⁸⁶ *OWH*, Aug. 16, 1928, 1; Oct. 30, 1928, 1; Dec. 16, 1948, 1.

⁸⁷ Affidavit of William Pauley (agent), Oct. 6, 1931. National Archives, Kansas City, criminal case record #7025. Despite his young age, Vinciequerra's son, Carl, was likely a challenge for prohibition agents. He grew up to become an adept boxer, representing the United States in the 1936 Olympics in Berlin.

⁸⁸ *OWH*, Apr. 12, 1930, 30; Apr. 14, 1930, 8; Oct. 18, 1932, 6. Samardick filled the newly-created position of Federal Probation Officer. See *OWH* Dec. 1, 1930, 1.

⁸⁹ *OWH*, Oct. 18, 1932, 6. Lapidus's motives were far from altruistic. He had strong ties to a number of elected officials, and sought to increase his own power by weakening Dennison's political machine. By cracking down on Dennison's illicit empire, he sought to dry up the revenue streams that not-so-secretly funded Dennison's candidates.

⁹⁰ *Ibid.*; Menard, *Political Bossism*, 268-69. Hannukah 1932 began on Dec. 24.

⁹¹ Menard, *Political Bossism*, 267.

⁹² Bill of Particulars, National Archives, Kansas City, criminal case record #7025, *U.S. v. Dennison, et al.*

⁹³ See, generally, National Archives, Kansas City, criminal case record #7025, including Petition for Writ of Habeas Corpus Ad Testificandum.

⁹⁴ Subpoena of Oliver Hazelton, Nov. 16, 1932; Subpoena of Dr. Nicholas, Oct. 14, 1932.

⁹⁵ *OWH*, Oct. 6, 1932, 1.

⁹⁶ *OWH*, Oct. 7, 1932.

⁹⁷ *New York Times*, Oct. 30, 1932; John Kyle Davis, "The Gray Wolf: Tom Dennison of Omaha," *Nebraska History* 58 (1977): 47.

⁹⁸ Menard, *Political Bossism*, 308-309.

⁹⁹ Menard, *Political Bossism*, 309; *OWH*, Dec. 13, 1932, 6; See also, *OWH*, Dec. 6, 1932, 1.

¹⁰⁰ Davis, "The Gray Wolf," 47-48; *OWH*, Feb. 2, 1934, 2; Feb. 15, 1934, 4.

¹⁰¹ *OWH*, July 5, 1933, 1, 4; Dec. 16, 1948, 1.

¹⁰² *OWH*, June 26, 1964, 1.

¹⁰³ Personal letter, Woodrough to Smith, Jan. 8, 1934, personal collection of Laurie Smith Camp; *The Nebraska Lawyer* (April 2001): 26.

¹⁰⁴ *OWH*, Apr. 15, 1933, 1.

¹⁰⁵ *OWH* insert, *Magazine of the Midlands*, July 9, 1978, 4.

¹⁰⁶ *OWH*, Sept. 30, 1958, 1.

¹⁰⁷ *OWH*, Apr. 15, 1933, 1. Some sources claim District Judge Wesley Brown as having a longer career, serving an impressive fifty years from 1962 to 2012. However, these sources fail to take into account Woodrough's prior service on the district court bench before his elevation to appellate judge. From his appointment in 1916 until his death in 1977, Woodrough spent a total of sixty-one years on the federal bench, assuming senior status in 1961.

¹⁰⁸ Forest Lawn Cemetery, Omaha, memorial marker in Grand Army of the Republic section.

