

To the Circuit Court of Rockingham County

The Petitioner of the Commonwealth of Virginia, by her counsel in this Court respectfully represents that she is aggrieved by a final judgment of the County Court of Rockingham rendered on the 15th day of August 1864, upon the motion of Frederick Schaffer to correct an alleged erroneous assessment of the Commissioners of the Revenue of said County for the privilege of selling ardent spirits in the said County—

A transcript of the record of the judgment complained of is herewith presented, by which it will be perceived that the Commissioners of the Revenue ascertaining that in the month of June 1863, the said Schaffer had sold a lot of apple brandy in said County, without applying for a license or assessment; proceeded to assess the said Schaffer with a quadruple Tax, and delivered the same to the Sheriff for collection, who collected it.

At the August Term for said County, in the year 1864, the said Schaffer applied to the Court to correct said assessment as erroneous—four justices being in the bench, and the Court decided the assessment to be correct. — On the same day, but after one of the justices had left the bench, the motion was renewed, and the Court annulled the assessment as erroneous. Petitioner alleges the following errors in said last mentioned judgment—

1st One of the Court which rendered the 1st judgment having left the bench, it was not competent to rehear the question — 2nd Where R. 464.

2nd The assessment was legal and proper and should not have been set aside.

And for said errors she prays an appeal or writ of Error to the said last mentioned judgment

Geo. C. Wordson, Atty. for the Comth.

I John C. Wordson an attorney practicing in the Circuit Court of Rockingham do certify that in my opinion it is proper the judgment complained of in the foregoing Petition should be reversed by the Circuit Court of Rockingham—

John C. Wordson

Nov. 28, 1864.

Commonwealth
vs
Bellevue
for appeal
H. Schaffner

Cornth
vs } Appeal
Schaffner
wood

1864, Nov. Appeal allowed
& docketed & continued.
1865. May & Oct. continued.
1866. May & Oct. heard.
1867 May dismissed

State of Virginia

At a Court held for Rockingham County at the Court House
thereof on Monday the 15th day of August 1864 Present Mem^r Wm^r
Wart ^{P. J.} Isaac Wright Mag^r John M^r & Peter Roller Gent Justices
Frederick Schaffer moved the Court to correct an alleged
erroneous assentment of a license to sell ardent spirits the Court having
heard the evidence and arguments of the Attorney for the Commonwealth
& the Attorney for said Schaffer (the Commissioner of the Revenue being
examined on oath). upon consideration whereof the Court is of opinion
that there is no error in the assentment aforesaid and doth overrule
said Motion. Absent Isaac Wright Gent Justice

On the Motion of Frederick Schaffer to reconsider the action of
the Court this day had upon his application to correct an erroneous assent-
ment and thereupon the Commissioner of the Revenue being examined
touching the facts and the motion being argued as well by the Attorney
for the Commonwealth as the Attorney for said Schaffer the Court doth
reverse and annul the order entered this day and doth certify that
the said Frederick Schaffer was erroneously assented with a license to
sell as a wholesale dealer in ardent spirits from the 30th day of June 1863 to the
30th of April 1864 amounting to eight hundred and thirty three dollars and
thirty four cents on the ground that no assentment should have been made
that said Schaffer had no place of business or residence in this County
and having purchased the brandy for the use of his Hotel in the County of
Shenandoah and was prevented from removing the same to Shenandoah
County by reason of the invasion or threatened invasion of the Valley by the
public enemy the Commissioner of the Revenue ascertaining that said
Schaffer had made sale of the brandy proceeded at once to assent him
with a graduated tax to which opinion and action of the Court the
Attorney for the Commonwealth excepted in these words. Frederick Schaffer
is Commonwealth. On Motion to correct an erroneous assentment if the
Commissioner of the Revenue. Be it remembered that on the trial of this
motion it was proven that in June 1863 said F. Schaffer sold in the town of
Harrisonburg in said County to one John H. Hill several Barrels of Apple
Brandy that said Schaffer is not now and was not in 1863 a resident of
Rockingham County & had no place of business in said County and that
said Schaffer was indicted for said sale of Brandy and that the Commissioner

of the Revenue in February 1864 ascertaining that said liquor had been
sold, quadrupled the license tax of said Schaffer from the 30 of June 1863
to the 30 of April 1864 amounting to \$832.32, which was paid to the Sheriff
It was also proven that Schaffer stated before he sold the liquor that he bought
it for his Hotel in Woodstock, but could not take it down because the presence
of the enemy prevented it, and this being all the proof, the Court set aside the
said assessment as improper, being of the opinion that no assessment at all
should have been made, to which opinion & action of the Court the Common-
wealth by her Attorney in this Court excepts & prays that this her exceptions
may be signed sealed & enrolled, and the same is accordingly done.

Wm H K Hartmann (2220)

P S Keller (2220)

Madison Moore (2220)

which exceptions were signed, sealed and enrolled by the Court, and
ordered to be made a part of the record.

Copy Sent. M W Gamble cels

Schaffer
to J Record -
Commish