

the employ of the defendant McGuire, five quart bottles of brandy and two of gin, which they carried away in a bag. The day was extremely cold.

The three men not having returned to camp, a search party was sent out at about ten o'clock at night, and one of them was found about a mile and a half from the camp, very drunk; another, about two miles further on, lying in the snow; and the deceased, about half way between the camp and Thessalon, lying on his back in the snow. He was taken directly to the camp, and died in a few minutes after arrival there. A medical man who saw the body shortly after death was of opinion that the deceased had perished from cold.

N. H. Peterson, for the plaintiff.

T. E. Williams, K.C., and J. L. O'Flynn, for the defendants.

TEETZEL, J. (after setting out the facts):—The evidence as to when the three men, on the way home, took further drinks from the bottles is not very satisfactory; but I think the fair inference is, that they did not do so for a considerable time after they started. . . . There is no satisfactory evidence to enable me to find that at any time after the deceased left the defendant's hotel he had ceased to be intoxicated from the excessive drinking in the defendant McGuire's hotel. The most I can say is, that in all probability the extent of his intoxication had materially diminished, owing to fresh air and exercise as he progressed homewards, and until he took his first drink from the bottle; but, in my opinion, he continued to be intoxicated from the excessive drinking in the defendant McGuire's hotel from the time he left it until his death, and that, in the words of the statute, it was "while in a state of intoxication from such drinking" that he came to his death by perishing from cold. . . .

What is the proper interpretation to be placed upon the words "perishing from cold or other accident caused by such intoxication?" . . .

[Reference to *Trice v. Robinson*, 16 O.R. 433.]

The statute gives a right of action . . . "as for personal wrong;" and, therefore, I think, the principles applicable to actions of that nature apply to an action under the statute.

In an action for a personal wrong, whether the wrong complained of is intentional or is the result of negligence, the liability of the defendant in damages depends upon whether his act was the proximate cause of the injury; and it is immaterial