

## ASSIGNMENT OF LIFE POLICY.

of which he has no actual notice, is not bound thereby, notwithstanding the particular easement may consist of some erection upon the land in question, which, upon close inspection is visible to the eye—provided he has not in fact actually observed it before he completes his purchase.

**SELECTIONS.****ASSIGNMENT OF POLICY ON LIFE OF ASSIGNOR.**

The question whether one who has insured his own life may make a valid assignment of the policy to another who has no interest in his life, as relative or creditor, is a vexed one.

The courts of New York, Vermont and Rhode Island hold the affirmative, those of Indiana, Pennsylvania, Kentucky, Massachusetts, Kansas, and the United States Supreme Court hold the negative.

The court said in *St. John v. American Mutual Life Insurance Co.*, 13 N. Y. 31: I am not aware of any principle of law that distinguishes contracts of insurance upon lives from other ordinary contracts, or that takes them out of the operation of the same legal rules which are applied to and govern such contracts. Policies of insurance are choses in action; they are governed by the same principles applicable to other agreements involving pecuniary obligations. \* \* \* I do not agree with the counsel of the defendant that the assignee must have an insurable interest in the life of the assured in order to entitle him to recover the amount of the insurance. If the policies were valid in their inception, the assignment of them to the plaintiff did not change the liability of the company." Citing *Ashley v. Ashley*, 3 Sim. 149. This was followed in *Valton v. National Fund Life Ass. Co.*, 20 N. Y. 32.

So in *Clark v. Allen*, 11 R. I. 439; S. C., 23 Am. Rep. 496, it is said: "A life policy is a chose in action, a species of property which the holder may have perfectly good and innocent reasons for wishing to dispose of. He should be allowed to do so unless the law clearly forbids it. \* \* \* We should have strong reasons before we hold that a man should not dispose of his own." As to the point of the wager, it is said: "But the wager was made when the policy was ef-

fectured, and has the sanction of the law. The assignment simply transfers the policy, as any other legal chose in action may be transferred, from a holder to a *bona fide* purchaser. It is true there is an element of chance and uncertainty in the transaction; but so there is where a man takes a transfer of an annuity, or buys a life estate, or an estate in remainder after a life estate. There is in all these cases a speculation upon the chances of human life. But the transaction has never been held to be void upon that account.

In *Fairchild v. North-Eastern Mutual Life Association*, 51 Vt. 613, the court briefly follows the New York and Rhode Island cases, and disapproves the Indiana and Kansas cases.

On the other hand, in *Franklin Fire Ins. Co. v. Hazzard*, 14 Ind. 116; S. C., 13 Am. Rep. 313, the court says: "Now if a man may not take a policy directly from the insurance company, upon the life of another in whose life he has no insurable interest, upon what principle can he purchase such policy from another? If he purchases a policy as a mere speculation, on the life of another in whose life he has no insurable interest, the door is open to the same 'demoralizing system of gaming,' and the same temptation is held out to the purchaser of the policy to bring about the event insured against, equally as if the policy had been issued directly to him by the underwriters." Disapproving the New York cases, and citing *Stevens v. Warren*, 101 Mass. 564. Followed in *Franklin Life Ins. Co. v. Sefton*, 53 Ind. 380.

In *Stevens v. Warren*, 101 Mass. 564, it is said: "The rule against gambling policies would be completely evaded, if the court were to give such transfers the effect of equitable assignments," etc.

In *Life Ins. Co. v. Sturges*, 18 Kan. 93; S. C., 26 Am. Rep. 761, the same doctrine was held. The court said: "How can such a state of things be tolerated by the laws of any civilized country? \* \* \* Of all wagering contracts, those concerning the lives of human beings should receive the strongest, the most emphatic, and the most persistent condemnation. \* \* \* If said assignment from Haynes to Sturges were to be upheld, as valid under the law, it would be virtually saying that the law authorizes mere wagering speculations, mere mercenary traffic, concerning human life, and it would be opening the door wide, and inviting to enter the most shocking of all human crimes. \* \* \*