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).

A declaration by a governor that a state of disorder requiring military intervention exists is universally held to be conclusive and not subject to judicial review. *Moyer v. Peabody*, 212 U.S. 78 (1909); *In re Moyer*, 35 Colo. 154, 85 Pac. 190 (1905). Both state and federal courts, however, have reviewed the legality of the action taken by state governors in restoring order. Three more or less distinct views of the extent of the gubernatorial power have been developed by the state courts. The West Virginia Supreme Court has allowed a governor to declare that a state of war exists and to substitute martial law in its extreme wartime sense for the civil law of the affected area. *State v. Brown*, 71 W.Va. 519, 77 S.E. 243 (1912); *Ex parte Jones*, 71 W.Va. 567, 77 S.E. 1029 (1913); *Hatfield v. Graham*, 73 W.Va. 759, 81 S.E. 533 (1914). The only limitation placed by this court on the governor's authority is that there can be no martial rule until there is military occupation. *Ex parte Lavinder*, 88 W.Va. 713, 108 S.E. 428 (1921). It has been suggested that the assumption necessary for this view—that a state may declare a condition of war as an incident to the suppression of an insurrection—collides with article 1, § 10 of the federal Constitution. Fairman, Law of Martial Rule 102 (1930). Moreover, recognition by these courts of penal terms meted out by military tribunals as surviving the period of disorder not only is inconsistent with the avowed purpose of military intervention—the suppression of disorder—but also conflicts with federal and state constitutions. 45 Yale L. J. 879, 892 (1936). The majority of courts limit the power of the military forces to that of police officers; consequently they are subordinate to civil authority. *Christian County v. Merrigan*, 191 Ill. 484, 61 N.E. 479 (1901); *Frank v. Smith*, 142 Ky. 232, 134 S.W. 48 (1911); *Fluke v. Canton*, 31 Okla. 718, 123 Pac. 1049 (1912). This view appears to be more in accord with state constitutional provisions requiring that military forces be subordinate to civil authority. See Stimson, American Statute Law § 292 (1886). Compromising between the views outlined above are those courts which permit the troops to act independently of the civil authorities, but insist that the measures adopted be necessary for the preservation of order. *In re Boyle*, 6 Idaho 609, 57 Pac. 706 (1899); *In re Moyer*, 35 Colo. 159, 85 Pac. 190 (1904); *Ex parte McDonald*, 49 Mont. 454, 143 Pac. 747 (1914). The decisions by the federal courts reviewing military intervention exhibit a similar diversity. It is not clear whether a declaration of martial law will affect the extent of the governor's power. See *U.S. v. Adams*, 26 F. (2d) 141, 144 (D.C. Colo. 1927). But *cf.* 3 Willoughby, Constitutional Law 1591 (1929). Martial law in its extreme wartime sense has been upheld. *U.S. ex rel. McMaster v. Wolters*, 268 Fed. 69 (D.C. Tex. 1920); *U.S. ex rel. Seymour v. Fischer*, 280 Fed. 208 (D.C. Neb. 1922). Preventive arrests have been subjected only to the requirement that they be made in good faith. *Moyer v. Peabody*, 212 U.S. 78 (1909). On the other hand, on the ground of a violation of due process, *habeas corpus* has been issued to relieve against detention not justified by public necessity. *U.S. ex rel. Palmer v. Adams*, 26 F. (2d) 141 (D.C. Colo. 1928). In its most recent expression in the *Constantin* case, the Supreme Court announced the rule that interference with rights guaranteed by the federal Constitution is justifiable only if necessary to suppress disorder. See *Sterling v. Constantin*, 287 U.S. 378 (1932); *cf. Powers v. Olson*, 7 F. Supp. 865 (Minn. 1934); *Cox v. McNutt*, 12 F. Supp. 355 (Ind. 1935); 36 Col. L. Rev. 494 (1936). Although the Supreme Court might have rested its decision on the flouting of a federal district court decree by the governor, it announced the broader doctrine. It did not, however, challenge the well-settled rule that a governor's declaration of the existence of an insurrection is conclusive. But see 34 Mich. L. Rev. 417, 418 (1936).

Since it appears that the closing of the plaintiff's plant was not necessary to preserve order, the decision in the instant case falls within the rule of the *Constantin* case and may, perhaps, be considered indicative of judicial impatience with unwarranted assumption of power by a governor. But the court's indignation at the defendant's interference with the *lawful* operation of the plaintiff's business indicates a failure to recognize that military intervention in labor disputes normally must interfere with the rights of either employees or employer, and suggests that a greater solicitude for protection of the employers' property rights actuated the decision. A comparison of the principal case with the *McNutt* case, where an employee was denied an injunction in a representative suit, furnishes some basis for inferring that military interference with property rights of the employer will not be countenanced by the federal courts unless disorder could not have been prevented by interference with the personal rights of the employees.

Constitutional Law—Minimum Wage Law for Women—Compelling the Employer to Pay the Value of Services Rendered—[New York].—The appellant, operator of a laundry in Brooklyn, was arrested and charged with having paid to a woman employee less than the "fair" wage promulgated by the Industrial Commissioner, acting under authority of the New York Minimum Wage Law for Women and Minors. N.Y. Labor Law, c. 32 (1933). The appellant's defense consisted solely of an attack on the constitutionality of the law. The law provided for the establishment of a board to fix minimum wages for minors and women, until then working for oppressive wages in trades and industries. In fixing a fair wage for industries paying oppressive wages—defined in the act as a wage less than the fair and reasonable value of the services rendered and insufficient to meet the minimum cost of living—the commission was to (1) consider all relevant circumstances affecting the value of the services; (2) be guided by like considerations as would guide a court in a *quantum meruit* proceeding for the reasonable value of services rendered; (3) consider the wages paid in the state for similar work by an employer voluntarily maintaining minimum wage standards. The appellant contended that these provisions violated his rights under the Fourteenth Amendment of the Constitution. *Held*, under the decision of, and for the reason given by, the Supreme Court in *Adkins v. Children's Hospital of the District of Columbia* (261 U.S. 525 (1923)), the New York minimum wage law is unconstitutional. *People ex rel. Tipaldo v. Morehead*, 270 N.Y. 233, 200 N.E. 799 (1936), *cert.* granted, 80 L.ed. 653 (1936).

This decision seems both unfortunate and unnecessary; unfortunate because the opinion indicates no reluctance to nullify legislation with an object above reproach; unnecessary because it is extremely doubtful whether the New York statute contained the constitutional defects which led the Supreme Court to invalidate the District of Columbia minimum wage law for women in *Adkins v. Children's Hospital* (261 U.S. 525 (1923)). The socio-economic arguments for the minimum wage are familiar. In many trades, the majority of women workers do not receive enough wages to maintain their physical efficiency. Special investigations revealed that the conditions under which women wage-earners worked and lived forced many of them to rely on friends or charity for partial support, that others turned to prostitution, and that still others died of malnutrition. Ely, Outlines of Economics 672–7 (5th ed. 1930). The existence of evils influenced the enactment of minimum wage legislation in New York, as it had influenced similar legislation in fifteen other states; these facts were not challenged by