

# Ruined the Widow's Son—Must

## Under an Entirely Novel Interpretation of Law the Boy Heroin and Thus Made a Drug Fiend Young Leo Rooney, IS HELD TO ACCOUNT TO THE MOTHER—a Wholesome Lesson to Those Who Traffic in Dangerous



Judge Howard, Who Has Made a New Interpretation of Law, Which Holds a Druggist Accountable for Damages to Parents Where He Injures the Earning Ability of a Son by Supplying Him with a Habit-Forming Drug

### The Decision of the Court, Which Has Established a New Principle of

Opinion of the five Judges of the Appellate Division, written by Justice Wesley O. Howard, affirming the verdict of the Court awarding \$3,000 to the mother for the damage done in destroying a son's services, to which she was legally entitled.

**A** MOTHER brings this action against a drug firm for having sold to her minor son a certain poisonous drug known as heroin. She alleges that as a result of these sales her son became an habitual user of heroin and thereby became a physical and moral wreck, unable to perform any labor and that his health was ruined and his mind destroyed, whereby she was deprived of his services and has been greatly damaged. The facts were submitted to a jury and a verdict returned in favor of the plaintiff for \$2,000 compensatory damages and \$1,000 punitive damages.

Our examination of the records convinces us that the numerous sales of this drug to this boy continuing over a long period of time have been established by overwhelming evidence. And we believe that the evidence shows that the plaintiff was, in fact, actually damaged. The proof shows that previous to his acquisition of the drug habit the young man earned considerable money.

The action is said to be a novel one. In some respects this is true. By whatever name this action may go the fact is that the property rights of the plaintiff have been trespassed upon and she is simply suing for reimbursement. The services of her son, to which she was legally entitled, have been destroyed, so she alleges and so the jury found, and she is only asking pay for this damage done.

The plaintiff bases her claim upon the same principle which underlies the cause of action accruing to a father in case of the abduction of his daughter, or to a husband in case of the alienation of his wife's affections. Precedent is not necessary in order that the plaintiff may recover here. If the rights of the plaintiff have been invaded, there must be redress.

On one occasion 1,000 pills were sold to him in a week—enough poison to kill many normal people. But notwithstanding this condition of affairs, amply proven at the trial, the defendants complain of the punitive damages which have been assessed against them. Unless there is either evil intent on the part of the defendant, or a reckless disregard of the rights of others, there can be no punitive damages. The evidence in this case does not go to the extent of establishing an evil purpose to destroy the health and activities of this young man; but the proof does abundantly establish, in our judgment, that the defendants were wholly reckless of the rights of others.

It establishes that the defendants, impelled by the instinct for gain and profit, absolutely disregarding the health and future of this young man, and wholly unmindful of the consequences to his parents, sold him this drug and continued to sell it to him long after they discovered its deleterious effects upon his system. To say that they did this innocently affronts the reason. These defendants were pharmacists, skilled in the science of mixing drugs; they knew their purposes, uses and effects. They knew the subtle, sinister destructive effect on the human system of this offspring of opium. They knew of its malicious and unquerable mastery over the human mind—knew of its inexorable demands upon its victims.

But it was not necessary to be a pharmacist to know this; every layman knows it. However, in the face of this general knowledge of the baneful effects of heroin, and in the face of their constant daily observation of the actual deadly effects upon the victim whom they were supplying with it, these defendants, actuated only by greed, con-

tinued for many months to sell it to this young man, deluded companions.

During the time which these defendants were supplying drug to a young man he became a vagabond, an idler and a criminal; unfaithful to his mother, worthless and dangerous to the community. The jury was concluding that all this was the result of the illicit traffic on by these defendants and that they should be punished for their reckless disregard of the rights and welfare of and his mother.

## The Story of the Ruin of the Widow's Son

In awarding a mother, a widow, \$3,000 damages against a druggist who sold to her son, a minor, quantities of heroin during a period of several years, a Supreme Court jury sitting in Schenectady, New York, has established a precedent making it just as criminal to destroy the efficiency of a boy as it would be to injure a man's property, his horse or cow.

Hitherto persons who sold to young men drugs or alcoholic drinks which damaged their health could be prosecuted only on the legal technicalities prohibiting the sale of drugs without a prescription or the sale of drugs to minors.

What is of nation-wide interest and significance in the verdict according to the mother of Leo Rooney, of Schenectady, New York, is that it makes the scoundrels who for petty and sordid profit hand out to young men poisons that ruin them in body and mind legally responsible for the destruction of their moral character and practical efficiency. The verdict of the Supreme Court jury, the first of its kind ever rendered, was recently carried before the Appellate Division in the fight made by the druggists accused of selling "dope" was unanimously upheld.

In the opinion written by Justice Wesley O. Howard, of Troy, in which four other judges concurred, it is stated that the evidence produced in this particular case proved that the mother of young Rooney had been actually damaged, inasmuch as previous to the boy's demoralization through the drug habit he had earned considerable money, and that in the deprivation of services to which she was legally entitled the property rights of the mother had been trespassed upon.

"The plaintiff bases her claim upon the same principle which underlies the cause of action accruing to a father in case of the abduction of his daughter, or to a husband in case of the alienation of his wife's affection," declared the judges. "Precedent is not necessary in order that the plaintiff may recover here. If the rights of the plaintiff have been invaded, there must be redress."

According to this decision any parent whose son is sold drugs or alcohol to such a degree that his character and efficiency are destroyed may take action against the offender for the actual damage done.

Judge Howard and his conferees' decision makes it as criminal to undermine a boy's health by selling him drugs as it is to administer poison to a neighbor's horse.

Four years ago Leo Rooney, of Schenectady, N. Y., was an alert, bright, rosy-cheeked, normal boy. He was industrious, obedient, and of help to his widowed mother. He was employed by the General Electric Company, of Schenectady, at a salary of \$50 a month, and was regarded by his superiors as one of the most promising young men in their employ. In addition to his salary he often earned from \$10 to \$15 a week singing at entertainments and in theatres.

The change that took place in this youth within two years was as startling and sinister as the transformation of a Dr. Jekyll into a Mr. Hyde. From a healthy, rosy-cheeked boy of eighteen, young Rooney became a physical wreck. From a happy-dispositioned boy, always eager to help his mother and to be of service to his employers, he developed into a vagabond, a deserter, refusing to work, stealing whatever he could in order to secure the drug. He became physically deformed, his character became insolent, ugly, morose and sullen. His health ruined to the degree that he was unable to perform any labor, his mind destroyed, this boy, in whom a mother once took tender pride, has gone along a road to ruin leading through the Schenectady County Jail, the Albany Penitentiary, the Fonda Jail to the Elmira Reformatory, where he is at present confined.

Week by week, while the degenerative process was

going on, the druggist accused—C. B. Skinner, of C. B. Skinner & Company, Amsterdam, N. Y.—banded out, according to the testimony produced in Court, this baleful and deadly poison. Week by week, for an insignificant sum of money, for what must have netted only a meagre and sorry profit, this boy was sold from three hundred to six hundred heroin pills. One week, according to the testimony, one thousand pills were sold to him—enough to kill, declared Dr. B. R. Kirschberg, city chemist, of Schenectady, one hundred normal persons.

Before his eyes, week by week and month by month, this druggist could not fail to see the ghastly effects of the poison he was purveying—the fading of color in the boy's cheeks, the growing sallowness of the complexion, the rings deepening under his dull, sullen eyes, the palsied tremor of his arms as he reached for the drug. He could not have failed to see the villainy working—no more than the poisoner who deliberately watches his victim, no less than the saloonkeeper who sells whiskey to young men day by day over a bar.

### How the Drug Sapped His Health and Made His Mind Diseased

According to Justice Howard, the proof furnished abundantly established that the druggists, "impelled by the instinct for gain and profit, absolutely disregarding the health and future of this young man, and wholly unmindful of the consequences to his parents, sold him this drug and continued to sell it to him long after they discovered its deleterious effects upon his system." For the pills sold the druggist received seventy-five cents a hundred. On the single sale of one thousand pills—enough to kill one hundred persons—they received \$750.

Shortly after the theft of a large quantity of raw heroin by young Rooney from another druggist in Amsterdam, the boy's cousin, James Murry, was found dying in the Rooney house from drug poisoning. It is believed by local authorities that his death was due to an overdose of heroin. In the legal proceedings it was brought out that the heroin habit had been contracted by a number of other young men in Schenectady. Young Rooney's mother, at present employed as a clerk in a department store in Schenectady, admitted in court that she had expended her entire savings of \$2,500 in endeavoring to reform her son.

The story of young Rooney's downfall can possibly be duplicated in many other communities where young men are sold drugs by unscrupulous druggists. Leo Rooney at the age of eighteen possessed much of the natural curiosity of youth. When, about four years ago, William Slavin, a pal, told him wonderfully pleasant dreams could be obtained by taking a certain drug, Rooney was anxious to try it. He was given several pills and—being totally ignorant of the hideously destructive effects of this product of opium—said he would like to get more.

According to the testimony furnished in court, Rooney was taken by his friend to the druggist store, C. B. Skinner & Co., No. 8 East Main street, Amsterdam, which is fifteen miles from Schenectady, and was introduced to C. B. Skinner as being "all right."

On January 1, 1912, he made his first purchase of heroin tablets, securing two hundred tablets, for which he paid \$1.50. These tablets were sold to him without his presenting a physician's prescription, nor was his name entered on the "poison book" in the store. After his first purchase the boy, according to his declaration, bought pills regularly almost every week up until June 5, 1914, a period of nearly two and a half years.

Month by month the fatal power of the drug took hold of him and he became a confirmed user of the

dope. He sometimes took from six to eight pills an hour. His purchases averaged from three hundred to six hundred pills a week. Sometimes his daily consumption was as high as seventy-five to one hundred tablets. One week he made the astounding purchase of one thousand tablets. These tablets were all one twelfth or one-eighth of a grain each. During the proceedings brought by the boy's mother against the druggist it was testified that on no occasion did Skinner place the pills in a bottle bearing a poison label as is required by law.

C. B. Skinner, the druggist accused, has been a pharmacist since 1892. He graduated from the University of Buffalo in 1898. The other member of the firm, S. W. Skinner, is in charge of a drug store in Ilion, N. Y. This concern, accused of selling to a young boy one thousand heroin tablets in a single week for the sum of \$7.50, is reported to be worth \$40,000.

In November, 1912, the boy declared that Druggist Skinner asked him if his mother knew that he was using heroin. "Not to my knowledge," he answered. Rooney's mother, however, began to observe a change in the boy's appearance. Day by day he was afflicted by what seemed an increasing sickness. His complexion became sallow, his eyes deep and sunken. When walking the streets he would sometimes stop, and leaning against a post, fall into a profound slumber in the daytime. From a healthy, athletic, erect young man he began to show signs of a deformity. He no longer walked erect, but stooped constantly. He became sluggish and indolent; his temper was sullen and irascible.

The boy had always been industrious. His mother had come to Schenectady from Leadville, Colorado, in August, 1903, and sent Leo to school until he was sixteen. While attending school he sold newspapers, and afterward worked for a while for a cigarmaker. He then secured employment with the General Electric Company at a salary of \$50 a month. The boy had a voice of extraordinary quality and was in demand at local entertainments. He often earned from \$10 to \$15 a week by singing.

Until the drug took hold of him he was most solicitous about his mother and attended to all the household chores. His mother was hurt and perplexed when the time came that he refused to carry coal from the cellar. One day he had told her that he had given up his position. During the day he slept most of the time and at nights stayed away. Sometimes he was absent from his home for an entire week.

### What an Investigation Showed and the Verdict That Resulted

His distressed mother could not guess what was wrong with the boy. His surliness and ill temper hurt her. When he began having hallucinations, his mother decided that something serious was the matter with his health. The boy had delusions that black bugs were crawling over him and that the air was full of bugs. He skulked about the house, declaring that policemen were after him. He saw officers watching him from catch basins of sewers. Sometimes at night he awoke screaming, declaring that persons intent upon harming him were trying to get into his bed-room through the window.

In the Fall of 1913 the boy developed hallucinations of such a violent character that he was sent to the Ellis hospital for treatment. There the physicians discovered the cause of his trouble. He was in such a serious condition that they did not dare stop the administration of heroin, but began treatment with a reduction in doses. In about two weeks the boy seemed well on the road to recovery and was soon



C. B. Skinner, the Druggist, Who Must Pay Damages to Young Rooney's Mother for Debauching Her Son with Drugs.

released as practically cured. The physicians who had treated him, however, discovered immediately after his discharge that a bottle containing several hundred heroin pills was missing.

About this time Dr. B. R. Kirschberg, city chemist, accompanied by the District Attorney, made a canvass of the drug stores in Amsterdam. Complaints had been made that drugs were being sold to Schenectady boys and suspicion attached to the druggists in the nearby village. They called upon Skinner, among other druggists, and cross-questioned him regarding the sale of the drug.

Skinner discreetly admitted that he had sold some heroin tablets, but had not done so for a long time. According to Leo Rooney's story, told recently in court, he went to Skinner shortly after the investigation made by the District Attorney and the City Chemist to purchase tablets and was cautioned by Skinner not to tell anyone where he was securing the drug, as it "might cause trouble."

Young Rooney was often desperate in his craving for the poison. His manner of living had completely changed. He became a corner loafer and was arrested on this charge.

His mother asserted he began stealing in order to secure money to buy heroin, that he took rugs and carpets from the floor of her home, which he sold, and that he pawned her silverware and his brother's clothing and even sold his own clothing. He begged money from whomever he could. Among the acquaintances of Mrs. Rooney was Attorney James J. Barry, of Schenectady, who later handled her case as counsel and to whom is due the credit of securing the verdict against the druggists.

Leo went often into Barry's office to beg money. Usually he asked for a quarter or half a dollar, making various excuses. He wanted to get his laundry, buy something to eat, or purchase needed clothing. One day he asked Barry for a dollar. Barry had observed an amazing change in the boy's appearance and had become suspicious. Barry asked what Leo wanted to use the dollar for, and finally the boy admitted that he wanted to get medicine which he purchased in Amsterdam. Barry carefully undertook a rigid cross-examination, and the boy, hard pressed, admitted the nature of the drug of which he had become a victim.



The Drug Store of C. B. Skinner, New York, Where You

Tearfully he begged Barry gave him the dollar. Desiring to secure evidence that he intended taking to Amsterdam and returning a freight car. On his return pills were found in his tented to ninety days it was his first experience

When he received on 7, 1914, Dr. Ullman, the Rooney and found that he the heroin habit. The boy Whenever the doctor called clothing and begged that was not possible entirely ment the dose was grad diminished Rooney became pered and insolent.

After his release from his mother, Leo continued ferred from persistent sought to cure him, but craving for the drug led One night he broke into which is nearly opposite sterdam, and stole a qu after this the boy's cousin Rooney's home.

Physicians were called ing from drug poisoning consciousness, and the learn where he secured arrested. Although conv Aken store, he was reg of his misfortune and sentence. Shortly after for violating his parole, accorded him another of he was arrested in Sch was turned over to the Fonda. On April 3, 1914, sentenced him to Elmira reformatory April 15.

Heart sick and despair Attorney Barry to see in to prevent druggists the sale of drugs. Attorne moralization of the Rooc the results of the crim by mercenary druggists, resented but one of innu throughout the country ulous villainy. While