The conclusion reached by the court in the principal case, that legitimation is effected by the marriage of anyone to the mother of an illegitimate child, plus acknowledgment, is undoubtedly a desirable solution of a grave social problem. Such a result, under our statute, should be confined to proceedings in which the state is contesting legitimacy "as it ill becomes the state to attempt to establish illegitimacy." It is only the father and immediate family whose rights are affected by the creation of this status. The father incurring the duties and obligations of support, custody, and care of the child, and the other family members being deprived proportionately of their measure of inheritance, it seems proper that they be the only ones who should have the right to dispute the legitimacy.

It is probable that substantially the same effect as that sought by the Legitimation Statute may be obtained, if so desired by one not the actual father, by legally adopting the wife's illegitimate offspring.[17]

J. J. F.

EVIDENCE

Evidence — Use of Blood-grouping Tests in Disputed Paternity Cases

The use of blood-grouping tests as evidence in bastardy cases has been frequently discussed, and is of great practical importance. For a general discussion of the value of these tests, see Hyman and Snyder, *The Use of the Blood Tests for Disputed Paternity in the Courts of Ohio*, 2 O.S.L.J. 203, and for the extent to which they have been received, see comments in 1 O.S.L.J. 47, O.S.L.J. 226, and 15 Notre Dame Lawy. 153. Recent developments on the question of their probative value seem worthy of note.

Tests which definitely excluded the defendant as the father were admitted in the case of *State* v. *Wright*,[1] but the jury found the defendant guilty nevertheless. The Court of Common Pleas of Franklin County sustained a motion for a new trial on the ground that the verdict was opposed to the weight of the evidence. In approving the ruling,[2] the Court of Appeals for the Second District discussed the use of these tests in an opinion recognizing their value as evidence. The Court was favorably impressed by the possibility of relieving the innocent defendant which a test of this sort presents.

[17] Ohio G.C. sec. 10512-9, 10512-13, 10512-14.

[1] 59 Ohio App. 191, 17 N.E. (2d) 428 (1938).

[2] *Id.* The Supreme Court subsequently reversed on another ground. No consideration was given the evidence question. *State* v. *Wright*, 135 Ohio St. 187, 20 N.E. (2d) 229 (1939.)

The Legislature has made the results of these tests and the findings of the experts who conduct them on the question of paternity receivable in evidence,[3] not only in bastardy proceedings,[4] but also "Whenever it shall be relevant in a civil or criminal action or proceeding to determine the identity of any person. . . ."[5] In addition, this act provides that the court shall, on motion, order blood-grouping tests to be made by competent persons, and makes refusal of any party to submit to the test admissable in evidence. New York and Wisconsin have similar statutes.[6]

In the recent case of *State ex rel. Slovak* v. *Holod, Jr.*,[7] the trial court refused a request to charge that the results of tests which excluded the defendant as the possible father were conclusive of the question. The Court of Appeals for the Fifth District, in affirming this action, recognized the value of the evidence, but evinced a reluctance to give it conclusive weight. The court explained its attitude with the fact that many "natural laws" once thought to be infallible have been found to be inaccurate. Further, "It transgresses the usual rule that positive evidence is ordinarily of greater weight than negative proof." While this opinion seems less favorable to the use of blood-grouping tests than does that of *State* v. *Wright*,[8] it will be seen that a different question was involved. In the latter case, the evidence was considered of sufficient weight to justify the granting of a new trial. In this case, the court was asked to make it conclusive. It is not unlikely that, had the problem been similar to that of the *Wright* case, the same conclusion would have been reached.

J. R. E.

INSURANCE

Insurance — Insurance of Limited Interests — Effect of Valued Policy Law

The plaintiff was the owner of an undivided one-third interest in certain property. After an examination of the property, the defendant insurance company issued a policy which apparently covered its full value. While this policy was in effect the property was totally destroyed by fire. The Court of Appeals held that the plaintiff was entitled to recover the entire amount of the policy.[1]

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[3] Act of May 25, 1939, 118 Ohio Laws H. 213.

[4] Ohio General Code, sec. 12122-1.

[5] *Id.*, sec. 12122-2.

[6] New York Civil Practice Act, sec. 306-a, New York Laws, 1935, Ch. 196; Wisconsin Laws, 1935, Ch. 351.

[7] 63 Ohio App. 16 (1939).

[8] *Supra*, note 1.

[1] *Summers* v. *Stark County Patrons Mut. Ins. Co.*, 62 Ohio App. 73 (1939).