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Torts: False Imprisonment: Employer-Employee

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and accordingly scaled down the operating income from 7.4 per cent on this base to 6 per cent. But in the case of *Re Wisconsin Telephone Company,* supra, the problem was much more complex. Tens of millions of dollars were involved in investments. A careless adoption of any rate base might work a grave injustice upon the people of the State or upon the Telephone Company. The Commission refused to accept as a rate base the book value of the Telephone Company, since such a base would permit the continuation of rates against which the consumers were protesting. A new valuation of the Company's property would involve long years of work. To secure a temporary reduction of rates in great haste, the Commission formulated its "emergency theory" stating that services which were worth a certain amount in periods of high prices were not reasonably worth that same amount in periods of low prices. Ironically enough, the Commission's order for a temporary reduction in rates in *Re Wisconsin Telephone Co.,* supra, met with delay and postponement, being restrained by the decree of a statutory three judge Federal District Court, Sept. 21, 1932, appealed to the United States Supreme Court, and there remanded back to the District Court on March 27, 1933. *Public Service Commission of Wisconsin, et al.* v. *Wisconsin Telephone Co.,* 53 Sup. Ct. 514, 77 L. Ed. 670 (1933). The order of the Commission was made June 30, 1932. To date, the people of Wisconsin have not been given the relief of lowered telephone rates.

In the instant case, however, where the amount involved in reduced rates was but $16,500, the Wauwatosa Gas Company did not deem it advisable to appeal to higher tribunals, with the result that the temporary order of the Commission went into effect on July 26, 1933, but one year after the institution of formal proceedings by the City of Wauwatosa. A comparison of these two cases seems to indicate that where much money is involved, regardless of the legal theory adopted, relief will prove slow and halting, but that where it is immaterial to the utility whether the reduction be granted or not, the system of regulation by Public Commissions may prove comparatively swift.

ERNEST O. EISENBERG.

TORTS—FALSE IMPRISONMENT—EMPLOYER-EMPLOYEE.—The plaintiff was employed as a clerk in one of the defendant's stores. The plaintiff was requested to accompany the store manager to a hotel room. There she was accused of embezzlement by the manager and the store detective. She was told that she was discharged. She was kept in the room until she signed a confession and notes. Later the plaintiff sued for false imprisonment. Judgment for plaintiff; on appeal. *Held,* that the plaintiff, on the merits of the case had made out a case of false imprisonment. (The case was reversed because of erroneous instructions to the jury on the measure of damages). *Mannaugh* v. *J. C. Penny Co., Inc., et al.,* (S.Dak., 1933) 250 N.W. 38.

The Court held in the instant case that the restraint was unlawful because under the circumstances it was reasonable to believe that the plaintiff was detained against her will and in an improper place and manner; that the defendant, not compensating the plaintiff as an employee during the interview, had no claim to her time.

Charges of false imprisonment by an employee against an employer are seldom substantiated. Usually where the employer has detained the employee in enforcing the rules and regulations of the employment, such detention has been found to be lawful. *Timmons* v. *Fulton Bag & Cotton Mills,* (Ga. App. 1932) 166 S.E. 40, where the foreman refused to open the gates in order that an em-

ployee taken ill could leave; *Davis & Allcott Co.* v. *Boozer,* 215 Ala. 116, 110 So. 28, 49 A.L.R. 1307 (1926), where the employer denied a sick employee permission to leave the plant although an unlocked exit was available to employee; *Herd* v. *Weardale Steel, Coal & Coke Co.,* [1915] A. C. 67, 8 B.R.C. 886, Ann. Cas. 1915 C, where an employee, wrongfully refusing to work in a mine, was denied the use of the mine elevator, the only means of egress, until his regular turn came.

Only two cases like the instant case can be found. In one of these the plaintiff was employed as a clerk in a large department store. The plaintiff was called to the assistant-superintendent's office where she was accused of embezzling funds of the defendant. Threats were made to call the police if the plaintiff refused to make a confession. A confession was made, and thereupon plaintiff was released and discharged from her employment. The Supreme Court held that there was no false imprisonment. The detention was lawful because during the interview in the employer's office the employee was being compensated and as an employee was under the direction of the employer. *Weiler* v. *Herzfeld-Phillipson Co.,* 189 Wis. 554, 208 N.W. 599 (1926). The other case is in accord with the principal case. The plaintiff was a clerk in the defendant's store. She was called to a backroom in the store where she was accused of altering sales tickets. Defendant insulted, threatened and bullied the plaintiff, who subsequently signed a confession. The doors and windows were open and no physical force was used. The Court, in finding the detention unlawful, stresses the unwarranted tactics used by the defendants. *W. T. Grant Co.* v. *Owens,* 149 Va. 906, 141 S.E. 960 (1928).

It must be conceded that where the employee has abused the trust reposed in him by the employer, admissions of such conduct are not likely to be voluntary on behalf of the suspected employee. Whether the employer's conduct in proving an employee's integrity shall be actionable for false imprisonment would seem to depend on the reasonableness of the restraint in question considered together with the means used to exact the admissions from the employee.

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