89/10

July 1850 #19

Margaret Hughes - Resp't
vs.
Phineas Skinner - Appl't
Platte Co.

} Damages

Trespass - Skinner sold whiskey to Hughes' slave, causing his death

1.

State of Missouri } ss.
County of Platte }

Pleas at a Circuit Court for the County of Platte in the State of Missouri begun and held at the Court house in Platte City on monday the fourth day of March Eighteen hundred and fifty, before the Honorable Solomon L. Leonard, Judge of the twelfth Judicial Circuit in said State, and Ex officio Judge of the Platte Circuit Court

Be it remembered that heretofore, to wit, on the sixteenth day of February Eighteen hundred and forty nine Margaret Hughes by her Attorney James H. Baldwin Esq., filed in the office of the Clerk of the Circuit Court aforesaid, her certain Declaration against Phineas Skinner, Eli Shepherd and William F. Baker, which said Declaration is in the words and figures following, that is to say,

Declaration

State of Missouri } Sct. In the Platte Circuit Court
County of Platte } March Term A.D. 1849

Margaret Hughes complains of Phineas Skinner, Eli Shepherd and William F. Baker, in custody &c. of a plea of Trespass on the case. For that whereas the said Plaintiff heretofore, to wit, on the 1st day of January A.D. 1849, was possessed of a certain negro boy, slave for life, named Willis aged about 19 years, as of her own property, and that afterwards, to wit, on the day and year aforesaid said negro was hired by said Plaintiff, to one

- Pleasant Ellington for the term of twelve months thence next ensuing. And whereas the said negro boy, by virtue of said hiring being rightfully under the control and in the employ of said Ellington, was by him the said Ellington, aftwards, to wit, on the 31st day of January A.D. 1849, sent to mill on the business of said Ellington. That said Defendants on the day and year last aforesaid, at the County and Circuit aforesaid, while the said negro slave was on the business of said Ellington as aforesaid, did wrongfully and unlawfully, bargain, sell, deal and dispose to the said negro slave, without the Consent in writing of the master, owner or owners of such slave and without the Consent in writing or otherwise of said Ellington or Complainants, a large quantity of Whiskey, to wit, One quart of whiskey. That the whiskey so unlawfully and wrongfully dealt and sold as aforesaid, was delivered to said slave by said Defendants. That in consequence of the wrongfull and unlawfull selling delivering and dealing of the said whiskey by the said defendants to the said negro slave, he the said negro became so drunk as to be unable to ride, or return to his home. That while in such condition, the said negro late in the evening of the day and year last aforesaid, started to his home, at the said Ellington aforesaid, and being drunk as aforesaid in consequence of the whiskey, unlawfully sold and dealt out to said negro as aforesaid by said defendants, he the said negro was

– unable to procure home in consequence of his drunkenness aforesaid, and was caused thereby to lay out upon the snow in a cold winter night on the day and year last aforesaid for the space of twelve hours, whereby he the said negro became so chilled and frozen, as to cause his the said negro slaves death, on the 9th day of February A.D. 1849. So that the said negro slave is wholly lost to Plaintiffs. Plaintiffs avers that said negro was of great value, to wit of the value of $800.00 – and that by reason of the unlawful and wrongful selling dealing and delivering of the said Whisky to the said negro by the said defendants as aforesaid. he the said negro became so drunk to ride, or walk his home as aforesaid. and in consequence thereof was caused to lay out in the open air upon the snow, in a cold winter night so that he became so chilled and frozen by the cold. that he died, afterwards, to wit, on the ninth day of February A.D. 1849. whereby said slave is wholly lost to said Plaintiffs. – Plaintiffs avers that by reason of and in consequence of the said defendants unlawfully and wrongfully selling, dealing and delivering to the said slave the said whisky as aforesaid the said slave died afterwards to wit, on the 9th day of February A.D. 1849. died. and that his death was caused, occasioned and brought about by the said unlawful and wrongful act of said Defendants in selling, delivering and dealing the said Whisky as aforesaid, to the said negro whereby the said Plaintiffs was damaged. not only

— to the extent of the Value of said Slave as aforsaid. but hath also been Compelled to pay and incur Charges to a large amount to wit. the sum of $200.00 for Care and attention, Medicine and medical advice, bestowed in and upon said Slave, during his illness from said exposure and freezing as aforsaid, from the 31st day of January 1849 to the 9th day of February 1849. the time at which said Slave died.

And whereas also heretofore to wit, on the 1st day of January A.D. 1849. the said Plaintiff was possessed of a certain other negro boy Slave for life named Willis aged about 19 yrs. as of his own property. and that afterwards to wit, on the day and year last aforsaid. the said negro boy was hired by said Plaintiff to one Pleasant Ellington. for the time of twelve months then next ensuing. and whereas the said negro boy by virtue of said hiring, being in the rightfull employ and under the Control of said Ellington was by him the said Ellington afterwards, to wit, on the 31st day of January A.D. 1849 sent to mill on the business of said Ellington. That said ~~Ellington~~ defendants afterwards. to wit. on the day and year last aforsaid. while the said negro was on the business of said Ellington as aforsaid. unlawfully. willfully. wrongfully and injuriously. bargained sold. dealt and delivered to the said negro. Slave a large quantity of whis Key, to wit one quart of whiskey. That the whis Key so unlawfully sold as aforsaid. was delivered by said defendants to said negro Slave. That in consequence of the said unlawfull. willfull and wrongfull selling —

— delivering and dealing by said defendants
of the said whiskey as aforesaid, the said negro slave
became very drunk and intoxicated, loosing
to a great extent the use of both mind and body
so that he was unable to ride on horseback
or proceed home to the said Ellingtons, where
he started late in the evening of the day and
year last aforesaid, and in consequence thereof
the said negro slave was compelled to lay
out and did lay out, in the open air upon
the snow in a cold winter night for the
space of twelve hours, whereby the face, hands
feet, arms, legs, body and head of the said
negro slave were so frost bitten, frozen and
chilled that the slave in consequence thereof
aforesaid to wit, on the 9th day of February
A.D. 1849, died, whereby said negro slave was
and is wholly lost to said Plaintiff — Plaintiff
avers that said negro slave was of great
value, to wit, of the value of $900.00
and that by reason of the said defendants
unlawfully and wrongfully willfully and
injuriously selling, dealing and delivering said
whiskey to the said slave as aforesaid he the
said negro became too drunk to mark his
name as aforesaid, and in consequence thereof
was caused to lay out as aforesaid, on the 31st
day of January 1849, in the open air upon the
snow for the space of twelve hours whereby
he became so frozen by the cold that he
died aforesaid, to wit, on the 9th day of
February A.D. 1849, whereby said slave was and
is wholly lost to Plaintiff — Plaintiff avers

— that by reason of and in consequence of the said defendants unlawfully and wrongfully selling, dealing and delivering said whisky to the said slave as aforsaid the said slave died aftwards, to wit, on the 9th day of February A.D. 1849, dis. and that his the said slaves death was caused, occasioned and brought about by the said unlawfull and wrongfull act of said defendants in selling dealing and delivering the whisky aforsaid to the said slave, whereby the said Plaintiff was and is damaged, not only to the extent of the valu of said slave as aforsaid, but hath been compelled in consequence of said defendants wrongfull act as aforsaid to lay out and expend, a large sum of money, to wit, the sum the sum of $100.— for care and attention, medicine and medical advice bestowed in and upon said negro slave during his said illness from the exposure and freezing aforsaid from the 31st of January A.D. 1849 to the 9th of February, A.D. 1849, the time when said slave died And whereas also heretofore to wit, on the 31st day of January A.D. 1849, at the County and Circuit aforsaid the said Defendants were exercising and carrying on the trade and business of grocers, and in the exercise of such their business, the said defendants were prohibited by law from selling any intoxicating liquor or drink of any kind to any slave without the permission in writing of the master, owner or overseer of such slave, and whereas on the day and year last aforsaid, the said Plaintiff was possessed of a certain other negro boy—

a slave for life, named Willis, aged about 19 years as of his own property. And that afterwards to wit, on the day and year aforesaid, the said negro slave was hired by said Plaintiff to one Pleasant Ellington for the term of twelve months, there next ensuing, and whereas the said Willis by virtue of said hiring, being in the rightfull possession and employ of said Ellington was by him the said Ellington, afterwards to wit, on the 31st day of January A.D. 1849 sent to mill on the business of said Ellington. That said defendants now on the day and year last aforesaid, at the County and Circuit aforesaid exercising their business as Grocers in the vicinity of said mill, and on the day and year last aforesaid, at the County and Circuit aforesaid, while the said negro slave was at said mill, on the business of said Ellington the said defendants did unlawfully will fully wrongfully and injuriously bargain, sell and dispose to the said negro slave without the permission in writing of the Plaintiff or of the master, owner, or overseer of such slave a large quantity of intoxicating liquor, to wit, one quart of Whiskey. That in consequence of the said unlawfully and wrongfully selling said whiskey by the said defendants to the said negro slave, the said negro slave became so drunk as to loose to a great extent the power of mind and body, whereby he was unable to procure home, whether he had started late in the evening of the day and year last aforesaid, and being so unable to procure home in consequence of his drunkenness aforesaid, was

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- Caused thereby to lay out, upon the day and year last aforesaid, for the space of ten hours upon the snow in the open air, without Coming in a cold winter night, whereby he became so chilled frozen and frost bitten by the cold that he died in consequence thereof on the 9th day of February A.D. 1849. and was and is wholly lost to Plaintiff. That by reason of and in consequence of the said unlawfull selling of said whisky as aforesaid to said Slave. the said negro slave has died. and Plaintiff compelled to expend a large sum of money, to wit the sum of $150.00 in procuring medical Skill, Care and attention to said Slave from the 31st January 1849 to the 9th day of February A.D. 1849. Plaintiff avers that said slave was of great value, to wit, of the value of $800- and that by reason of the aforesaid unlawfull act of the said defendants, said Slave hath been wholly lost to her the said Plaintiff.

4th Count

And whereas also heretofore to wit, on the 1st day of January A.D. 1849. the said Plaintiff was possessed of a certain negro boy Slave for life named Willis as of her own property and that aftewards to wit, on the day and year last aforesaid the said negro Willis was by said Plaintiff hired to one Pleasant Ellington for the term of twelve months thence next ensuing and whereas by virtue of the said hiring the said Willis was rightfully in the possession and under the control of the said Ellington, and was by him the said Ellington on the 31st day of January A.D. 1849 sent to mill on the business of said Ellington, and whereas

the said defendants, on the day and year last aforesaid, at the County and Circuit aforesaid were exercising and carrying on the trade and business of merchants, and in the exercise of such their business were prohibited by law from dealing with any Slave without the Consent in writing of the master, owner or owners of such Slave, That said defendants were exercising their business as merchants as aforesaid, on the day and year last aforesaid in the vicinity of the mill to which said negro was sent, and on the day and year aforesaid at the County and Circuit aforesaid, while the said negro Willis was on the business of the said Ellington, at said mill the said defendants unlawfully, wrongfully and injuriously bargained sold, dealt and delivered to said negro Willis without the Consent of Plaintiff without the consent in writing of the master, owner or owners of said negro Willis, a large quantity of whiskey to wit, one quart of whiskey that in consequence of the said unlawfull and wrongfull selling dealing and delivering of the said whiskey by the said defendants to the said negro Slave, the said negro became very drunk and deeply intoxicated, loosing to a great extent thereby the powers both of mind and body, so that he was unable to ride on horseback or proceed home to the said Ellington, where he started late in the evening of the day and year last aforesaid, and in consequence of the said drunkness the said negro Slave was compelled to lay out, and

—die lay out. on the day and year last
aforsaid. in the open air upon the snow
for the Space of 12 hours. in a cold winter
night. wholly the face. feet. hands. legs
arms and body and head of the said ne
gro slave were so frost bitten. Chilled and
frozen by the cold. that the said slave
in Consequence thereof afterwards. to wit. on
the 9th day of February A.D. 1849 died. wholly
said negro slave was and is wholly lost to
said Plaintiff — Plaintiff avers that said to wit of the value
negro slave was of great value. of $800.00
and that by reason of said defendants unlaw
fully and wrongfully wilfully and injuriously
selling. dealing and delivering said whiskey
as aforsaid to the said negro. he the said
negro became so drunk so reach his home
as aforsaid. and in Consequence thereof was
caused to lay out as aforsaid on the 31st day
of January 1849. in the open air upon the
snow for the Space of twelve hours wholly
he became so frozen and frost bitten by the
Cold. that he died afterwards. to wit, on the
9th day of February A.D. 1849. wholly said
slave was and is wholly lost to said Plaintiff.
Plaintiff avers that by reason of said defendants
unlawfully and wrongfully selling. dealing
and delivering the said whiskey to the said
negro slave as aforsaid. the said slave died
on the 9th day of February 1849 died. and that
in the said slaves death was caused. occasioned
and brought about by the said wrongfull and
unlawfull dealing. selling and delivering said

— whereby as aforesaid to said negro slave whereby the said Plaintiff was and is damaged not only to the extent of the value of said slave but hath been Compelled in Consequence of said defendants wrongfull acts as aforesaid to lay out and expend a large sum of money to wit the sum of $150— for care and attention to the said slave during his illness from the exposure and freezing aforesaid from the 31st January A.D. 1849 to the 9th day of February A.D. 1849. the time when said slave died— By reason of all which wrongfull acts and doings of the said defendants the said Plaintiff hath been and is greatly damaged and injured in his property to the damage of Plaintiff of $1500.00. and therefore he sues

Baldwin. McCurdy & Norton
Attys for Plff.

Endorsments

On the back of which said Declaration were the following endorsements to wit. "Margaret Hughes vs. Phineas Shinn. Ely. Stephens. and William F. Baker" Declaration." "This is an action of trespass on the case. the Clerk will issue Summons — Baldwin" —

And thereupon. to wit. on the day of the filing of the said Declaration. there was issued from the office of the Clerk of the Circuit Court aforesaid a writ of Summons in the words and figures following to wit.

Summons

State of Missouri } Sct.
County of Platte } The State of Missouri

- to the Sheriff of Platte County Greeting -
You are hereby Commanded to summon Phineas
Skinner, Eli Shelton & William F. Baker. that
they be and appear before the Judge of our
Platte Circuit Court. on the first day of the next
term thereof. to be holden at the Court house in
Platte City on Monday the 5th day of March
next. then and there to answer unto Margaret
Hughes of a plea of trespass on the case. hereto
annexed - Herein fail not. and have you then there
this writ. Witness Ira Norris Clerk of said
Circuit Court with the seal thereof affixed
L.S. at Platte City on this 16th day of February
A. D. 1849. Ira Norris. Clerk
By A. L. C. Dean D. C.

On the back of which said writ of summons
appears the following endorsement and return
made thereon by the Sheriff. to wit

Sheriffs return

"The within executed by reading the writ
and Declaration thereto annexed to the within
named Defendants. Phineas Skinner, Eli Shelton
and William F. Baker on the 2d. day of March
1849, in Platte County Mo.
M. T. Owen Sheff
By T. A. Jack D. S.

And be it remembered that afterwards to wit. at
a term of the Circuit Court aforesaid. begun
and holden at the Court house in Platte City on
Monday the third day of September Eighteen
hundred and forty nine. within and for the
County of Platte aforesaid. before the Honorable

— Solomon L. Leonard Judge of the twelfth Judicial Circuit in the State of Missouri and Ex officio Judge of the Platte Circuit Court amongst other Proceedings there and then had was the following. to wit,

Record

"Tuesday September 4th 1849

Margaret Hughes
vs
Thomas Skinner
Ely Shepherd &
William F. Baker

Now at this day come the said defendants by their Attorney. and file herein their Plea of the general issue."

Which said Plea is in the words and figures following. to wit,

Plea

"M. Hughes
vs
Skinner & Shepherd

And the said Defendants come and defend the demand of the Plaintiff

Wilson & Rees. Attys
for Defendants."

And now here at the term of the Circuit Court first aforesaid. begun and held at the time and place. and before the Judge first aforesaid. amongst other Proceedings there and then had were the following to wit,

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Prove

"Thursday March 21st 1850

Margant Hughes

vs.

Phineas Skinner & others

Now at this day come the parties aforesaid by their Attornies and being ready for trial. Whereupon to try the issue joined come the following Jury of ten, by agreement of the parties. to wit. Lewis Corbin William Cain, Isaac Horn, Wiley Cooper, Henry Osborn, W. L. Brightwell, George Ray James Vivion, David Couch and George Wills, good and lawful men, who being duly empannelled, tried and sworn, after hearing a portion of the evidence addduced, are dismissed under a charge from the Court until tomorrow morning at half past eight O'clock."

Prove

"Friday March 22d 1850

Margant Hughes

vs. Trespass on the Case

Phineas Skinner & others

Now at this day come the parties aforsaid by their Attornies and the Juros aforsaid who were disarmed on yesterday under a charge from the Court, also come and now here on motion of the said Defendants it is ordered that an attachment issue for Jack Hunter, returnable to the next term of this Court to answer for a contempt in failing to appear and testify as a witness in this cause. on the part of the said defendants. when legally subpoenaed. And now here the Juros aforsaid. having—

heard all the evidence addduced in this cause, and the arguments of Counsel, upon their Oaths do say. "We the Jury find for the Plaintiff, against Phineas Skinner and Eli Shepherd, and assess the Plaintiffs damages to the sum of Eight hundred and fifty dollars. And we find the defendant Baker not guilty. W. L. Brightwell, Foreman." It is therefore considered that the said Plaintiff recover of the said defendants Phineas Skinner and Eli Shepherd, as well the said sum of Eight hundred and fifty dollars for her damages, so assessed as aforesaid, as her costs and charges in this behalf laid out and expended, and that she have thereof Execution. And it is further considered that the said Defendant Benjamin F. Baker be discharged, and go hence thereof without day, and recover of the said Plaintiff his costs in this behalf and have thereof execution"

Record

Friday March 22d 1850

Margaret Hughes
vs. Trespass on the Case
Phineas Skinner & others

Now at this day comes the said Defendant Phineas Skinner and files his motions in arrest of Judgment and for a new trial, which motions are taken up and argued, and, overruled by the Court, and thereupon the said Defendant files his affidavit, and prays an appeal from the Judgment and decision of this Court to the Supreme Court of the State of Missouri, which is granted and an appeal allowed. And now here comes the said Defendant, Phineas Skinner as principal, and

John Wilson as security, and acknowledge themselves severally and severally to owe and stand indebted to Margaret Hughes in the sum of one thousand and seven hundred dollars, to be levied of their goods and Chattels, lands and tenements yet to be void upon the following condition, that is to say, Whereas the said Phineas Skinner has appealed from the Judgment of this Court in the forgoing cause, to the Supreme Court of the State of Missouri - Now if the said Phineas Skinner shall prosecute his appeal with due diligence to a decision in the Supreme Court, and if the Judgment appealed from is affirmed or his appeal dismissed, he will pay, whatever of damages and costs that have been recovered against the said defendant by the Judgment of this Court, together with the interest that shall grow due thereon, or that he will otherwise perform the Judgment of this Court, and that he will also pay the costs and damages that may be adjudged against him in the Supreme Court on this appeal, else to remain in full force."

The affidavit for appeal, before as aforesaid, is in the words and figures following to wit,

Affidavit for appeal - Margaret Hughes
vs.
Phineas Skinner & others

Phineas Skinner this affiant and one of the defendants in the above cause being sworn, says, that he as is an appeal

- for said defendants in the above cause not for the purpose of vexation or delay but because he feels himself aggrieved by the Judgment of the Circuit Court in this cause.

Phineas Skinner

Subscribed and sworn to in open Court. March 22d 1850

Ira Norris, Clerk"

Recess.

"Saturday March 23d 1850

Margaret Hughes

vs. } Trespass on the Case

Phineas Skinner & others

Now at this day come the said defendants by their Attorney and file their Bill of Exceptions herein."

Bill of Exceptions.

Which said Bill of Exceptions filed as aforesaid is in the words and figures following, to wit.

Margaret Baker

vs. } Trespass on the Case

Skinner, Shelton & Baker

Be it remembered that on the trial of this cause the Plaintiff introduced the following testimony.

Depositions.

Margaret Hughes

vs. } Case

Phineas Skinner, Eli Shelton & William F. Baker

The depositions of witnesses, produced sworn and examined before me Josiah Edwards, a Justice of the Peace in and for Platte County, Missouri, in pursuance of the notice hereto attached, to be read as evidence in a certain suit now pending in the

Platte Circuit Court. on the part of Plaintiff whereas Margaret Hughes is Plaintiff and Phineas Skinner. Eli Shubbuck and William F. Baker are defendants. said Depositions taken on the 13th day of April 1849. at the Post office in the Town of Ridgely in the County of Platte and State of Missouri.

Richard Phillips - Richard Phillips. a witness of lawfull age being first sworn and examined deposes and says.

Question by Plaintiff - State what you know about the negro boy Wills getting whiskey from the store of Skinner & Shubbuck. and about what time - Answer - I was at the store of Skinner and Shubbuck. some time last winter. purchasing some goods. and while there. the negro boy Wills came to the store and asked Mr. Baker who was selling goods for Skinner & Shubbuck. if they had any whiskey. and Baker told him they had. and the boy told him he wanted to get some. and Baker took the jug or bottle from the boy and went into the back room to draw the whiskey as I supposed. and gave it to Wills. who took it and went out I think. in the direction of Skinners mill. The store alluded to above was owned by Phineas Skinner and Eli Shubbuck. who were partners as I understood. Mr. Baker. who sold the whiskey. was understood to be the Clerk of Skinner & Shubbuck. and I have seen him. both since and before that time. about attending to selling goods in the store. and acting in that capacity -

Cross examined by Defendants - What kind

– of a drug did the negro have?

Answer – I do not know what kind of a drug never heard the negro say who had sent him. and did not see any whiskey. and do not know whether he got whiskey or not. as I did not see it go in the drug or bottle. The negro asked for whiskey. Baker went in the back room to get it. Came back and gave the drug to the negro. and I suppose the negro got what he asked for. I am not positive that the negro had a drug or a bottle. it might have been a bottle. though it is rather my impression that it was a drug. My impression is that the drug or bottle would hold a quart of whiskey and that was the amount he. the negro. called for. This transpired in Platte County. and further this deponent saith not.

R. M. Phillips

State of Missouri } ss.
County of Platte }

I Joseph Edwards a Justice of the Peace within and for Platte County aforesaid do hereby certify. that in pursuance of the notice hereto attached. marked (A.) I caused R. M. Phillips on the thirtieth day of April 1849. to be and appear before me. at the Post office in the town of Parkville in the County of Platte and State of Missouri between the hours of 8 O'clock in the forenoon and 6 O'clock in the afternoon. and then and there. the said R. M. Phillips. was by me duly sworn to testify the truth. the whole truth and nothing but the truth. in a certain matter of controversy now pending in the Platte Circuit Court

– in Platte County. wherein Margarita Hughes is Plaintiff and Phineas Skinner. Eli Stephens and William L. Baker are defendants. and the said R. M. Phillips. was then and there. and between the hours above specified. examined as a witness in the above said cause. in behalf of the said Margarita Hughes Plaintiff. That his said examination was reduced to writing in my presence and that the same was sworn to and subscribed before me by the said R. M. Phillips. Witness my hand this 13th day of April 1849.

Justice fee 45 ⎫ ⎧ Joseph Edwards
witness attendance 50 ⎭ 95 ⎩ Justice of the Peace

Richard Vaughn – Richard Vaughn. a witness of lawfull age in the same cause. being produced sworn and examined deposes and says.

Question by Plaintiff – State whether or not you saw the negro boy Willis. the property of Plaintiff. at Mr Skinners mill. last winter. If so. State about what time. and what you know of his getting drunk at that time. and where he got the liquor – I was at Mr Skinners mill in January 1849. in the back room of the mill. and the negro boy came to the mill into the room where we were. There was a bottle sitting on the table with whiskey in it, and after the negro had been there a short time. he asked if he might drink. he was told he might. and he took a dram or two of the liquor When the liquor was out. Mr. Thomas told Willis that it was his turn to treat. and soon after he. Willis took the bottle. a quart bottle. and went

- ant. and came back with the bottle filled with whiskey - When Mr. Willis took the bottle to go after whiskey. he was not at all intoxicated After Willis came back with the whiskey. he drank it very fully. like it was water. The negro came in to the backroom between two and three o'clock. and after he came back with the bottle of whiskey. he did not leave the room till about 8 m. down. when he went out drunk staggering. to get his meal. and soon came back and asked if we knew how to tash a sack on to his nose. and was told we did not. and Mr. Hunter. I believe. tashed his sack on for him. The negro seemed to be too drunk to tash the sack on himself. The evening on which the negro left the mill. was extremely cold. with deep snow on the ground. The ~~ground~~ negro had came to mill. I did not see the negro any more that evening. On the next morning he was found about a half mile from the mill lying upon the snow frozen almost to death. Mr. Willis. was brought back to the mill. and his fore hands. arms. feet and legs were frozen badly. They had to cut off his pantaloons and his shoes. when they were cut off. his feet would strike the floor like rocks. the negro was speechless. and hardly had breath in him. The negro smoked some while he was at the mill. but he was so badly frozen that I did not think he could have recovered from the freezing. He was taken to Mr. Pleasant Ellington's from the mill. and I saw him no more.

Cross examined by Defendant—

Question by defendant - Who was it told the negro to drink the whiskey, when he first came in?
Answer. I think it was Isotswood Thomas Mr. Lanham was also in the room. The negro took one or two drams before he went after the whiskey, but not enough to make him intoxicated Mr. Thomas told the negro that it was his time to treat, and the negro shortly after took the bottle and went out. Thomas said he did not think he would go. He came back with the bottle filled with whiskey. Then were several persons drank out of the bottle. It was the bottle, that was used about the mill. And further this deponent saith not. Richard + Vaughan his mark

State of Missouri }
County of Platte }

I Josiah Edwards a Justice of the peace within and for Platte County aforesaid do hereby certify, that in pursuance of the notice hereto appended (marked (A) I caused Richard Vaughan, on the thirteenth day of April 1849 to be and appear before me at the Post office in the Town of Parkville in the County of Platte and State of Missouri, between the hours of 8 o'clock in the forenoon and 6 o'clock in the afternoon, and then and there, the said Richard Vaughan was by me duly sworn to testify the truth, the whole truth and nothing but the truth, in a certain matter of Controversy now Pending in the Platte Circuit Court wherein Margaret Hughes is Plaintiff and Thomas Skinner, Eli Thrasher and William F. Baker are defendants. The said Richard Vaughan

- was there and then, and between the hours above specified, examined as a witness in the above said cause, in behalf of the said Margaret Hughes, Plaintiff, that his said examination was reduced to writing in my presence, and the same was sworn to and subscribed before me, by the said Richard Vaughan. Witness my hand this 13th day of April 1849

Justice fee 25 cts Joseph Edwards
witness attendance 50 = 75 Justice of the Peace

Willis Donaugan

Question by Plaintiff. State what you know about the negro boy Willis, the property of Margaret Hughes, being at the Mill of Mr. Skinner last winter about his getting drunk there, and where he got the whiskey?

I was not at Mr Skinners mill, but was at the store of Skinner & Stephens, some time last winter when the negro boy Willis, came into the store, with a quart bottle in his hand, and told Mr William Baker he wanted to get some whiskey. Mr. Baker took the bottle, and he and the negro went into the back room, and the negro came out with the bottle filled, as I thought with whiskey I did not see the negro boy Baker for the whiskey, but I heard him tell Baker he would pay him, and heard a rattling, as if it might be money. Mr. Baker was looking for Skinner and Stephens, selling goods for them. Mr. Thomas Skinner was in the store a short time after the negro came in, but I cannot say certainly whether he was there or not, where the negro got the whiskey

The negro went off from the Store with the whisky. Mr. Phinis Penix and Shepherd were understood to be partners in the Store where the negro got the whisky. I heard of the negro frozing to death a short time afterwards. Though I did not see the negro pay Baker for the whisky yet from his telling him, Baker, that he would pay him, and the talking of what I supposed to be money, my impression is that he did pay for it.

Cross examined by defendant.

Question. Do you know that the negro who got the whisky is the same negro in Controversy.

I do not know certainly, but was told that the negro was Mrs. Hughes, and had been hired to Pleasant Ellington. Mr. Richard Phillips was at the Store when the negro got the whisky and Robert A.E. Young also. I don't know that the negro got whisky. he asked Baker for whisky. and Baker went into the back room with the bottle, and the negro got it follow but I cannot say that it was whisky, because I did not taste or smell it, though I have no doubt that it was whisky that the negro got. And further this deponent saith not.

Willis Dunagan

State of Missouri }
County of Platte }

I Josiah Edwards, a Justice of the Peace within and for Platte County aforesaid, do hereby certify, that in pursuance of the notice, hereto appended, marked (A) I caused Willis Dunagan on the Thirteenth day of April 1849

– to be and appear before me, at the Post office in the town of Bradley in the County of Platte and State of Missouri, between the hours of 8 o'clock in the forenoon and 6 O'clock in the afternoon and then and there the said Willis Dunagan was by me duly sworn to testify the truth the whole truth and nothing but the truth in a certain matter of Controversy, wherein Margaret Hughes is Plaintiff and Phineas Skinner, Eli Shipman and William D. Baker are defendants that the said Willis Dunagan was then and there and between the hours above specified, examined as a witness in the above said Cause, in behalf of the said Margaret Hughes Plaintiff – That his said examination was reduced to writing in my presence, and that the same was sworn to and subscribed before me, by the said Willis Dunagan Witness my hand this 13th day of April 1849.

Justice fee 25 ⎫ 75–
witness attendance 50 ⎭

Joseph Edwards
Justice of the Peace

The State of Missouri ⎫
County of Platte ⎭

I Joseph Edwards a Justice of the Peace within and for Platte County aforesaid, do hereby certify that the foregoing depositions were all taken and reduced to writing in my presence, and duly signed by each witness. Given from under my hand this 13th day of April 1849.

Joseph Edwards.
Justice of the Peace"

Robt. E. Young.

The then introduced Robert E. Young who testified

— That he was in the Store of Skinner & Shipherd sometime in January of the year 1849, and saw the negro boy Willis, a Slave, the property of Plaintiff, came into the store of Skinner & Shipherd. & Skinner sold with a bottle and ask for whiskey. Baker the defendant was there as clerk, and a stranger for defd. as such who answered that he had whiskey for sale and took the bottle and filled it, and gave it to the negro. he did not see any money paid. Neither Skinner nor Shipherd was there, Knew the negro. thinks he was worth 800. or 900 dollars. Eli Shipherd and Phineas Skinner Composed the firm of Skinner & Shipherd —
The negro was sober when he came for the whiskey.

C. Black — Christopher Black was then called who stated that he was in the store of Skinner & Shipherd at the time the negro boy Willis came in he had a quart bottle Clear glass. asked for whiskey. Baker took the bottle went into the counting room. filled it near to the neck. gave it to the negro. Neither Skinner nor Shipherd were there. The negro was sober when he came for the whiskey. The negro and Baker went into the back room together. after the bottle was filled. Baker handed it. the negro recd. it in his left hand. and at the same time extended his right, as if paying the money. Witness saw no money. but all the motions of paying and receiving was gone through and has no doubt the negro paid for it. Supposes the bottle Contained a quart.

— Ray — — Ray was then introduced. who stated

– that he was at the mill on the day the negro boy Willis was there. That he saw him drink. He was drinking in the ~~back~~ room in the mill where they kept the fire. He had been about the mill considerably. They kept a bottle at the mill which was sent frequently for liquor. such an one as the negro boy took to the store. They, the hands about the mill, drank a great deal of liquor, and sent that bottle often for it. They generally sent the money and sent for it by any one they could pick up. mill boys and others – He was a hand in the mill – In the evening when the boy was about to start, he perceived he was very drunk. He was staggering on the timbers. It was a very cold evening. Starlight between sun down and dark.

– Ware – – Ware was at the mill on the day the boy Willis was there. Saw him. he was drunk, staggered on the mill door. a plank being put up to keep the hogs out. The boy got some one to tack his bag on the horse. He went into the room afterwards. They told him the boy Willis had gone after Whiskey. it was his treat – The boy came in with the bottle of Whiskey. They asked him to ~~drink~~. said it was the negro Willis' treat. The negro drank of the Whiskey – Was about the mill a great deal. They, the work hands, kept a bottle they sent very often to the store for whiskey. the boy had that bottle or one just like it. The negro left late in the evening. It was very cold and a dust snow on the ground. Heard early next morning that the boy was found near the mill pazen. Witness took a sled and went after him

– brought him to the mill. he was severely frozen. his feet. legs. arms and body & face. was speechless. his jaws were locked. they bridged them open and gave him Camphor. and after stimulants. put his feet &c. in cold well water. his feet broke out in large white blisters. Negro stayed at the mill until the next morning, evening, revived considerably. Physicians were sent for in the morning when he was first brought to the mill. they administered to him. After he was taken away. Witness never saw him any more –

Wm Chapman – William Chapman was called who states that he started early in the morning to go to the mill. and in the road he saw the negro boy Willis lying on his face. he was alarmed thought he was dead. turned him over found he was not dead. Went on to the mill as soon as possible about a quarter of a mile and had him taken to the mill and assisted in taking care of him. gave him stimulants put the frozen parts in cold water. rubbed him &c. Sent for a Physician – Met the negro going to the mill the day before. as he returned returned from the mill. did not then know him. afterwards learned he was a boy who lived with Ellington and was owned by the Plaintiffs. It was after twelve o'clock when he met the boy going to the mill. it was about the last of January 1849.

B. Smithy – Benjamin Smithy testified that he worked and returned at the mill. Saw the boy Willis there on the day before spoken of. He was drunk in the evening. very drunk. Saw him

— in the day, went into the room where the fire was. Thomas told him the boy Willis had gone after Whisky. that it was his. Willis treat. While he was there Willis came back with the Whisky, said it was his treat. and asked witness to drink after the white people had drank, the negro also drank. He thinks he saw him drink three. Witness was there in the room. The bottle Willis had, was the one used at the mill. It was very frequently sent for whisky to the Store. The money was generally sent. They picked up any one they could find to send for whisky. thinks that same bottle had been sent more than fifty times for whisky by every description of messenger. Witness left the mill before the boy Willis. was sorry after he started, that he had not started the boy before he went. The boy got some one to take his beer on for him.

Noah Beery — Noah Beery was at the mill frequently. was there the day the negro boy Willis was, there he saw he was drunk. He was drinking in the room at the mill. Knows the bottle they used there it was often sent for whisky to the Store. Saw the boy Willis when he came back, with the whisky. it was the mill bottle. or one like it. There was a good many people at the mill on that day and they were drinking. Was at the Store of Skinner and Stubbs frequently — and knows of negroes coming frequently after night for whisky. without any written permission for getting whisky. and it was sold to them. says it was the habit of Baker, the Clerk, to sell to them without asking any questions. Never saw Skinner there on these occasions — but,

3v

frequently saw Shepherd there. who made no objections to letting the negro have it.

Dr. Syms.

Dr. Syms says he was called in at the mill to see the boy on the morning he was brought in there. found him very badly frozen especially his feet and legs and arms. was speechless. they had been putting the frozen parts in fresh well water. had been rubbing him and giving him some stimulants. he revived considerably. while he stayed. When he first saw him. thought he would die. but when he left him thought he might recover temporarily. or for a while. Stayed with him about two hours left him under the care of Dr. Odin. never saw him afterwards. Could see no injury the negro boy had received. otherwise than by freezing—

Dr. Odin

Dr. Odin says he was called in early in the morning to see a frozen negro at the mill. went and saw there. the boy Willis. the property of Plaintiff. he was badly frozen. his hands were set. he was speechless. his feet legs and arms frozen stiff. the whole surface of the body was cold, his bowels seemed to be frozen— thought when he first saw him he would die. thought afterwards he might recover with the loss of his feet. They had been bathing his feet &c in well water. before he saw him and rubbing him, and giving him Camphor. Peppermint and other strong stimulants. before he left he was so revived that he could speak and recognize some persons present. Saw him again the next morning. found him still better. his feet

31.

1

— were then blistered in large white blisters. He advised Ellington he could safely remove him. He was removed on that evening to Ellingtons. This was Thursday or Friday. did not see him again until Sunday evening when he was sent for. As soon as he saw him he told Ellington. it was useless to do any thing. he would die. he saw then signs about him which satisfied him he could not recover. he stayed and attended to him about four days. when he did die. he lived in all nine or ten days after he was frozen. Witness has no doubt of his death from that cause.

P. Ellington — Pleasant Ellington says he had the boy Wills hired from Plaintiff, had sent him to mill. that he took all the care of him in his power. employed Physicians and endeavored to have him restored. he was a valuable boy. never knew of him being drunk before. Examined the boy and could find nothing injury that he had received than the freezing. and is of the opinion that he came to his death from that cause alone.

— Smith — Smith says he knew the boy well lived some eight or nine years near him. a part of the time in the same village. he was a sober boy as far as he ever knew. never saw him intoxicated. thinks he was worth 900 dollars. would have sold for that much —

This was all the testimony given for Plaintiff Defendant then called.

— Wardner — Wardner, who stated that he was the sawyer at the mill at the time

The negro boy Wills was frozen and had been for some time previous. That the bottle they used there was his. That it was sent by the hands repeatedly, he thinks as many as one hundred times for whiskey to the Store of Skinner and Shipherd. was sent by every description of persons. any one they could pick up. by mill boys. white and black and by the hands. that the money was generally sent. that there were a great many persons there that day. that the bottle was frequently sent for whiskey. That he saw the boy Wills drinking among them. he was much intoxicated in the evening. Customers coming to the mill would frequently take the bottle of their own accord and get it filled as their treat.

This was all the evidence given in the cause, The Defendants then prayed the following instructions numbered from 1 to 10 inclusive. all of which were refused by the Court.

Defts instructions

Sargent Hughes
as, Instructions
D. Skinner & Others

The defendants move the Court to instruct the Jury.

1. That unless Plaintiffs sold whiskey to the negro boy Wills. the property of Plaintiff with the intention of making him drunk or doing him some injury the Jury must find for Defts.

2d. If the defendants were innocent of any intention of injuring the ~~boy~~ negro. or the Plaintiff. and let him have the liquor with no intention

view or intention, they must find for Defts.

3d. If they believe that Baker the agent and Clerk of Dr Rains and Stubbs, knew the bottle brought by the negro, to be the one used at the mill, or believe it to be so, and that the negro had been sent from the mill to buy the whiskey, and he let him have it, supposing he was sending it to the mill by white persons, at the mill and not selling it to the negro, they must find for Defts.

4th Unless they find the whiskey was sold to the negro with the intention to sell to him the Defendants are not guilty

5th If the Jury find that the negro was drinking with white men at the mill, and they sent him with the bottle usually sent by them for whiskey, and the negro got the whiskey unwittingly and took it back to them, and they drank it, permitting the negro to get drunk on it, they must find for defts, although they may believe the negro paid for it.

6th If they believe that white men sent for the whiskey, by the bottle usually sent by them, and permitted the negro to get drunk, they must find for Defts.

7th If they find that white men at the mill gave the negro the whiskey and made him drunk they must find for Defts.

8th If they believe that the negro and white men were drinking together at the mill, and the negro got drunk there among them without the knowledge or consent of defts, they must find for Defts. although they may have sold the whiskey, that

made him drunk. if they did not intend to make him drunk, to give him liquor, or had no knowledge of the fact that he was so drinking.
9th The Defts. Baker cannot be liable in this action. if the Jury find that he was acting as clerk for wages, and performed only the duties required of him, and did not exceed his instructions.
10 If the intoxication of the negro proceeded from whiskey other than what Baker sold to the negro, then they will for defendants.

The Court gave the following instructions, to which the defendants objected and excepted,

Instruction — The Court instructs the Jury that if Defendant Baker sold whiskey to the negro boy Willis, slave of the Plaintiff, without the written permission of the master, owner or overseer of such slave, by which means said slave was made drunk, and became stupid so that he died, and was lost to Plaintiff, the Jury will find for Plaintiff as against Baker and if Baker so sold such whiskey by the direction, command or procurement of Shepherd or Skinner, or both, the Jury will find as against them also; But if Baker so sold it without the direction, command or procurement of Shepherd or Skinner, then in this latter event, they, or either of them, not so having any agency in the sale, are entitled to an acquittal.
The Jury may find against all the defts, or one, or two, and acquit the others, as

– they shall deem the evidence require.
The mere fact that Baker was clerk of Shobe and Skinner, and sold whiskey to the slave in question, does not conclusively show that they directed, commanded or procured Baker to sell the whiskey to the slave in question. But if it was the habit of Baker to sell whiskey to slaves without written permission from the masters owners or overseers of such slaves and Skinner or Shobe knew of such habits, and did not stop the same, it is proof of their agency in such sales sufficient to charge them. And if Baker was the clerk of Skinner & Shobe, and they kept whiskey for sale, the presumption is, that Baker was acting under their direction.
The material question for the Jury is, the fact of the sale and consequent injury, and not the intent of Baker in making such sale, that being entirely immaterial. If Baker did not sell the whiskey to the slave, the Jury will find for defts. or if the whiskey so sold was not conducive in making the negro drunk, the Jury will find for defts."

The Defendants files their motions for new trial and in arrest of Judgment.

Motion for new trial

Margaret Hughes
vs
Phineas Skinner & others

The said defendants move the Court to set aside the verdict and for a new trial.
1. Because the verdict is contrary to law

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— and evidence.

2. Because the Court erred in refusing the instructions asked by the defendants in this cause

3. Because the Court gave instructions at his own instance to which defendants objected.

Rus & Wilson attys
for Defts.

Motion in Arrest

Margaret Hughs
vs
Phineas Skinner & others

The defendants move the Court to arrest the Judgment in this cause.

1. Because there are no damages charged or laid in the declaration.

2. Because the declaration is altogether informal, erroneous and defective.

Wilson & Rus attys
for Defts."

Which were by the Court overruled, to all which opinions of the Court in refusing defendants instructions, in giving those given by the Court, and in overruling defendants motions for new trial and in arrest of Judgment, the Defendants excepted. and pray that this, his Bill of exceptions may be signed, sealed and made a part of the record in this Cause, which is done accordingly.

S. L. Leonard Seal
Judge

37.

State of Missouri } ss.
County of Platte }

I Ira Norris Clerk of the Circuit Court within and for the County of Platte aforesaid, do certify that the foregoing thirty six pages contain a full, true and complete transcript and copy, of all the record and proceedings of said Court, in the cause therein mentioned wherein Margaret Hughes is Plaintiff, and Thomas J. Primm, Eli Shepherd and William F. Baker are Defendants, as fully as the same now remain of Record and on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said Circuit Court at office in Platte City, this the 21st day of May A.D. 1850

Ira Norris, Clerk

Bill of costs.

Isa Norris. Clerks fees

For issuing Summons 1.00 do 4 subpoenas 2,00	$ 3.00	
" 2 affidavits 20. filing and entering Plea 30	.50	
" 1 Continuance 25. 3 issues @ 75	1,00	
" filing 2 motions 50 - 2 Judgments thereon 50	1,00	
" swearing and entering Jury 50 - entering Verdict 25	.75	
" Judgment 25. filing & entering exceptions 30	.55	
" entering appeal to Supreme Court 25.	25	
" Affidavit & oath 10 - recognizance for appeal 25	35	
" filing 10 bonds 50. administering 14 oaths 70	1,20	
" writing out Bill of exceptions (say 5130 words	5,13	
" Certificate & seal to do	50	
" Transcript to Supreme Court. say 9720 words	9.72	
" Certificate and seal to do	50	$ 24.45

N. N. Owen. Sheriff fees

For serving Summons on 3 defendants	$ 3.00	
" Calling action & Nonsuit 2 times	.60	
" serving notice on 3 defendants @ 50 ea	1,50	
" Summoning 1 Witness	.50	
" Calling Jury 25. do 15 witnesses 75.	1.00	6.60

W. H. Elliott. Constable fees

For summoning 4 witnesses @ 25 ¢ ea.	1.00	1,00

S. N. Mc Cowan Constable fees

For Summoning 1 witness	25	25

A. M. Robinson fees

For Summoning 1 witness	50	50

Justus Edwards. J. P. fees

For taking depositions (as certified by him)	1.95	1.95
Richard Campsen. Witness attendance before J.P.	50	.50
Willis Dunagan " " " "	50	.50
Richard Phillips " " " "	50	50
		$ 36.25

Amt. Carried forward

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Margaret Hughes, appellee
vs. appeal
Phineas Stevens
Eli Shepherd &
William F. Baker } appellants.

Transcript

filed June 15th 1850

Wm E Dunscomb
Clerk

Platte

12th

Supreme Court
July Term 1850.

Margaret Hughes Appellee
vs
Thomas S Renner
Eli Shepherd &
William D. Burkes } Appellants -

And the said Appellants by their Attorney come and say, that, there is manifest error in the record and proceedings of the said Circuit Court in this cause. For, that, it appears from the same that judgment was rendered therein against said Appellants in favor said Appellee, when it ought to have been rendered against said Appellee in favor said Appellants. The said Circuit Court also erred in this, to wit,

1. In admitting the testimony given on said trial by said Appellee.
3. In rejecting the testimony offered on said trial by said Appellants
4 In giving the instructions asked upon said trial by said Appellee
5. In refusing to give the instructions asked upon said trial by said Appellants.
6. In giving the instructions given by said Circuit Court of his own accord upon said trial.
7 In overruling the motion of said Appellants for a new trial -
8. In overruling the motion of said Appellants in arrest of Judgment -

For which said several errors of said Circuit Court the said Appellants pray,

that said judgment be set aside, reversed and
for new trial for naught, and that they be restored
to all their rights thereby lost.

J. Wilson Atty
for Appellants

(32)

M. Hamilton Appellee
by Attorneys of
Record
P. Minor
C. Shepherd
M. G. Rucker
} Appellants

Filed Clerks Office 6 1850
Wm E Dunscomb
Clerk

Hughes - appellee against Skinner, Shepherd and Baker - appellants

Appeal from a law judgement of the Platte circuit court

Sup. court - July Term 1850.

This was an action on the case by ~~Hughes~~ Mrs Hughes against Skinner, Shepherd and Baker for an injury to her slave that occasioned his death and was tried at the March Term 1850 of the Platte circuit court -

Upon the trial it appeared that the plaintiff was the owner of a slave, Willis worth nine hundred dollars and the defendants Shepherd & Skinner in which they sold intoxicating liquors, not less than a quart were the owners of a store, and Baker was their clerk - In January 1849 the boy came to the mill with grain to be ground and while there went to the store with a bottle - bought a quart of whiskey - carried it to the mill and there drank it with the white hands about the mill - got drunk - started home about sundown and was found early next morning, lying on his face in the road not far from the mill, speechless, his jaws locked and frozen nearly to death - he was taken to the mill immediately - received immediate medical attendance - lived 8 or 9 days and died - ~~Baker was with Shepherd~~ -

The whiskey was sold to the boy without

any permit from his owner - and neither Masters nor Shepherd were present at time - The clerk (Baker) was in the habit of selling whiskey to the slaves without the permission of the owners and Shepherd was frequently present when this was done and made no objection

The court gave the instructions asked by the Plaintiff (Record p. 34) and refused the defendants instructions (Record p. 32 & Clerk will copy these instructions)

The jury found a verdict for $900, for which the Plaintiff had judgment after motions for a new trial and in arrest were overruled.

Points & authorities by Leonard in support of the judgement

1st The sale of the whiskey to the Plaintiffs slave was an unlawful act not only by statute but at common law independent of the statute and subjected the Defendants to all the damages that resulted from that act

Rev Stat. of 1845 - p. 542 Sec. 7 - & p. 1018 - Sect. 33.
10. Co. Rep. 75. 6 Bac. Abr. Title "Statute" Letter K. p. 392 - 393 - 2 L° Raymond 985
Harrison vs Berkley 1 Strobharts (S. Car.) Rep. 525

2. The death of the negro, if it resulted from the freezing and that was occasioned by drunkenness, which was produced by the whiskey purchased of the Defendants, is a damage for which the defendants are liable

~~Harrison vs Berkley 1 Strobharts (S. Car.) R. 525.~~
Harrison vs Berkley 1 Strobharts (S. Car.) R. 525.
Strawbridge vs Turner 9. Louisiana Rep. 213.
Wright vs Gray - 2. Bay (S. Car.) Rep 464
Mc Daniel vs Emanuel - 2 Rich (S. Car.) R. 455.
Duncan vs Rail Road comp. 2 Rich (S. Car.) R 615
Lynch vs Crudin - 41. Eng. Com Law Rep 422.
Hilldge vs Goodwin 24 Eng. Com Law Rep 272

3 The instruction given by the court is correct in point of law and contains a proper direction upon the questions of law involved in the defendants 9th & 10th instruction —

Sup. Court -

— " —

Hughes
appellee

vs

Shepherd
Skinner &
Baker
appellants

Statement
adopted

Brief for
appellee -
Leonard
counsel

Skinner, Sheppard &c. v. Hughes

[Insert W Leonard's statement]

We are well satisfied with the verdict & judgment in this case, & heartily approve of the legal principles upon which they were based.

It is not always an easy task to discriminate between the remote & consequential damages resulting from an act, & those which are its natural & proximate consequences. The law refuses to take into consideration the former, but holds the agent responsible for the latter. And this general principle is applicable equally to contracts & torts, where there is an absence of all fraud, malice or oppression & there is no intention to injure. ~~But for the natural & proximate consequences of an illegal act~~

In this case we regard the death of the slave as the natural consequence of the act of the defendants in providing him with the means of intoxication. By natural consequences, it is not meant that they should be such as would upon a calculation of chances be likely to occur, or such as extreme prudence might anticipate - but "such as have actually ~~occurred~~ ensued without the occurrence of any such extraordinary conjunction of circumstances as that the usual course of nature has been departed from."

The sale of the whiskey to the negro was unlawful—
but that does not constitute the source of responsibility. The
defendants might have sold the negro a rope, with
which he immediately went out & hanged himself. The
distinction between such a sale & the sale of intoxicating
liquor is obvious. The former though a breach of law
was not likely to be attended with injurious consequences,
without a concurrence of circumstances & a cooperation
of acts on the part of the slave, not to be expected
in the usual course of events. The latter is like
placing noxious food within the reach of domestic
animals

These are the general principles upon which
the instructions given by the Circuit Court were based
& we have barely alluded to them, without going
into a more particular investigation. That has
already been performed in so able & satisfactory
a manner by the Supreme Court of North Carolina
in the cotemporaneous case (Hanson v. Buckley 1
Hobbart Rep. 213) that we prefer referring to
that opinion for a full discussion of the
whole subject.

The plaintiffs in error urge, however, that

admitting the general principles to be as above stated & as decided in the instructions given to the jury, that is it That the seventh & tenth instructions asked by the defendant should have been given. These instructions substantially asked, that if the drunkenness which brought about the negro's death proceeded from whiskey other than that sold by the defendants, they were not liable. The objection to such an instruction is, that there was no evidence before the jury to warrant ~~such~~ it. ~~instruction~~. That the negro had been furnished with some intoxicating liquor before he purchased the ~~bottle~~ jug whiskey from the store, was proved - but it was clearly proved that he was entirely sober when he made the application to defendants' clerk. Moreover as the facts stood, it would seem to be quite immaterial, whether the defendants furnished the whiskey at their store or their mill, & all the whiskey drank was procured at one place or the other.

The principle asserted in the instruction as to the liability of the defendants for the acts of their clerk, & as to the rule by which the jury were to determine their approbation of his conduct, was correct in law & morals.

We concur,
John F. Rowland
Jas A. Birch.

And affirmed.
W. B. Napton

Skinner &
others
v.
Hughes

Opinion
of the Court

W. B. Napton

filed Sept. 15 1857

Wm E Dunscomb
Clerk

THE STATE OF MISSOURI, SCT.

THE STATE OF MISSOURI TO THE SHERIFF OF THE COUNTY OF Platte IN SAID STATE, **Greeting,**

WHEREAS, Margaret Hughes on the fifteenth day of January in the year eighteen hundred and fifty one at our Supreme Court for the State of Missouri aforesaid, before our Judges of said Court, recovered against Phineas Skinner, Eli Shepherd and Millian J Baker the sum of fifteen & 17/100 dollars for her costs and charges by her expended in a certain suit wherein the said Phineas Skinner, Eli Shepherd and Wm J Baker were appellants and the said Margaret Hughes was respondent, which to the said respondent were adjudged, as appears to us of record: **Therefore,** We command you, that of the goods and chattels, lands and tenements of the said Phineas Skinner, Eli Shepherd & Millian J Baker in your bailiwick, you cause to be made the aforesaid costs, and that you have the same before the Judges of our said Supreme Court, on the second Monday in January next, to render unto the said Margaret Hughes the costs aforesaid, and that you certify to our said Judges how you execute this writ, and have you then there this writ.

Witness, William E. Dunscomb, Clerk of said Supreme Court, at Office, in the City of Jefferson, the seventeenth day of July in the year of our Lord one thousand eight hundred and fifty one

Wm E Dunscomb

Came to hand July 30th 1857, L. Shepard, Sheff By H. B. Herndon D.S.

574.

January Term. 1852.

Margaret Hughey

vs } Exon

Phineas Skinner, et al

Cost

R B. Jackson	.30
Ora Norris	10.22
Wm E Drumcomb	4.65
this writ	1.00
	$16.17

1.00
17.17
21
17.38

20.00
17 38
2.62

Satisfied in full August 7th 1857-
L. Shepard. Sheff P.C.
By H. B. Herndon D.S.

Platte 17 8 1821
5 7