

Case No. 7,926.

KOONES v. THOMEE.

[1 Cranch, C. C. 290.]¹

Circuit Court, District of Columbia.

March Term, 1806.

INTOXICATING LIQUORS—SALE—RECOVERY—CONSTRUCTION OF
STATUTES—BOARDERS.

The act of assembly of Virginia of December 26, 1792 (section 13), which prevents a tavern-keeper from recovering more than \$5, for liquors sold in one year to one person, to be drank in the place where the tavern is kept, applies as well to boarders, as to others residing within twenty miles of the tavern.

In an action of assumpsit, for boarding, lodging, and liquors, brought by the plaintiff, who was a tavern-keeper.

Mr. Swann, for defendant, moved the court to instruct the jury, that the plaintiff cannot recover more, than \$5 a year for liquors sold to be drank in the house. The words of the act of assembly of December 26, 1792 (section 13, p. 204), are, "No keeper of a tavern shall recover more than \$5 for liquors sold within the space of a year, to one person residing less than twenty miles from such a tavern, and drank or sold to be drank in the place where it is kept."

E. J. Lee contended that the law did not apply to boarders.

THE COURT instructed the jury, that if they should be satisfied, by the evidence, that the plaintiff was a tavern-keeper, and that the defendant resided in the plaintiff's tavern, at the time the liquors were furnished to be drank in the house, the plaintiff was not entitled to recover more than \$5 a year for liquors sold; but if the jury should be satisfied that the plaintiff has a family or domicil more than twenty miles from the place where the liquor was sold, this law did not apply.

Verdict for the full claim; and THE COURT, after argument, refused to grant a new trial, which the plaintiff prayed for on the ground that the verdict was against evidence and law.

¹ [Reported by Hon. William Cranch, Chief Judge.]