

Good afternoon, everyone. My name is Doria Lynch, and I'm the historian for the court and the secretary of the court's historical society. I've been tasked with talking about "something interesting about the history of the court." That's not too difficult to do- this very courtroom that we are gathered in has hosted a number of interesting cases over the last 104 years, and we could go on at length about a number of them. But there is one case in particular that I'd like to discuss today: the Jack Daniels Whiskey Conspiracy case.

The Jack Daniels Whiskey case reached this courtroom on December 14, 1925: literally smack dab in the middle of the roaring '20s. F. Scott Fitzgerald's *The Great Gatsby* was published that year, giving readers across the country and around the world a vivid description of bootleggers, mansions, and flappers. You can imagine what Indianapolis was like at that time: jazz musicians blossoming a few blocks away on Indiana Avenue, motor cars starting to crowd the streets, newsboys standing on the street corners, shouting the day's events and selling their papers.

And in the midst this noise and excitement, this building was a bustling hub in the city- it was home to the central post office and also housed an array of federal agencies, including the courts. At that time, though, this courthouse was only half the size that it is now- the northern half of the building wasn't added until the late 1930s. But other features of the courthouse were identical to what you saw as you entered the building and climbed the spiral staircases.

To the participants in the trial, this courtroom was as impressive as it is today. These murals were all as you see them now; the judge's bench and clerk's bench are the same. The coloring of the walls is, to the best approximation of the restorers, similar to the original. Even the attorney tables, from which many of you practice, remain the same.

So it was within the walls of this very courtroom that, 31 individuals went on trial for "unlawfully, willfully, knowingly and feloniously" conspiring to violate the National Prohibition Act.

Congress passed The National Prohibition Act, or Volstead Act, in October of 1919, which established the legal definition of intoxicating liquor. The Act passed 9 months after the ratification of the 18<sup>th</sup> amendment, which prohibited the

manufacture, sale, or transportation of intoxicating liquors, for beverage purposes, within, into, or the exportation from the United States and its territories.

Well, as we know, many folks across America were fond of intoxicating liquors of all varieties, *for* beverage purposes, and were not going to be discouraged from drinking by a Constitutional Amendment. The demand for liquor increased during Prohibition, and alcohol consumption grew by 15%, giving rise to a slew of bootleggers, gangsters, and speakeasies. New York City alone was home to 32,000 speakeasies; in the years immediately preceding Prohibition, the number of legal bars in the city had been half that. Indiana, while considered one of the driest states in the nation, had its share of bathtub gin distillers and ready consumers.

Yet Indiana did not play a central role in the hatching and execution of the conspiracy to empty the Jack Daniels bonded warehouse in St. Louis of 30,000 gallons of whiskey. You see, then as now, Indiana lay in the center of American transportation lines, both road and rail. It was primarily because of its location as the “Crossroads of America” that *U. S. v. Motlow, et al.* landed in the United States District Court for the District of Indiana.

The Jack Daniels Whiskey Case, as *US v. Motlow* was commonly known, featured a cast of characters you might expect to see in a Hollywood film. George Remus, so-called King of the Bootleggers, was heavily involved in the conspiracy but turned government witness to protect himself and to teach a sharp lesson to his co-conspirators, who hadn’t followed his advice and also cheated him on sales. He added an element of high drama: formerly an attorney, Remus had gotten into bootlegging “for the thrill and excitement of the game.” He was an exceptional bootlegger and had made millions of dollars, until he was convicted of violating the National Prohibition Act in Cincinnati and spent time in federal prison. He had a number of death threats against him from a variety of gangs, and required the protection of government agents before and during the trial. Perhaps most embarrassing for Remus, his relationship with his wife, Imogene, was also in the public eye, as she supposedly had siphoned millions of dollars from Remus’s bank accounts while he was in prison and run off with a government prohibition agent.

Making matters more interesting, Imogene Remus was one of the 31 individuals on trial that mid-December morning.

Also indicted were Lem Motlow, Jack Daniel's nephew; Nathan Goldstein, clerk of the St. Louis circuit court and an influential Republican in St. Louis politics; Arnold Hellmich, Collector of Internal Revenue in St. Louis; Michael Whalen, a member of the Democratic City Committee and owner of several illegal saloons in St. Louis; and Michael Kinney, a state senator in Missouri. Other conspirators ran the gamut from simple rum runners and tough guys to local St. Louis politicians and businessmen.

The case files held in Chicago are extensive and detail a complex conspiracy, as do newspaper reports from the time. The newspapers in particular make clear that this case was the talk of St. Louis, Cincinnati, and Indianapolis. Papers in Florida, New York, and California also followed the case. Rarely had such a high profile group of individuals gone on trial together, and the community watched anxiously to see how things would unfold.

The full story of the conspiracy was illustrated through the testimony of the witnesses, who related the following:

In 1923, one of Remus's former partners, John Marcus (also charged in the case), contacted Remus when he heard about a large-scale bootlegging conspiracy from some politically powerful individuals in St. Louis. The original conspirators, while able businessmen and politicians, lacked basic bootlegging knowledge, and sought to have the king himself, Remus, brought in.

Remus, still smarting from his recent stint in the federal penitentiary in Atlanta, was leery of involving himself in large operations, but as he learned more details, was drawn in.

An agreement was reached whereby the conspirators would buy the Jack Daniel distillery's supply of whiskey and the legal certificates for \$125,000. At this point, Jack Daniel's bonded warehouse was located in St. Louis, having relocated there after Tennessee had gone dry in 1910. The purchase of the stock was made via a dummy corporation, with a contract signed on June 26, 1923. This made the purchase appear completely legal, as the whiskey remained bonded and under government inspection.

Once Remus and his partners had pooled their money (Remus contributed \$50,000, which he'd obtained and had transported from 2 contacts in Cincinnati) and bought the stock, the conspiracy could go forward. Remus and company planned to tap the kegs, remove the whiskey into other barrels, replace the drained whiskey with water and plain alcohol, and sell the true Jack Daniel's whiskey on the black market.

Remus's plan called for removing just six gallons of whiskey from each of the 896 barrels in the warehouse; each barrel contained 40 gallons of whiskey. Removing six gallons would give the conspirators approximately 5000 gallons to sell immediately, and would make refilling the barrels with water and alcohol more feasible: they could add enough water and alcohol to bring the barrels up to proof without ruining what remained in the barrels. Then, after the barrels were tested by government agents in December and found to be up to snuff, they could tap from the kegs again, repeat the process, and avoid detection.

Remus's co-conspirators, as mentioned, weren't as familiar with the bootlegging business and were more concerned with turning a quick profit and getting the whole thing over with. In August, the St. Louis conspirators instructed their lackey at the distillery to begin draining the barrels of all of their whiskey, 30,000 gallons worth, pumping the liquor into empty barrels, and beginning the distribution. Each barrel was refilled with water and alcohol which brought the barrels up to proof. However, if any government agent was to actually taste the "whiskey," and not just test it for proof, he would immediately know that the whiskey had all been drained and circulated into the black market.

This was exactly what Remus feared and why he'd insisted on draining the whiskey slowly and replacing with small amounts of water and alcohol, which initially would be undetectable by taste or by proof test.

The other conspirators, however, felt that they had the taste angle covered. They had a number of employees at the distillery who received kickbacks and bribes to make sure that the government gauger would taste only real whiskey, and placed a lone, undiluted barrel of whiskey near the front door of the warehouse in a location known to each of the conspirators. That way, the theory went, when the gauger

wanted a taste, he'd been given a taste from the unadulterated barrel, be satisfied, and not test any of the other barrels.

Unfortunately for the conspirators, they hadn't counted on a gauger arriving at a time when none of the conspirators was present. Instead, gauger Charles Barlow arrived to conduct his inspections when the nightwatchman was on duty. The nightwatchman was not part of the conspiracy, knew nothing about it, and therefore, when Barlow asked for a taste from one of the barrels, the watchman and Barlow opened a different one. Needless to say, Barlow received a nasty surprise—what he tasted was a mixture of water and poor grade alcohol. And with that one taste, the conspiracy came crashing down.

The government had suspicions about the Jack Daniel's distillery in 1923 following the sale and kept an eye on the dummy corporation that had purchased it. However, their understanding of the extent of the crime wasn't realized until Charles Barlow took a swig from one of the barrels at the distillery. As the extent of the conspiracy became apparent and the government realized 30,000 gallons of whiskey were missing, the prosecution decided to take the time to build the case not against the obvious executors of the conspiracy, but instead to track down the financial backers and prosecute them. The intent of the government's investigation was to make an example out of the conspirators and financiers in the hopes that it would dissuade others from undertaking similar plots and be a greater show of force against Prohibition violators.

For a time, however, the investigation proceeded slowly. Remus had not yet agreed to testify for the government and was not providing information. Investigators received their first big break on December 15, 1923, when Marion County Sheriff George Snider started chasing a suspicious armored truck at 40 miles an hour down the National Road, just west of Indianapolis. When he got the truck to pull over, he realized the truck had been following a touring car, which doubled back after the truck stopped. From the touring car, John Marcus, Remus's old partner, emerged. Sheriff Snider took both Marcus and the truck driver into custody and discovered 4 barrels of real Jack Daniel's whiskey, worth about \$16,000 in the truck. Authorities now had some of the siphoned whiskey, along with the men who transported it, and they also now had a new option for jurisdiction: Indiana.

As time went on and the investigation continued, more barrels of Jack Daniel's were discovered in Ohio, Illinois, Indiana, and Missouri. Remus, who was still upset that the whiskey wasn't drained and replaced as he had instructed, learned that his fellow conspirators had also been cheating him out of profits and distributing without his knowledge, and began to cooperate with investigators. It became apparent that a few venues were possible for the imminent trial of this case- as the conspiracy had primarily been hatched and executed in Missouri, it was the most obvious choice. However, prosecutors worried about the feasibility of getting guilty verdicts in Missouri- remember that many of the accused were prominent politicians and businessmen, and the government doubted whether jurors would be able to see past the stellar reputations, not to mention the influence, of these men.

The government considered moving the case to Ohio, on the grounds that some of the conspiracy took place there. However, the evidence for the Ohio portions of the crime was shaky at best, so prosecutors cast their eyes on Indiana.

The prosecution contended that, because the pump that had drained the whiskey from the barrels, along with the whiskey itself and the money that was used to buy the whiskey, travelled through Indiana from Ohio to St. Louis, and back again, the U. S. District Court for the District of Indiana had jurisdiction in the case.

Indiana was a notoriously dry state, and the district judge who drew the case, Robert C. Baltzell, was known across the country for handing out harsh sentences for prohibition-related offenses. Judge Baltzell, who presided in this courtroom from his appointment in January 1925 until his death in 1950, took on the Jack Daniel's case with vigor.

The trial started on December 14, 1925, in this courtroom with much fanfare. The thirty-one defendants were represented by a host of attorneys. Early on, three defendants pleaded guilty and left the courtroom, causing speculation and rumors that the rest of the defendants would follow suit; this did not happen, and the prosecution continued with its case. On December 16, as George Remus prepared to testify, the government agreed to drop the charges against his wife, Imogene, who had filed for divorce from George and who claimed he'd threatened to kill her. George Remus had countersued for divorce, and stated that his wife had sworn

out a hit against him. It was apparent to both sides, and the judge, that any testimony Remus provided against his wife would be questionable, and she was released.

The trial proceeded, with witness after witness implicating the defendants to varying degrees. George Remus testified for two and a half hours, revealing the actions of many of his co-conspirators and describing his own role in the plan. Remus himself was still under indictment for this case, but the charges against him were dropped in April 1926 for his testimony.

In total, the prosecution called 30 witnesses. The defendants' attorneys also called their share of character witnesses, and five defendants' testified on their own behalf.

After both sides had completed their closing arguments, Judge Baltzell instructed the jury. Among other things, he told them that, "it is my opinion that it has been proven in this case conclusively by the government that a conspiracy did exist during the time and substantially of the character alleged in the indictment, and that many, if not all, of the defendants on trial at this time were parties to that conspiracy. However you need not accept such opinion, or give it consideration, because the responsibility is yours to determine the facts."

After deliberating for 2 hours and 35 minutes, the jury returned guilty verdicts for 24 of the remaining men who had stood trial. Three defendants who had testified in their own defense were acquitted by the jury. The judge then overturned a guilty verdict against one of the men, and granted a second a new trial. Judge Baltzell then released the convicted men on bail until their sentencing on December 30, and on that day announced that some would receive the maximum penalty of 2 years in federal prison at Leavenworth, Kansas, plus a \$5000 fine, while others received sentences of 15 months, a year and a day, and even as little as one day. The shorter sentences were to be served in the Marion County Jail.

Judge Baltzell then undertook an unusual action, and refused to let the defendants out on bail during their appeal. This sent the men's attorneys into a furor, and they immediately took their plea for bail to the Seventh Circuit, where bail was again denied. Meanwhile, on January 5, 1926, each of the men reported to Leavenworth or the Marion County Jail to begin his sentence.

In a rare move, the attorneys appealed to Justice Pierce Butler, Supreme Court Justice for the Seventh Circuit, to issue bail. Indeed, in February 1926, Justice Butler interceded and released each of the men who so chose to be released from prison pending the appeal of their cases before the Seventh Circuit. Some of the men chose to continue their sentences so that, if their appeal was denied, they wouldn't be sent back to prison again to complete their sentences.

When the case appeals began to reach the Seventh Circuit in 1926, the attorneys relied on a few central writs of error: that the District of Indiana lacked jurisdiction, that the judge erred in his instructions to the jury, and that George Remus should not have been allowed to testify. The government countered the jurisdictional question by claiming that the overt acts that were carried out in Indiana furthered and effected the object of the conspiracy, and thus justified Indiana as the proper venue.

The Seventh Circuit, through Judges Alschuler, Evans, and Page, reversed some of the convictions and ordered new trials for those men who had not crossed through Indiana during the operation or against whom there had been little evidence. It upheld the convictions of those men with copious amounts of evidence against them, and ordered them back to prison. Missouri state senator Michael Kinney was among those who had his conviction overturned; Nathan Goldstein, now former clerk of the St. Louis circuit court, was not so fortunate. In poor health, Goldstein attempted to use his political influence to get Judge Baltzell to change his prison sentence to probation, and a stack of letters, including pleas from two prominent Missouri judges, reached Judge Baltzell, who swiftly denied the request and sent Goldstein back to the prison hospital at Leavenworth.

The men whose convictions had been upheld appealed to the Supreme Court, which denied cert, and they served the rest of their sentences. This brought to a close one of the largest and most complex Prohibition conspiracy cases ever tried. From the decision to hold the trial in Indianapolis, to Judge Baltzell's stiff sentences and denial of bail during the appeals process, from Justice Pierce Butler's overruling of the district court and appeals court judges on the matter of bail, to the final decision by the Seventh Circuit to uphold some of the convictions and remand others, the conspiracy and the trial that resulted from it were historically and legally significant. The government was successful in breaking up



one of the largest bootlegging operations in the Midwest, and taking the conspiracy down from the lowest rum runners to the highly placed, politically influential, financiers.

*U.S. v. Motlow* unfolded against the backdrop of these marble walls, these same paintings, the same furnishings. The case is an important part of our court's legacy and is one of the more unusual and dramatic cases to have been held in this particular courtroom, with George Remus and his bodyguards lurking in the back corner to allow for full visibility of their surroundings, his wife Imogene spreading rumors in the newspapers that George might go violently berserk in the courtroom at any moment, and the steady parade of witnesses implicating defendant after defendant. In this courtroom, an example was set, and a warning issued, that no man, regardless of his position, was outside of the reach of the National Prohibition Act.