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cise of the reserved power to amend might well be considered to be due process.

Denial of the state's reserved right to amend charters with respect to voting rights has been criticized on the ground that stockholders have consented to amendment by subscribing to the charter. Note, 37 CORNELL L.Q. 768 (1952). In the present situation, such an argument is even stronger: Here the affected stockholders purchased what they believed to be nonvoting stock; the award of voting rights by the court gave them property interest without consideration, and in addition, impaired the property interest of those stockholders who gave consideration for voting rights. Might not the holders of court-bestowed voting rights be estopped from denying the validity of legislation impairing such rights?

Whether or not the proposed amendment could support legislation divesting court-given voting power is open to some question; but it is believed that effective argument for the validity of such legislation is possible. Legislation to this end would have the virtue of restoring all parties to the position they originally bargained for, and of preventing discrimination against those who believed they were acquiring exclusive voting rights. If legislation to this end can not be upheld, future constitutional amendment for the same purpose should be considered.

R. G. D.

DESCENT—STATUTE AMENDED—ADVANCES HUSBAND AND WIFE.— The West Virginia Legislature amended subsections (b), (c) and (d) of W. VA. CODE c. 42, art. 1, § 1 (Michie Supp. 1957) to read as follows:

"(b) If there be no child, nor descendant of any child, then the whole shall go to the wife or husband, as the case may be;

"(c) If there be no child, nor descendant of any child, nor wife, nor husband, then one moiety each to the mother and father; or if there be no child; nor descendent of any child, nor wife, nor husband, nor mother, then the whole shall go to the father; or if there be no child, nor descendant of any child, nor wife, nor husband, nor father, then the whole shall go to the mother;

"(d) If there be no child, nor descendant of any child, nor wife, nor husband, nor mother, nor father, the whole shall go to the intestate's brothers and sisters and the descendants of brothers and sisters;"

Thus, in West Virginia, real estate of inheritance of any person who dies intestate as to such estate now descends and passes in parcenary to his kindred male and female in the following course:

(1) Children and their descendants.

(2) The surviving spouse.

(3) One moiety to each of his parents.

(4) If one parent is dead, then the whole to the surviving parent.

(5) If both parents are dead, then the whole to the brothers and sisters and the descendants of brothers and sisters.

For the course of descent in West Virginia prior to this amendment, see W. VA. CODE c. 42, art. 1, § 1 (Michie 1955); THOMPSON, REAL PROPERTY § 2498 (1955).

Obviously, the intent and clear result of this legislation is to advance the surviving spouse in the course of descent. And while this amendment is far from being as extensive as some proposed and adopted in other jurisdictions, it does follow the modern trend of allowing the surviving spouse to share more and more in an intestate estate. See Comment, 8 ALA. L. REV. 317 (1956); ATKINSON, WILLS (Hornbook Series) § 15 (1953).

In regard to W. VA. CODE c. 42, art. 3, § 1 (Michie 1957), dealing with the renunciation of a will by either the husband or wife, it will be observed that since the "forced share" is such realty or personalty as the surviving spouse would have taken if the decedent had died intestate *leaving children*, then this amendment will in no wise affect the present law in so far as testamentary disposition of property is concerned.

Of course, in so placing the surviving husband or wife in this more favorable position, the statute might sometimes militate against the wishes of the intestate. For instance, the married couple may have been separated and each living with his respective parents. If there are no children, and either die intestate as to some realty, then the spouse will take the property even though the parents may be the true objects of bounty. Such examples could be multiplied

as far as the imagination could be stretched. However, little could be concluded therefrom more than ancient truth that the law is a human thing and cannot be expected to anticipate each and every vicissitude and predicament in the affairs of men. Surely, as evidenced by the great preponderance of wills that leave all or a large part of the testator's estate to his spouse, a law that is partial to a surviving spouse over the decedent's parents or brothers or sisters will more often accommodate his wishes than one that will work a contrary result. And in all those cases where this will not be so, the remedy is only so far away as are the materials required to draft a valid will.

J. E. D., Jr.

STATUTORY AMENDMENTS—GROUNDS FOR DIVORCE.—In the 1957 session our legislature amended the statutory provision concerning grounds for divorce. W. VA. CODE c. 48, art. 2, § 4 (Michie 1955). Specifically, subsection (c) pertaining to the desertion period, and subsection (d) pertaining to cruel and inhuman treatment were amended. The desertion period was reduced from two years to one year. This change is clear enough. As to the provision concerning cruel and inhuman treatment, the change is not so apparent.

The subsection dealing with cruel and inhuman treatment, as incorporated in W. VA. CODE c. 48, art. 2, § 4 (Michie Supp. 1957), is: "A divorce from the bond of matrimony may be decreed: . . . (d) For cruel and inhuman treatment, or reasonable apprehension of bodily hurt, and a charge of prostitution made by the husband against the wife shall be deemed cruel and inhuman treatment within the meaning of this paragraph; cruel and inhuman treatment shall also be deemed to exist when the treatment by one spouse of another, or the conduct thereof, is such as to destroy or tend to destroy the mental or physical well being, happiness and welfare of the other and render continued cohabitation unsafe or unendurable."

The first clause of the provision is the same as the prior provision except that the word "falsely" concerning a false charge of prostitution is omitted in the amended version. Why this word was omitted is not apparent. Even though the charge of prostitution falsely made was a statutory exception not requiring proof of mental suffering, the court has held that whether similar accusations of adultery will amount to cruel and inhuman treatment depends upon