

**3910. Misbranding of whisky. U. S. v. Bert Ramsay & Co. Plea of guilty. Fine, \$100 and costs. (F. & D. No. 4950. I. S. No. 18146-d.)**

At the April, 1914, term of the District Court of the United States for the Western District of Texas, the grand jurors of the United States within and for said district, acting upon a report of the Secretary of Agriculture, upon presentment by the United States attorney for the district aforesaid, returned an indictment against Bert Ramsay & Co., a corporation, El Paso, Texas, charging shipment by said company, in violation of the Food and Drugs Act, on February 12, 1912, from the State of Texas into the State of Arizona, of a quantity of whisky which was misbranded. The bottles containing the product were labeled: (On front) "Guckenheimer Old Rye Whiskey. Distilled from Selected grain and matured in wood." (On back) "Caution Notice: This bottle has been filled and stamped under the provisions of the act of Congress approved March 3, 1897, entitled 'An Act to allow the bottling of distilled spirits in bond.' Any person who shall reuse this bottle for the purpose of containing distilled spirits without removing and destroying the stamp affixed to this bottle, or who shall reuse the stamp affixed to this bottle will be liable for each such offense to a fine of not less than one hundred nor more than one thousand dollars, and to imprisonment for not more than two years. Bottling Department Registered Distillery No. 34, Fifth Coll. Dist. State of Kentucky \* \* \* Every person who empties a bottle filled and stamped under the above act must at once completely efface and obliterate every mark, label, stamp or caution notice which has been placed thereon according to law. Mellwood Distillery Company, Distillers, Louisville, Kentucky, U. S. A."

Examination of a sample of the product by the supervisor of the Kentucky Distilleries & Warehouse Co. (Inc.), an expert, showed the product to be a Bourbon whisky of good maturity and quality. The degustative test was applied. In the opinion of the expert the product was not a pure rye whisky, nor of sufficient rye characteristic to be termed a rye whisky under the assumption that 51 per cent of the grain used being rye would entitle it to be called rye whisky. The examination also showed that the product was not the article known to the trade as "Guckenheimer Old Rye Whiskey."

Misbranding of the product was charged in the indictment for the reason that said brand set forth above was false and misleading and calculated and intended to deceive the purchaser thereof in that said liquid substance and beverage contained in each of the bottles in fact and in truth was a liquid commonly known as Bourbon whisky, and being a derivative and made from corn and not rye [and not being rye] whisky as labeled and containing Mellwood Bourbon whisky and not Guckenheimer old rye whisky.

On April 8, 1914, the defendant company entered a plea of guilty to the indictment, and the court imposed a fine of \$100 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *June 8, 1915.*