

Case No. 8,742a. McCUTCHEON V. RECEIVERS ET AL.
[3 Cent. Law J. 635.]

Circuit Court, E. D. Missouri.

Sept 30, 1876.

DEATH BY WRONGFUL ACT—MISSOURI STATUTE—GRANDCHILDREN.

In this case the court was called upon to construe section 22, c. 43, p. 519, Wag. St., relative to the right to recover damages for the death of a person through the wrongful act of another. This section allows a certain amount to be sued for and recovered. "First, by the husband or wife of the deceased; or, second, if there be no husband or wife, or he or she fails to sue within six months after such death, then by the minor child or children of the deceased, etc." It was sought to extend this right of action to orphan children, living with their grandmother, for her death through the alleged wrongful act of the defendant railway.

DILLON, Circuit Judge, held that the statute must be construed strictly, and that no action was given under it to the grandchildren, in the case before him.