

*dent Commission et al.*, 35 Cal. App. 33, 169 P. 255 (1917). It is a generally recognized rule that no compensation will be allowed where the assault results from a motive of personal hostility to the employee, *Scholtzhauer v. C. & L. Lunck Co.*, 233 N. Y. 12, 134 N. E. 701 (1922); or the assailant's purpose is to rob the employee only, and not the employer, *Bryden v. Industrial Accident Commission et al.*, 62 Cal. App. 3, 215 P. 1035 (1923). Some states recognize an exception to the latter rule where the employee is required to be at a lonely spot at night and the fact that he has just received his wages offers an additional temptation for his robbery. *Lanni v. Amsterdam Bldg. Co.*, (N. Y. 1926) 216 N. Y. S. 763; *Vivier v. Lumbermen's Indemnity Exchange et al.*, (Tex. Com. of App. 1923) 250 S. W. 417. *Contra: Walther v. Amer. Paper Co.*, 89 N. J. Law 732, 99 A. 263 (1916). Where there is no evidence, or a conflict of evidence, as to the motive of the assault, the employee is usually given the benefit of the doubt. *Mechanics' Furniture Co. v. Industrial Board of Ill.*, 281 Ill. 530, 117 N. E. 986 (1917). And in certain cases where the person inflicting the injury had no intent to harm either the employer or the employee, compensation was allowed on the ground that the employee's duties exposed him to "street risks" or placed him in a "zone of special danger." *Katz v. Kadans & Co. et al.*, 232 N. Y. 420, 134 N. E. 330 (1922) (employee stabbed by insane man while delivering goods for employer); *Heidemann v. Amer. Dist. Telegraph Co. et al.*, 230 N. Y. 305, 130 N. E. 302 (1921) (watchman accidentally shot by policeman pursuing one who had committed a crime unrelated to the employer or employee). But in other cases, where the injury was somewhat more closely connected with the employment, no recovery was allowed. *De Salvo v. Jenkins et al.*, 205 App. Div. 198, 199 N. Y. S. 843 (1923) (watchman injured by accidental shot of boy he was trying to prevent from trespassing on employer's premises); *In re Harbroe*, 223 Mass. 139, 111 N. E. 709, L. R. A. 1916 D, 933 (watchman, while in pursuit of persons who had stolen from employer, shot by mistake by member of another party searching for the same criminals). A good abstract statement of the rule as to when an injury is to be deemed one arising out of the employment is found in *Sure Pure Ice Co. v. Industrial Commission et al.*, (Ill. 1926) 150 N. E. 909; but, of course, the difficulty is in applying the general rule to particular facts.

F. W. F. '27.

PARENT AND CHILD—RIGHT OF PARENT TO RECOVER FOR ALIENATION OF AFFECTIONS OF MINOR CHILD.—This was action by a mother to recover damages for the alienation of the affections of her minor son. The plaintiff in her petition alleged that for more than ten years there had been an effort on the part of the defendants to "poison the mind of said son" against plaintiff and to destroy his natural filial regard, esteem, love and affection for her. It is further alleged that as a result of this effort on the part of the defendants, the natural filial love, esteem, affection and regard of the son for his mother have been wholly destroyed and alienated. It was not alleged that the mother had been deprived of services, custody, control or companionship of her son. A demurrer to the petition was sustained. *Held*, on appeal that a mother cannot recover merely for alienation of a minor son's affections. *Pyle v. Waechter et al.*, (Iowa 1926) 210 N. W. 926.

The case is of interest in that it seems to be without precedent directly in point. Adjudicated cases, analogous to the instant case, which throw light upon its decision evidently indicate that the instant case has been correctly decided. In *Kaufman v. Clark*, 141 La. 316, 75 So. 65, a mother could not maintain an action for injury to her feelings resulting from the betrayal of a daughter. *Quinn v. City of Pittsburgh*, 243 Pa. 521, 90 A. 353, was a case in which loss of companionship was not allowed as an element of damage in an action by a mother for injuries to her minor child. In *Miles v. Cuthbert*, 122

N. Y. S. 703, it is held that no action lies by a parent for the loss of the love and affection of a child. Anticipating the consequence of allowing recovery in the instant case the court states: "If the alienation of affections alone supports the action, brothers and sisters may recover. Surely no justification could be suggested, in the absence of precedent or controlling legal principle, for so extending the right to recover as for a tort, and the opening of such a Pandora's box of litigation." The nearest analogy to the maintenance of this action is to be found in the right of one spouse to recover for the alienation of the affections of the other. But the latter cause is based on the loss of the consortium, the conjugal society, and assistance of the spouse. It is a right which exists by virtue of the marriage relation, and is peculiar to it. T. S. '27.

## Book Reviews

CASES ON THE LAW OF PUBLIC UTILITIES, SELECTED AND ANNOTATED. By *Young B. Smith* and *Noel T. Dowling*, Professors of Law, Columbia University. With a chapter on rates, cases, and readings selected by *Robert L. Hale*, Lecturer on Economics, Columbia University. pp. xxvii and 1258. St. Paul: West Publishing Co., 1926.

The case books on the law of public utilities have been and may be for some time merely collections of cases grouped under the classification which appeals to the collator. This was more true while most schools had only courses in bailments and carriers and it was necessary to include some work on bailments and a large number of cases on carriers, with incidental notice given to innkeepers, telephone and telegraph companies and the like. The recognition of the distinct nature of the field of public service and the need for a statement of the principles of law underlying it has necessitated new material and eliminations in the case books. This statement of principles in a field, which, though old and well established in common law, must be viewed in the light of physical, economic, and social conditions vastly different from those of the earlier period, cannot yet be made with accuracy. The result is that so far as possible the selection and arrangement of cases will follow the outline of topics into which the editors have analyzed the subject.

In this case the authors have largely followed the chronological order under each topic and this does not detract from the use of a book in a field which is rapidly expanding and which has been revived under new conditions within practically fifty years. Assuming another course in, perhaps, bailments and carriers, the editors give but little space to the first section illustrating public utilities at common law. The justification stated in the preface is the predominance of statutory law in the field. On that topic there follows a well selected group of cases from *Munn v. Illinois* down to *The Opinions of the Justices* (1924), 247 Mass. 589, and *Hissem v. Guran* (1925).

It is well that the student should get an opportunity to reflect over the language of Mr. Justice Holmes (*Noble State Bank v. Haskell*, page 94) "In answering that question (whether the statute deprived the plaintiff of liberty or property without due process of law) we must be cautious about pressing the broad words of the Fourteenth Amendment to a dryly logical extreme. Many laws which it would be vain to ask the court to overthrow could be shown, easily enough, to transgress a scholastic interpretation of one or another of the great guarantees of the Bill of Rights. They more or less limit the liberty of the individual or they diminish property to a certain extent." And again (page 95), "With regard to the police power, as elsewhere in the law, lines are pricked