RICHARD HALFORD *against* KYMER AND OTHERS. Tuesday, May 4th, 1830. The statute 14 G. 3, c. 48, by section 1 enacts, "That no insurance shall be made on lives, or any other event, wherein the person for whose benefit the policy shall be made shall have no interest; and that every such assurance shall be void;" and by section 3, "That in all cases where the assured hath interest in such life or event, no greater sum shall be recovered or received from the insurers than the amount or value of the interest of the insured in such life, or other event:" Held, that in order to render a policy valid within the meaning of this Act, the party for whose benefit it is effected must have a pecuniary interest in the life or event insured; and that therefore a policy effected by a father in his own name, on the life of his son, he not having any pecuniary interest therein, was void.

[S. C. 8 L. J. K. B. O. S. 311. Referred to, *Griffiths* v. *Fleming*, [1909] 1 K. B. 813.]

This was an action of covenant on a policy of insurance, dated the 13th of February 1826, whereby the directors of the Asylum Life Insurance Company agreed with the plaintiff to insure the life of Robert Bargrave Halford, the son of the plaintiff, in the sum of 5000l. for the term of two years, and covenanted, that if Robert Bargrave Halford should die at any time within the term of two years, to be computed from the day of the date of that policy, the funds of the company should be liable to pay, within six calendar months after proof of the death of the said Robert Bargrave Halford within the said term of two years, unto the said Richard Halford, his executors, &c. the sum of 5000l. Plea, first, that at the time of making the policy in the declaration mentioned, the plaintiff was not interested in the life of the said Robert Bargrave Halford. Secondly, that at the time of the death of the said Robert Bargrave Halford, [725] the plaintiff was not interested in his life. At the trial before Lord Tenterden C.J., at the Middlesex sittings after last term, it appeared from the statement of the plaintiff's counsel, that by a settlement, dated the 18th of May 1805, made on the marriage of the plaintiff with S. T. Bargrave, the sum of 8000l., and also the moneys to arise from the sale of certain freehold and leasehold estates, were settled, after and subject to the trusts for the plaintiff and his wife successively during their lives, in trust for the children or child of the said marriage, according to the appointment of the said plaintiff, and of his said wife, as therein mentioned; and in default of appointment, if there should be but one child of the said marriage, then in trust for such child, to become a vested interest in such child, if a son, at the age of twenty-one years; and if no child of the said marriage, or issue of such child, should become entitled to the vested interest in the said trust moneys, then upon such trusts as the said S. T. Bargrave should appoint; and in default of her appointment, in trust for her next of kin as if she had died intestate and unmarried." There was only one child of the marriage, namely, Robert Bargrave Halford; and the marriage of the plaintiff with the said S. T. Bargrave having been dissolved by Act of Parliament, the plaintiff married again, and effected the policy in question to provide against the death of his son, Robert Bargrave Halford, before he attained the age of twenty-one. The said Robert Bargrave Halford did attain the age of twenty-one years on the 2d of June 1827, and on the 5th of January 1828 made his will, and thereby gave all his real and personal estate to the plaintiff, his father, and appointed him sole executor, and died on the 11th of January 1828. The plaintiff, on the 17th of July 1728, [726] proved his son's will in the Prerogative Court of the Archbishop of Canterbury. Upon this statement of facts, Lord Tenterden was of opinion that the plaintiff, not

having any pecuniary interest in the life of his son at the time when he effected the policy, the same was void by the statute 14 G. 3, c. 48, s. 3, and he nonsuited the plaintiff, but reserved liberty to him to move to enter a verdict if the Court should be of opinion that he had an insurable interest.

F. Pollock now moved accordingly. It is quite clear that, but for the statute 14 G. 3, c. 48, this policy would be available. That statute, by sect. 1, enacts, "That no insurance shall be made by any person or persons on the life of any person or persons, or on any event or events whatsoever, wherein the person for whose use, benefit, or on whose account such policy shall be made, shall have no interest, or by way of gaming or wagering; and that every insurance made contrary to the true intent and meaning thereof shall be null and void to all intents and purposes whatsoever." Now, the plaintiff clearly had an interest in the life of his son, for he might reasonably expect that the latter would reimburse him the expenses of his maintenance and education. This clearly was not a wagering policy within the meaning of that clause. It is true that the third section enacts, "That in all cases where the assured hath interest in such life or lives, event or events, no greater sum shall be recovered or received from the insurer than the amount or value of the interest insured on such life or lives, or other event or events." It is clear that a man may effect an insurance on his own life, although he may have no pecuniary interest depending on it, and although his own income may be of the most ample **[727]** kind, not depending on his own exertions or on any contingency; and if that be so, upon what principle can it be said that he cannot have an insurable interest in the life of his son or his wife? If a man be deprived of the comfort, society, and assistance of his wife by the misconduct of another, he may recover damages for that loss. So, if he be deprived of the services of his daughter by her seduction, or if he lose the assistance of any other member of his family by the wrongful act of another, he may maintain an action for damages. Surely the law which gives a man a right of action for the wrongful act of another, by which he is deprived of the assistance of his wife, daughter, or servant, will not prevent him from protecting himself against that casualty which for ever deprives him of that assistance. [Bayley J. In *Innes* v. *The Equitable Assurance Company* (which was tried before Lord Kenyon), the plaintiff had effected a policy on the life of his daughter. In order to shew that he had an interest, he produced a paper, purporting to be a will, by which it appeared that he was entitled to the sum of 1000l. in the event of his daughter dying under the age of twenty-one. One Gardiner swore that he was a subscribing witness to the will, and that it was made at Glasgow, and that he was acquainted with the other subscribing witnesses; but another of those witnesses stated, that it was not made at Glasgow, but by a schoolmaster in the borough. Innes was tried, convicted, and executed for the forgery, and Gardiner, who had sworn that the will was made at Glasgow, was convicted of perjury.] Lord Tenterden C.J. It was in effect admitted, in that case, that it was necessary to prove that the father had a pecuniary interest in the life of his daughter, otherwise **[728]** there would have been no occasion to go into the question as to the will; and unless it were a fact material in the case, the witness could not have been convicted of perjury.] That was only a Nisi Prius case. But a father has a legal interest in the life of his son sufficient to entitle him to insure. By the Statute of Elizabeth, if a father become poor in his old age, and his son be capable of maintaining him, he is bound to do so. Now, why does a man insure the life of his debtor? Because the death of his debtor diminishes the chance of his being paid. So, if a son dies, the chance of the father being maintained in poverty and old age is diminished. [Bayley J. The parish is bound to maintain him, and it is indifferent to him whether he be maintained by the parish or his son.] The amount of maintenance which a parish must afford may, in many cases, be much less than that which a son would be ordered to pay. Besides, a father may have a claim on his son, when he has no claim on the parish. He may not be able to shew his settlement in the parish from which he claims relief. In that case the life of his son would be of importance to him, as affording him the certainty of having a comfortable provision. The word "interest" in the Act of Parliament is not to be confined in construction to pecuniary interest, but may be taken to mean legal interest; and the third section, which allows the insured to recover to the amount or value of his interest, shews that the law would recognise an interest of any kind, provided a value can be set upon it.

Lord Tenterden C.J. I retain the opinion which I expressed at the trial, that the word interest in this statute means pecuniary interest.

[729] Bayley J. It is enacted by the third section, "That no greater sum shall be recovered than the amount of the value of the interest of the insured in the life or lives." Now, what was the amount or value of the interest of the party insuring in this case?—Not one farthing certainly. It has been said that there are numerous instances in which a father has effected an insurance on the life of his son. If a father, wishing to give his son some property to dispose of, make an insurance on his son's life in his (the son's) name, not for his (the father's) own benefit, but for the benefit of his son, there is no law to prevent his doing so; but that is a transaction quite different from the present; and if a notion prevails that such an insurance as the one in question is valid, the sooner it is corrected the better.

Littledale and Parke Js. concurred.

Rule refused.