bankruptcy courts have reached that conclusion on the basis of a Michigan statute which provides that an exemption may be claimed by the bankrupt, or "by an authorized agent." *In re Nat'l Grocer Co.*, 181 Fed. 33 (D.C. Mich. 1910). Iowa bankruptcy courts have reached the same result apparently on the construction of more general statutes. *Weber v. Lorenzen*, 292 Fed. 41 (C.C.A. 8th 1923); *Moody v. Century Bank*, 239 U.S. 374 (1915).

It might be argued that a power of attorney to claim an exemption is revocable because not "coupled with an interest" in the thing on which the power is to be exercised. However, the modern trend has been to recognize as irrevocable all powers given as security except in a situation where such a result is thought unduly prejudicial to the interests of other creditors. 39 Yale L. J. 110 (1929); Rest., Agency §§ 138, 139 (1933).

Constitutional Law—Constitutionality of New York Anti-Heart Balm Legislation—[New York].—The plaintiff brought an action for alienation of his wife's affections. The defendant moved for a dismissal on the grounds that the action had been abolished by a New York statute, in force at the time of the alleged injury, which provides that the "rights of action heretofore existing to recover . . . . damages for the alienation of affections, criminal conversation, seduction, or breach of contract to marry are hereby abolished." N.Y.L. 1935, c. 263, §§ 61a–61i. *Held*, motion for dismissal denied. The statute, as far as applicable to this action, is unconstitutional as a denial of due process under both the federal and New York constitutions. *Hanfgarn v. Marks*, U.S. Law Week, March 10, 1936, p. 6.

Six states have abolished heart balm actions (see 3 Univ. Chi. L. Rev. 68 (1935)), but the instant case presents the first test of the constitutionality of such legislation. The result of the principal case finds precedent in other situations in which courts have refused to permit the total extinction of common law rights and remedies by legislative enactment. See *Williams v. Port Chester*, 72 App. Div. 505, 510, 76 N.Y.S. 631 635 (1902); *Hanson v. Krehbiel*, 68 Kans. 670, 75 Pac. 1041 (1904); *cf. Hiemlich v. Dispatch Printing Co.*, 17 (Ohio) N.P. (n.s.) 161, 169 (1915); *Stewart v. Houk*, 127 Ore. 589, 271 Pac. 998 (1928). The basis for these decisions has been a free application either of the due process clause of the Fourteenth Amendment or of the common law doctrine that there can be no wrong without a remedy. *MacMullen v. City of Middletown*, 112 App. Div. 81, 98 N.Y.S. 145 (1906), rev'd on other grounds, 187 N.Y. 37, 79 N.E. 863 (1907); *Park v. Detroit Free Press*, 72 Mich. 560, 40 N.W. 730 (1888); see 69 U.S. L. Rev. 474, 484 (1935); see Broom, Legal Maxims 147 (6th Am. ed. 1868). This maxim has become a constitutional rule by virtue of express or implied incorporation into state constitutions. *Byers v. Meridan Printing Co.*, 84 Ohio St. 408, 95 N.E. 917 (1911); *MacMullen v. City of Middletown*, 112 App. Div. 81, 86, 98 N.Y.S. 145, 149 (1906). But there has been no constitutional objection to a "reasonable modification" of common law rights or remedies. *New York Central Ry. Co. v. White*, 243 U.S. 188 (1917); *Gibbes v. Zimmerman*, 290 U.S. 326 (1933). Upon this ground, the constitutionality of workmen's compensation acts has been upheld even though the amount of recoverable damages was limited, and no compensation at all was allowed for particular types of injury. *Hyett v. Northwestern Hospital*, 147 Minn. 413, 180 N.W. 552 (1920). Likewise, statutes destroying the action of an auto guest for the "ordinary" negligence of his host have been sustained on the theory that there has been a change merely in the standard of care required of the host and that a common law

right has not been abolished. *Krause v. Rarity*, 210 Cal. 644, 293 Pac. 62 (1930); *Hazzard v. Alexander*, 173 Atl. 517 (Del. 1934); see *Castro v. Singh*, 131 Cal. App. 106, 110, 21 P. (2d) 169, 170 (1933). But it is clear that deprivation of the right to sue for "ordinary" negligence totally extinguishes a common law right despite preservation of the right to sue for wilful negligence. The due process clause and the "wrong-without-a-remedy" doctrine have also been the basis for attacks on workmen's compensation acts for their destruction of common law defenses. *New York Central Ry. Co. v. White*, 243 U.S. 188 (1917). Although it is apparent that these statutes have entirely abolished certain common law defenses, they have been upheld because as a whole they present a reasonable adjustment of interests. In New York, as in other states, the common law maxim that there be no wrong without a remedy does not appear to have any separate significance apart from the due process clause. In fact, these courts have simultaneously relied on both doctrines. *MacMullen v. City of Middletown*, 112 App. Div. 81, 86, 89, 98 N.Y.S. 145, 149, 150 (1906); see *Vanderbilt v. Hegeman*, 284 N.Y.S. 586, 591 (1935); *In re Opinion of the Justices*, 211 Mass. 618, 619, 98 N.E. 337, 338 (1912). *Cf. Shea v. Olson*, 53 P. (2d) 615, 622 (Wash. 1936); see *Williams v. Port Chester*, 72 App. Div. 505, 510, 76 N.Y.S. 631, 636 (1902). Other courts, however, have relied on one to the exclusion of the other. *Eastman v. County of Clackamas*, 32 Fed. 24 (C.C. Ore. 1887); *Shea v. Olson*, 53 P. (2d) 615 (Wash. 1936).

A consideration of the constitutionality of legislation affecting common law actions requires that some regard be given to the social needs prompting such legislation. See *Shea v. Olson*, 53 P. (2d) 615, 619 (Wash. 1936); Cushman, The Social and Economic Interpretation of the Fourteenth Amendment, 20 Mich. L. Rev. 737 (1921). The inquiry should not be whether there has been a modification as distinguished from a destruction of a common law remedy, but rather whether the legislative enactment has some reasonable relation to the achievement of a permissible legislative end. Recent cases have increasingly adopted this approach. *Naudzius v. Lahr*, 253 Mich. 216, 234 N.W. 581 (1931); *Silver v. Silver*, 280 U.S. 117 (1929); *Shea v. Olson*, 53 P. (2d) 615 (Wash. 1936). The court in the instant case, however, failed to consider the legislative purposes—suppression of the perjury and coercive extrajudicial settlements which often accompany heart balm litigation. It might have found some practical justification for its decision in the protection to family relations afforded by the proscribed actions, although it is questionable whether such protection accords with modern conceptions of social relations. The court was content, however, to base its holding of unconstitutionality solely on the ground that due process precludes the total abolition of common law rights of action. This notion, if carried to its logical conclusion, would lead to a stagnation of law incompatible with adjustment to a changing society.

Constitutional Law—Martial Rule—Military Intervention in Labor Disputes—[Federal].—As a means of preserving order in a labor dispute, the governor of Minnesota directed National Guardsmen to aid the civil authorities of Minneapolis in suppressing disorder. At the suggestion of the mayor, the troops closed the plant against which the strike was operating and remained on guard. The employer petitioned for an injunction against the governor, mayor, and adjutant-general. *Held*, injunction granted. Although the governor was justified in sending out the troops, the defendants had no right to use troops to prevent the plaintiff from using its property in the lawful conduct of its business. *Strutwear Knitting Co. v. Olson*, 13 F. Supp. 384 (Minn. 1936).