

Case No. 15,504. UNITED STATES v. KALDENBACH.
[1 Cranch, C. C. 132.]¹

Circuit Court, District of Columbia.

July Term, 1803.

INTOXICATING LIQUORS—LICENSES.

The corporation of Georgetown had no power, in 1803, to grant retailing licenses.

Indictment for retailing spirituous liquors without license. The defendant justified under a license from the corporation of Georgetown.

Mr. Morsell, for defendant, contended that the corporation of Georgetown have either an exclusive or a concurrent right to license retailers and ordinary keepers, under the act of Maryland, of 1799, c. 85. § 2.

Mr. Mason, contra. The general law was that the county courts should grant licenses. The corporation of Georgetown made several attempts, and at last, by the act of November, 1799, c. 85, obtained the power to grant licenses; but the power was given to the "Mayor's Court of the Corporation," which was abolished by the act of 27th February, 1801, § 16, and that court was to collect one tax for the state of Maryland, and another, not exceeding five dollars, for the corporation. After the District was separated from the state of Maryland, the tax for that state became improper, and the act of 1799 could not be executed. The act of congress, May 3d, 1802, § 9 (2 Stat. 195), directs that all such licenses shall be granted by the circuit court of the District of Columbia, and the tax shall be applied to the benefit of the county of Washington; and thereby repealed so much of the act of Maryland, of 1799, as gave the power to the corporation of Georgetown.

BY THE COURT, (nem. con.) The fine must not be imposed. The act of congress of 3d May, 1802, cannot be carried into effect so as to collect the taxes, but by the intervention of this court. By that act the power of licensing is exclusively vested in this court

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