
MURDER FOR INSURANCE: POLICY PAYS OUT "LIFE"*

Peter Havenga**

1 Insuring a life

The practice of concluding life insurance, either on one's own life or that of another, is nothing new. Life insurance contracts are concluded on a daily basis between insurers and insured. Various forms of life insurance contracts exist, some providing for payment on death whereas others provide for payment if a person lives until a certain date. In this article, I shall focus on the first type, which is usually referred to as a whole-life insurance contract.¹ Term insurance contracts and endowment insurance contracts which provide that the benefit will become payable if the life insured dies before a specified date or a term agreed upon in the insurance contract may also be relevant. But the crucial element in all these types of contracts is that the benefit becomes payable on the death of the life insured, that is, the specific person on whose life the contract is concluded. It is also common that the life insurance contract will contain a beneficiary clause. In other words, a clause identifying the person who is to receive the benefit on the death of the life insured will be included in the contract. Thus for the life insurance contract under discussion there must be an insurer, an insured, a life insured and a beneficiary and it may be that the insured and life insured or the insured and the beneficiary is the same person.

So much for the rather unremarkable way in which life insurance contracts are concluded. It becomes much more interesting in cases where the contract has been concluded and the beneficiary decides to assist in bringing about the demise of the life insured. This may sound like fiction, and murdering for insurance is undoubtedly an excellent storyline. One of the most famous films on the topic, *Double Indemnity*,² received seven Academy Award nominations.³ But, as will become clear from the cases discussed below, fictional accounts of murdering for insurance are cases of art imitating life.

* The title for this article is not entirely original since I first saw a similar heading in an on-line report of *Die Burger*. See Nicholas "Murder policy pays out 'life'" in http://www.news24.com/News24/South_Africa/News/0_2-7-1442_1887372.00.html (23 February 2006).

** Professor, Department of Mercantile Law, University of South Africa (BA LLB LLM (RAU) LLD (Unisa)).

1 See Reinecke *et al General Principles of Insurance Law* (2002) par 598.

2 Double indemnity refers to the situation where a policy provides life cover and additional cover should the death be accidental. Therefore, in the instances where it can be proved that the death was caused by an accident, the indemnity is double the amount of the sum insured.

3 The film, *Double Indemnity*, (Paramount (1944)), was based on the book by Cain *Double Indemnity* (1936).

The phenomenon of committing murder to obtain a benefit is not peculiar to the realm of life insurance only and similar examples may be found in the law of succession. Testators, for example, are often given a helping hand to expedite their departure from this world.⁴ What may be different is the frequency with which murder for insurance takes place. As will become clear from the discussion below, murder for insurance is a frequent occurrence. What is even more astounding is that the practice of murdering for insurance is almost as old as insurance itself. The reason for this is not hard to find and must lie in the ease with which one person can insure the life of another. It is after all much easier to conclude a life insurance contract on a person in whose life you have an insurable interest or in whose life the law presumes you to have an interest than to convince a testator to make you an heir. In cases of murder for insurance the murderer may also be party to the contract and will know that he or she will benefit on the death of the life insured whereas an heir often does not know that he or she will benefit on the death of the testator.

In the analysis which follows I will briefly discuss insurable interest as a requirement for the conclusion of a life insurance contract.⁵ The consequences following on the situation where there is no insurable interest present will be discussed and contrasted with the position where there is an insurable interest but where the life insured is murdered by the insured or the beneficiary. After that I will discuss some cases of murdering for insurance, the main one being that of Thomas Griffiths Wainewright who was perhaps one of the most famous criminals of his time. Finally, I will attempt to draw some conclusions on the relevance of the requirement of an insurable interest for the conclusion of life insurance contracts.

2 Insurable interest as a requirement for life insurance

The requirement for an insurable interest in life insurance may be traced back to the English *Life Assurance Act*.⁶ It should immediately be made clear that the incorporation of this Act into South African law and of the requirement of an insurable interest itself is disputed.⁷ Reinecke argues that the Act applied to wagering and not to insurance and for that reason it was not incorporated into South African law. However, in *Feasey v Sun Life Assurance Company of Canada*⁸ the English Court of Appeal held that this Act deals primarily with

4 Kahn *Bloody Hand!: Wills and Crime* (2003).

5 For a more comprehensive analysis, see generally Havenga "The requirement of an insurable interest in life insurance contracts" 1999 *TSAR* 630.

6 14 Geo 3 c 48 (1774).

7 See Reinecke (n 1) par 157; Havenga (n 5) 639ff.

8 [2003] Lloyd's Rep IR 637; [2003] 2 All ER (Comm) 587. For a discussion of the case,

insurance contracts. As such it forms part of English insurance law and would therefore have been incorporated into South Africa law as an Act dealing with a matter peculiar to insurance.⁹

The purpose of requiring an insurable interest is also disputed. On the one hand it has been argued that an insurable interest is required by public policy and that it cannot be waived by the parties.¹⁰ From this perspective an insurable interest is regarded to “prevent” the murder of the insured.¹¹ It should immediately be clear that the requirement cannot prevent the murder of the life insured and that it can at most serve as a deterrent against murder. In American law, for example, it is generally stated that an insurable interest serves as a deterrent against murder.¹² But one American author has made the point that the most important asset involved in interfamilial murders is life insurance.¹³ The irony, at least for American law, is that since spouses are usually deemed to have an insurable interest in each other’s lives and in that of their children, a life insurance contract with an insurable interest does not seem to deter or prevent the life insured from being murdered. On the contrary, it may even be possible that the existence of a life insurance contract with an insurable interest encourages murderers.¹⁴

On the other hand, Reinecke seems to be of the opinion that the requirement of an insurable interest plays a rather unimportant role in determining if a contract is against public policy and states categorically that there is “no room for a requirement of interest affecting the legality of a proper contract of insurance”.¹⁵ Nevertheless, he does acknowledge that since an insurable interest need only exist at the time of conclusion of the life insurance contract a beneficiary may possibly be motivated to murder the insured life in order to obtain the insurance money.¹⁶

see Havenga “Liberalising the requirement of an insurable interest in (life) insurance” 2006 *SA Merc LJ* 259.

9 See Havenga (n 8) 262ff. See also Reinecke (n 1) par 157.

10 Davis *Gordon & Getz on The South African Law of Insurance* (1993) 94. My own approach is that insurable interest also relates to the lawfulness of the contract. In those cases where a recognised insurable interest exists, it provides *prima facie* evidence that the contract is lawful: Havenga (n 5) 644.

11 Davis (n 10) 94 n 30.

12 Jerry *Understanding Insurance Law* (1996) par 43; Kingree & Tanner “Life insurance as motive for murder” 1993-1994 (29) *Tort & Ins LJ* 761 and authorities cited in Havenga *The Origins and Nature of the Life Insurance Contract in South African Law with Specific Reference to the Requirement of an Insurable Interest* (unpublished LLD thesis 1993 Unisa) 136 n 16.

13 McGovern “Homicide and succession to property” 1969-1970 (68) *Mich LR* 65 at 78.

14 Cf Reinecke (n 1) par 47.

15 Reinecke (n 1) par 158.

16 Reinecke (n 1) par 47.

Thus the requirement of an insurable interest is mired in uncertainty and controversy.¹⁷ The South African courts have not yet decided the matter and for present purposes it will be assumed that an insurable interest is required at the time when the life insurance contract is concluded.¹⁸

2 1 Insurance on one's own life

A person has an insurable interest in his or her own life to an unlimited extent.¹⁹ Since the interest is unlimited, the life insured can take out insurance for any amount with more than one insurer provided he or she can pay the premium. In view of this it would be more accurate to say that the presence of an insurable interest is presumed and is not actually required to exist.

2 2 Insurance by spouses on each other's lives

A person has an insurable interest in his or her spouse's life to an unlimited extent.²⁰ The interest is similar to the interest which a person has in his or her own life and need not be capable of financial evaluation. In this context the question arises whether a person has an insurable interest in the life of his or her partner whether of a different or the same sex. It is suggested that seen in the context of the Bill of Rights it may be presumed that partners will have an insurable interest in each other's lives.²¹ Once again, the interest will be presumed and need not be proved.

2 3 Insurance on the life of a family member

A person may also insure the life of a family member but in all these cases a pecuniary interest is required.²² A pecuniary interest will exist if a person has a

17 It is small wonder then that in New Zealand, eg, it is proposed that the requirement of an insurable interest be abolished. See New Zealand Law Commission *Report 87: Life Insurance* (2004) par 12.19; *New Zealand Insurance Contracts Bill* clauses 23-24.

18 In life insurance an insurable interest need only exist at the time of the conclusion of the contract: see Reinecke (n 1) par 84.

19 Reinecke (n 1) par 88; Havenga (n 12) 248; Davis (n 10) 107. See also *Griffiths v Flemming* [1909] 1 KB 805 (CA).

20 Reinecke (n 1) par 89; Havenga (n 12) 249; Davis (n 10) 108. See, eg, *Miller NO v Smit* 1986 1 SA 320 (C); *Pillay v South African National Life Assurance Co Ltd* 1991 1 SA 363 (D).

21 Reinecke (n 1) par 90. See also *Langemaat v Minister of Safety and Security* 1998 3 SA 312 (T); *National Coalition for Gay and Lesbian Equality v Minister of Home Affairs* 2000 2 SA 1 (CC); *Farr v Mutual & Federal Insurance Co Ltd* 2000 3 SA 684 (C); *Satchwell v President of the Republic of South Africa* 2002 6 SA 1 (CC); *Du Toit v Minister of Welfare and Population Development (Lesbian and Gay Equality Project as Amicus Curiae)* 2003 2 SA 198 (CC); *Du Plessis v Road Accident Fund* 2004 1 SA 359 (SCA); *Daniels v Campbell NO* 2004 5 SA 331 (CC); *Fourie v Minister of Home Affairs* 2005 3 SA 429 (SCA).

22 Havenga (n 12) 251.

legal right to claim support from the family member whose life is being insured. In other words, a duty of support must exist between the family members.²³

2 4 Insurance on the life of another

It is also possible to insure the life of a person who does not fall in one of the above categories. For example, fiancés and fiancées may insure each other's lives, a creditor may insure his or her debtor's life, employers and employees may insure each other's lives and so may partners.²⁴ In all instances it seems that the insurable interest must be of a pecuniary nature.

2 5 Insurable interest of beneficiary

The appointment of a beneficiary in a life insurance contract, especially in the case of whole-life insurance, is common. The question arises if a beneficiary must have an insurable interest. In *Morkel v London and Scottish Assurance Corporation*,²⁵ Morkel, the life insured, appointed his son-in-law as the beneficiary under the contract. After Morkel's death his son-in-law claimed the sum insured from the insurer. The insurer opposed the claim and pleaded that since the son-in-law had no insurable interest in the life of Morkel, the policy was void. The court held that a person who concludes the life insurance contract, in this case Morkel, had to have an insurable interest in the life insured. Morkel had an interest in his own life and since there was no evidence that the policy was effected by anybody else than Morkel, the son-in-law's claim was upheld. In effect the court held that a beneficiary need not have an insurable interest in the life insured.²⁶ This rule is subject to the qualification that if it appears that the beneficiary induced the contract to enable him or her to obtain insurance on the life insured which would otherwise not have been possible, the contract will not be valid. The same would apply in the case where the insured concludes an insurance contract on his or her life with the intention of ceding it to another and by doing so evades the rule against wagering on lives.²⁷ In effect this is an application of the legal maxim *plus valet*

23 For some recent *dicta* on the duty of support, see *Fourie v Santam Insurance Ltd* 1996 1 SA 63 (T) at 65E-67C; *B v B* 1997 4 SA 1018 (SE) at 1020G-1021D; *Amod v Multilateral Motor Vehicle Accidents Fund (Commission for Gender Equality Intervening)* 1999 4 SA 1319 (SCA); *Satchwell v President of the Republic of South Africa* 2002 6 SA 1 (CC) at 11F-H; *Du Plessis v Road Accident Fund* 2004 1 SA 359 (SCA) 370B-371D; *Petersen v Maintenance Officer, Simon's Town Maintenance Court* 2004 2 SA 56 (C).

24 See Reinecke (n 1) pars 91ff; Havenga (n 12) 253ff; Davis (n 10) 108ff.

25 1927 CPD 202.

26 See also Reinecke (n 1) par 408; Davis (n 10) 94.

27 See Havenga (n 12) 308. The rule against wagering on lives is a common-law rule: see Havenga "The conclusion of life insurance contracts in Roman-Dutch law" 1995 *THRHR* 45.

*quod agitur quam quod simulate concipitur.*²⁸

3 The effect of a contract concluded without an insurable interest

On the assumption that an insurable interest is required for the conclusion of a valid life insurance contract, the validity of a contract concluded without an insurable interest must be considered. It is trite that all contracts concluded contrary to common law (good morals and public policy) or legislation are unlawful.²⁹ The most common effect of unlawfulness is that the contract will be invalid and no rights or obligations will be created in terms of it. It will also mean that both the *ex turpi causa* and *par delictum* rules will apply.³⁰ In the absence of an insurable interest the insurance contract would therefore be illegal and void. Consequently the insurer will not be obliged to pay the sum insured and it will also not be entitled to claim payment of the premium.³¹ Should the insurer have paid the sum insured even though no insurable interest existed, it will be prevented by the *par delictum* rule from reclaiming the amount.³² In the same vein the insured, or his or her estate, will not be entitled to recover premiums which he or she has paid.³³

It should be noted that in American law a claim in tort is recognised against an insurer for issuing a policy in which the insured or beneficiary had no insurable interest in the life insured.³⁴ Whether such an action also exists in South African law has not yet been decided.

4 The effect of a contract where a beneficiary murders the life insured

A distinction must be made between the situation where the *plus valet* rule is applied and it is found that the beneficiary in effect concluded the insurance contract and that where the beneficiary was appointed as a beneficiary proper and an insurable interest is not required. In the first instance it is clear that the

28 See *Zandberg v Van Zyl* 1910 AD 302 at 309; *Dadoo Ltd v Krugersdorp Municipal Council* 1920 AD 530 at 547; *Commissioner of Customs and Excise v Randles, Brothers & Hudson Ltd* 1941 AD 369 at 381-382 395; *Vasco Dry Cleaners v Twycross* 1979 1 SA 603 (A) at 611B-E; *Skjelbreds Rederi A/S v Hartless (Pty) Ltd* 1982 2 SA 710 (A) 732G-733C.

29 See Reinecke (n 1) pars 149ff; Havenga (n 12) 259ff; Van der Merwe *et al Contract: General Principles* (2003) 175ff.

30 See *Jajbhay v Cassim* 1939 AD 537; Van der Merwe (n 29) 183ff.

31 Havenga (n 12) 261-262.

32 Havenga (n 12) 262.

33 *Ibid.*

34 Jerry (n 12) par 47[d]; Tolle "Life insurance policies as an incentive to murder, and the duty of reasonable care" in <http://www.rivkinradler.com/rivkinradler/Publications/newformat/200212tolle.shtml> (December 2002).

in 1794. His mother died in giving birth to him. His father died soon after and he was adopted by his grandfather. Upon the latter's death he was brought up by his uncle George Edward Griffiths at Linden House. Both Wainewright's parents came from distinguished families. His mother was the daughter of Dr Ralph Griffiths, the editor and founder of the *The Monthly Review*, and his father was the son of a prominent solicitor of Gray's Inn who lived in Hatton Garden. However, Dr Ralph Griffiths did not entirely approve of his daughter's marriage and on his death he left to Wainewright a sum in annuities in trust. The existence of the trust and Wainewright's inability to lay his hands on the principal sum caused much resentment in later life.

After leaving school Wainewright spent some time as a soldier but this life did not accord with his artistic temperament. He soon left the army and returned to Linden House from where, in 1821, he married Eliza Frances Ward. He also published and exhibited at the Royal Academy to augment the amount he received from the trust created by his grandfather. Soon he had a reputation as an author and artist and this was supported by his outwardly appearance.⁴¹ His contemporaries described him as effeminate with thick sensual lips, overdressed, wearing regal rings on his white hands, and having the "conversation of a smart, lively, heartless, voluptuous coxcombe".⁴² In short, he was seen as a dandy. It is perhaps these attributes which made him an acknowledged figure in his early life, but unfortunately that is not what he is remembered for in his later life. Wilde rightly concludes that "if we set aside his achievements in the sphere of poison, what he actually left to us hardly justifies his reputation".⁴³ But it was his reputation as an author and an artist which required him to live the life of a dandy. He entertained lavishly and moved in a literary circle which included many well-known figures such as Sir David Wilkie, William Macready, Charles Wentworth Dilke, Talfourd, BW Proctor and Charles Lamb.⁴⁴ Some even dined at his table. But this lavish lifestyle cost money, more than was

oxfordnb.com/view/article/28403 (19 May 2006); Wilde "Pen, pencil and poison: A study in green" (originally) 1889 (Jan) *Fortnightly Review*, 1984 (Dec) *Art & Antiques* 81, <http://gaslight.mtroyal.ab.ca/pppgreen.htm> (12 June 2005); Motion *Wainewright the Poisoner: The Confessions of Thomas Griffiths Wainewright* (2000); Groom *The Forger's Shadow: How Forgery Changed the Course of Literature* (2002). These sources often differ in material respects. I have chosen to rely on Peach which seems to be the most factual and also the most recent publication. As mentioned, Wainewright's life has also been captured in a number of reported cases. The first part of this discussion relies on the authors cited in this footnote and the latter part mainly on reported cases.

41 Some of Wainewright's paintings, essays and poems from this period still exist and can be found in the collections of galleries and libraries in England. In his essay on Wainewright, Wilde attempts to place the work of Wainewright in context and to disengage it from the moral judgment which has been passed over him. He makes the point that Wainewright's contribution to art is of greater importance than the fact that he was a criminal: see Wilde (n 40).

42 The description is attributed to Talfourd: see Peach (n 40). See also Groom (n 40) 259.

43 Wilde (n 40).

44 Peach (n 40); Groom (n 40) 263.

provided for by his income from the trust and augmented by his work as an author and an artist. So, Wainwright forged the signatures of his trustees and persuaded the Bank of England to pay him a moiety of the capital sum in the trust. It must be mentioned that at the time forgery on the Bank of England was still punishable with the death sentence.⁴⁵ The amount was used to finance Wainwright's opulent lifestyle. However, it was soon exhausted and in 1828 Wainwright and Eliza returned to his childhood home Linden House to live with his uncle, George Edward Griffiths. Within a year Uncle George died, rather unexpectedly, and the house and property, worth much less than it used to be, was inherited by Wainwright.⁴⁶

In July 1829 Wainwright arranged for his mother-in-law, Mrs Abercromby, and Eliza's two half-sisters Helen and Madelina, to come and live with them at Linden House.⁴⁷ In August of that year Mrs Abercromby died.⁴⁸ The one sister in particular, Helen FP Abercromby, features prominently in the further events.

Helen turned twenty-one in March 1830, but she was so impoverished after her mother's death that she had to apply for an annual pension of £10 as an officer's daughter.⁴⁹ Despite her impecunious position various applications for term-life insurance policies were made on her life. On 20 April 1830 a policy to the amount of £3000 with the Eagle Insurance Company was issued on Helen's life, in October of that year a policy to the amount of £5000 was granted by the Pelican Insurance Company, and on 22 October 1830 a policy to the amount of £3000 was issued by the Imperial Life Insurance Company.⁵⁰ In all cases the *modus operandi* seems to have been the same. Helen visited the insurance offices and applied for insurance upon her own life and in her own name.⁵¹ In all instances she was accompanied by Mrs Wainwright.⁵² It should be remembered that Helen had no income to speak of apart from the annual pension of £10 which she received whereas the total amount in

45 Groom (n 40) 263.

46 From this time on, most of Wainwright's exploits are documented in English case law.

47 *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513 at 547 513.

48 *Ibid.*

49 *Ibid.*

50 See *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513 at 547 513; *Wainwright v Bland* (1836) 1 M & W 32, 150 ER 334 at 33 334; *Rush v Peacock* (1838) 2 M & Rob 162, 174 ER 249 at 163 249. At the time of the very first hearing it was thought that the total amounts of the policies on Helen's life amounted to £16 000, but in the subsequent hearings it transpired that the total amount was £11 000. The difference is explained by the fact that she had made proposals to other insurers which were not accepted: see *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 482 166. Contra Peach (n 40) and Groom (n 40) 264 who maintain that her life was insured with six insurance companies for a total of £18 000.

51 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 482 166.

52 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 482 166; *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513 at 548 513.

premiums payable upon the policies exceeded £200 a year.⁵³ Evidence was, however, led that the premium paid on the policy issued by the Imperial Insurance Office was paid with bank notes which were traced as having been lent to Wainwright.⁵⁴ One other fact must be mentioned since it is critical to the eventual outcome of the cases: In all the instances where Helen applied for insurance on her life she misrepresented the reason for the insurance to the insurers and failed to disclose to them the fact that she had applied or intended to apply for cover with other companies.⁵⁵ But the fact remains that by the beginning of December 1830 Helen's life was insured with three different insurers to the total amount of £11 000.⁵⁶

On 13 December 1830 Helen made two wills. In the first Wainwright and his wife were appointed as her heirs and Wainwright was also appointed as her executor. In the second will, her property was bequeathed to her sister Madelina and one Warner was appointed as her executor.⁵⁷ It was proved that Helen enjoyed good health but by 21 December 1830 she was dead.⁵⁸ It is also reported that it was proved that Wainwright, who was in possession of both wills, had shortly after Helen's death stated that the wills were made "in order that if the one failed, the other might do for him".⁵⁹ However, Helen's death was Wainwright's final undoing and set in motion a chain of events from which he could not extricate himself. The process started when Wainwright, as executor of Helen's will, claimed the benefits payable under the policies. The insurers, who by now had become aware of the various policies on Helen's life, refused to pay. Since the facts in all three instances were substantially the same, it was agreed that the last policy taken out on Helen's life with the Imperial Life Insurance Company would go to trial. Wainwright as executor of Helen's estate therefore instituted action against the Imperial Life Insurance Company for payment of £3000.

53 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 482 166.

54 *Ibid.*

55 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 483 166; *Wainwright v Bland* (1836) 1 M & W 32, 150 ER 334 at 33 334; *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513 at 547 513.

56 In 2005, based on the retail price index over the years, £11 000 from 1830 would have been worth £746,709.73: see Officer "Comparing the Purchasing Power of Money in Great Britain from 1264 to Any Other Year Including the Present" *Economic History Services* (2001) <http://www.eh.net/hmit/ppowerbp/>. In Rand terms this represents the tidy sum of approximately R8.2 million at an exchange rate of R11 to £1.

57 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 484 167; *Wainwright v Bland* (1836) 1 M & W 32, 150 ER 334 at 34 334; *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513 at 547 513.

58 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 482 166; *Wainwright v Bland* (1836) 1 M & W 32, 150 ER 334 at 33 334; *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513 at 547 513. The cause of Helen's death was not established but it is presumed that she was poisoned with strychnine: see Peach (n 40).

59 *Wainwright v Bland* (1836) 1 M & W 32, 150 ER 334 at 34 334.

The case is reported as *Wainwright v Imperial Life Insurance Company*.⁶⁰ The insurers opposed Wainwright's claim on four grounds.⁶¹ First, they claimed that Helen's death had been caused by Wainwright himself. Secondly, they argued that since Wainwright had paid the premiums the policy was to be treated as his and not as that of Helen in whose name it had nominally been effected. Therefore his, and not her name, had to be inserted in the policy.⁶² Thirdly, if the policy had really been concluded by Helen on her own life, she had to show that she had had an interest in her life for the two years to which the policy was limited. The argument here was that although a person was presumed to have an interest in insuring the full period of his own life, the presumption did not apply to any shorter period. Finally, the insurers claimed that two material misrepresentations were made in that Helen misrepresented the reason for the insurances to the insurers and failed to disclose to them the fact that she had applied or intended to apply for insurance with other companies.

In his address to the jury, Lord Abinger CB stated that there was no evidence from which it could be inferred that Helen died any other than a natural death.⁶³ According to him the question in the case was who really and truly concluded the insurance contract. If the policy was that of Helen, the finding had to be for Wainwright and it would be incorrect to argue that he had paid the premiums. However, if the policy "looking at all the strange facts which have been proved" was concluded by Wainwright, the finding had to be for the insurers. In the event that the jury found that the contract had been concluded by Helen for her own benefit, the question of the materiality of the misrepresentations had to be decided. A finding that the misrepresentations were material would obviously have resulted in a finding for the insurers. The jury could not agree to a verdict and by consent of both parties the case was discharged.

It appears from the next case in the saga, *Wainwright v Bland*,⁶⁴ that Wainwright promptly gave notice that he intended taking the matter to trial for a second time. What is also apparent from this case is that matters had become rather uncomfortable for Wainwright and that he had left the country for France in October 1831.⁶⁵ The insurers applied to court for Wainwright to

60 (1835) 1 M & Rob 481, 174 ER 165.

61 *Idem* at 484 167.

62 S 2 of *Life Assurance Act* 14 Geo 3 c 48 (1774). See also *Hodson v The Observer Life Assurance Society* (1857) 8 EI & BI 39, 120 ER 15.

63 *Wainwright v Imperial Life Insurance Company* (1835) 1 M & Rob 481, 174 ER 165 at 486 168.

64 (1835) 2 C, M & R 740, 150 ER 313. Bland, a director of the Imperial Life Insurance Company, was cited as the defendant in this and the next case.

65 See Motion (n 40) 169. In the judgment itself it is rather euphemistically stated that Wainwright had "gone to reside abroad": see at 741 314.

give security for costs but this application was turned down. The court held that such an application had to be brought before issue was joined and even though the jury was discharged in the first trial, security for costs could not now be obtained. The matter again proceeded to trial and is reported as *Wainwright v Bland*.⁶⁶ Substantially the same evidence was led as that in the first case and Lord Abinger CB again directed the jury to say whether the insurance had been concluded by Helen for her own benefit or as the agent of Wainwright for his benefit and whether the misrepresentations made by Helen were material. The jury answered that the policy had been concluded by Helen as Wainwright's agent and for his benefit and that the misrepresentations were material.⁶⁷ Wainwright's solicitor moved for a new trial and argued that any person could lawfully insure his life for the benefit of another and it mattered not what his or her intention was and where the money for the premiums came from. Lord Abinger CB conceded that there may have been some doubt on the finding of the jury on this point, but held that since it was clear that the misrepresentations were material, the policy could be avoided. The case took care of the policy issued by the Imperial Life Insurance Company but since the other two policies were not before the court they were not declared void.

With Wainwright in France it was not possible to settle Helen's estate. One Rush was therefore appointed on 26 November 1836 as a special administrator to wind up Helen's estate in Wainwright's place.⁶⁸ Rush immediately commenced action against the other two insurance companies, the Pelican and Eagle, to claim the sums insured for Helen's estate.⁶⁹ The insurers approached the court to have the policies set aside for fraud and alleged that Eliza was implicated in the fraud since she accompanied Helen to the insurers' offices when the contracts were concluded. They also requested an order for costs against Eliza. Eliza denied that she was involved in a fraud on the insurers and renounced any right to the policies. She also claimed that she had no property of her own which could be used to satisfy the insurers' claims for costs. On the matter of her accompanying Helen to the insurers when the contracts were concluded, she did not answer.⁷⁰ The insurers took exception to her plea and this was allowed by the court. The court held that Eliza was liable to fully answer the insurers' allegation that she was involved in a fraud on the insurance company. Exactly how this matter was resolved is not clear but the

66 (1836) 1 M & W 32, 150 ER 334.

67 (1835) 1 M & W 34, 150 ER 334 at 34 334-335.

68 See *Rush v Peacock* (1838) 2 M & Rob 162, 174 ER 249 at 163 249.

69 *Peacock v Rush* (1837) 2 Y & C Ex 546, 160 ER 513.

70 *Idem* at 548 514.

matter again came before the court in *Rush v Peacock*.⁷¹ By now the procedural matters surrounding the case had become quite complicated. Rush, as the special administrator of Helen's estate, was attempting to claim on the policies issued by the Pelican and Eagle Insurance Companies. The insurers knew that the claim against the Imperial Life Insurance Company had failed and that the insurer was not held liable. However, in the claim against the Imperial Life Insurance Company, Wainewright gave evidence as the executor of Helen's estate. In his absence it was not possible to call him as a witness. The insurance companies therefore served a notice on Rush's attorney to produce the Imperial Life Insurance policy in court. Rush answered that the policy had been deposited in a Court of Equity and declined to produce it. The court held that his failure to produce the policy allowed the insurers to produce secondary evidence on the contents of the policy. The outcome of the case was therefore in favour of the insurers.

No subsequent cases on the fate of the policies could be found but it is presumed that once the procedural wrangling was settled, the Pelican and Eagle policies would have gone the same way as that of the Imperial Life Insurance Company. In other words, Rush would not have been able to claim the sum insured on behalf of Helen's estate.

Wainewright does not disappear from the scene. Wilde states that in 1837 he returned to England following a woman whom he loved.⁷² By now his forging of the signatures of his trustees had been discovered and he knew that he was endangering his life. He was staying in a hotel at Covent Garden but was recognised by Forrester, the Bow Street Runner⁷³ and arrested.⁷⁴ On 5 July 1937 Wainewright was charged before Vaughan J and Alderson B at the Old Bailey.⁷⁵ In the report Wainewright is described as "a man of gentlemanly appearance wearing mustachios". There were five charges against Wainewright, to all of which he pleaded not guilty when he appeared before the sergeant of the court. However, on being brought before the judges, he requested that his former plea be withdrawn and he then pleaded guilty to two

71 (1838) 2 M & Rob 162, 174 ER 249.

72 Wilde (n 40).

73 Bow Street Runners were "[d]etectives who scoured the country to find criminals, before the introduction of the police force". See Brewer "Bow Street Runner" *Dictionary of Phrase and Fable* (1898) at www.bartleby.com/81/ (16 August 2006). Many fictional accounts of the lives of Bow Street Runners have appeared: see Buchanan *Bow Street Runner* (1992); Banks *The Emperor's Assassin: Memoirs of a Bow Street Runner* (2003); Banks *Thief-Taker: Memoirs of a Bow Street Runner* (2002). For a scholarly contribution which contains references to many other works, see Cox "A Certain Share of Low Cunning" – The Provincial Use and Activities of Bow Street 'Runners' 1792-1839" 2003 (5) *Eras* http://www.arts.monash.edu.au/eras/edition_5.

74 For the report of his arrest, see Police *The Times* 12 June 1837 at 6 col E.

75 See Central Criminal Court *The Times* 6 July 1837 at 7 col D.

of the charges. These two charges, unlike the others, were not of a capital nature. The prosecutor indicated that the Bank of England had no wish that Wainwright be sentenced to death and the court accepted the plea of guilty on the lesser charges. On 7 July 1837 Wainwright was sentenced "for life" which meant that he was to be transported.⁷⁶ Wainwright was taken back to Newgate Prison⁷⁷ and spent some time there before his removal to Van Diemen's Land, the current Tasmania, where he died in 1847.⁷⁸

However, even after his deportation and death his name continued to crop up. In *Ex parte Slade*⁷⁹ and in *In re Wainwright*,⁸⁰ Eliza had to approach the court for permission to dispose of property jointly owned by her and Wainwright. The question was whether the court replaced Wainwright as protector of an estate of which Eliza was a tenant for life. His life was also fictionalised⁸¹ and he was the inspiration for the criminal character in many well-known works.⁸² To mention but a few, it is said that he is Magwich in *Great Expectations*,⁸³ Julius Slinkton in *Hunted Down*⁸⁴ and Varney in *Lucretia*.⁸⁵

It should be noted that Wainwright was never prosecuted for the suspected murders of his uncle, George Edward Griffiths, his mother-in-law, Mrs Abercromby or that of Helen Abercromby. What finally brought him to book was the forgery perpetrated on the Bank of England.⁸⁶ If it were not for the fact that Helen had made misrepresentations to the insurers when concluding the contracts, he may well have been successful in benefiting from her death. But in his mind her death was not to be mourned. Wilde writes that when a friend reproached Wainwright with murdering Helen he merely shrugged his

76 Central Criminal Court *The Times* 8 July 1837 at 6 col E.
 77 It was here that he was recognised by Dickens and the idea originated to use him as a prototype in some of the Dickens novels: Groom (n 40) 256. See text at n 83 below.
 78 Motion (n 40) 251; Groom (n 40) 269ff.
 79 (1842) 11 Sim 352, 59 ER 909; Vice-Chancellor's Court *The Times* 14 December 1842.
 80 (1843) 1 Ph 258, 41 ER 630; Court of Chancery *The Times* 29 May 1843; Court of Chancery *The Times* 5 June 1843.
 81 Motion (n 40) wrote a "biography" on Wainwright. In it he attempts to recreate Wainwright's life by way of a confession and admits (at xviii) that the work is "reliably unreliable". Peach (n 40) criticizes the notes to the work for containing unreliable information and remarks that the discovery of further documents relating to Wainwright will ensure that he continues to be the subject of biographical investigation.
 82 See Motion (n 40) 251.
 83 Dickens *Great Expectations* (1861); Motion (n 40) 260; Groom (n 40) 257.
 84 Dickens *Hunted Down* (1860) in <http://gaslight.mtroyal.ab.ca> (16 August 2006); Motion (n 40) 259; Groom (n 40) 257.
 85 Bulwer *Lucretia* (1846); Motion (n 40) 255ff; Groom (n 40) 257.
 86 It is therefore incorrect to state as did Pollock in *M'Farlane v The Royal London Friendly Society* [1886] 2 TLR 755 (QB) 756 that Wainwright was deported for defrauding the insurance company since it was believed that he had poisoned a number of persons whose lives he had insured.

shoulders and said: "Yes; it was a dreadful thing to do, but she had very thick ankles."⁸⁷

6 Murdering for insurance: Some South African cases

From the above it appears that murdering for insurance is an old crime but, if the popular press is to be believed, it still regularly occurs. A quick search on the internet produced eight reports in online newspapers over the last ten years from countries other than South Africa.⁸⁸ In, for example, the United States of America the Foster City Police discovered that Dr William Moalem murdered his partner in order to collect on his partner's life insurance policy.⁸⁹ The police made the discovery after Moalem's wife, who was filling divorce papers against him, confessed to being an accessory.⁹⁰ And a report from Japan tells about Toshio Hosoya who murdered his wife and her mother to obtain insurance money.⁹¹ Others come from Greece,⁹² India,⁹³ and Columbia.⁹⁴ Closer to home newspapers have reported a number of cases where allegations have been made that the deceased was murdered for insurance.⁹⁵ Some instances of

-
- 87 Wilde (n 40) and see also Groom (n 40) 270. Peach (n 40) rightly remarks that the anecdote remains unconfirmed.
- 88 For books dealing with the topic, see Adams *Double Indemnity: Murder for Insurance* (1994); Heilbroner *Death Benefit: A Lawyer Uncovers a Twenty-year Pattern of Seduction, Arson, and Murder* (1993).
- 89 See Lelchuck "Truth surfaces in 23-year-old murder" *San Francisco Chronicle* in http://www.sfgate.com/cgi-bin/article.cgi?f=/e/a/1999/08/30/NEWS13618.dtl&hw=hurwitz+moalem&sn=001&sc=100_0 (30 August 1999). See also "N.Y. Murder-for-Profit Suspect Charged Again" *Insurance Journal* in <http://www.insurancejournal.com/news/east/2004/05/26/42568.htm> (26 May 2004).
- 90 One of the most famous cases of murdering for insurance in American law is reported in *Liberty National Life Insurance Company v Wedon* 100 So 2d 696 (Ala Sup Ct 1957). The case established the principle that an insurer has a duty to use reasonable care not to issue a policy of life insurance in favour of a beneficiary who has no interest in the life insured. In the case an aunt-in-law insured her niece's life and then murdered the child. For a South African perspective on the case, see Boberg "New torts from the new world" 1960 SALJ 113.
- 91 "Court overturns death sentence in insurance murder" *Japan Today* in <http://www.japantoday.com/e/?content=news&id+356794> (8 December 2005). See also "Japanese man gets life for murder-for-insurance plot in RP" *The INQ7 Network* in http://news.inq7.net/breaking/index.php?index=2&story_id=17615 (9 November 2004).
- 92 "Woman killed in insurance fraud" *News24.com* in http://www.news24.com/News24/World/News/0,,2-10-1462_1448439,00.html (20 November 2003).
- 93 "Woman plots husband's murder for insurance" *HindustanTimes.com* in <http://hindustantimes.com> (28 February 2005); Joseph "A murder to claim a million-dollar insurance" *rediff.com* in <http://www.rediff.com/news/2002/aug/13iosy.htm> (13 August 2002).
- 94 Otis "In Columbia, life insurance is often a health hazard - murder-for-insurance scams" *Insight on the News* http://www.findarticles.com/p/articles/mi_m1571/is_n35_v13/ai_19807032 (22 September 1997).
- 95 See Mokoena "Twist in ANC man murder" *News24.com* in http://news24.com/News24/South Africa/News/0,,2-7-1442_1684563,00.html (3 April 2005); Sukhra "My dead husband was a sex pervert" *Sunday Times* in <http://www.suntimes.co.za/2001/03/25/news/gauteng/njhb04.htm> (25 March 2001); Van Houwelingen "Klip son threatens stepmom" *News24.com* in http://news24.com/News24/Archive/0,,2-1659_1214751,00.html (17 July 2002); "R10m life insurance claimed" *News24.com* in http://news24.com/News24/South Africa/News/0,,2-7-1442_1578702,00.html (25 August 2004); Sefara "Pretoria widow in R4m dispute" *News24.com* in <http://news24.com/>

murder for insurance, or allegations to this effect, have also surfaced in South African case law.⁹⁶

One of the earliest cases is *Estate Late Basson v Law Accident Insurance Company*.⁹⁷ In this case the life insured, Jasper Basson, went fishing with his brother Pierre. Pierre returned from the fishing trip and reported that Jasper had drowned. The body was never found. The insurer refused to pay on the basis that the death of Jasper was never proved. The court concluded that if Pierre's evidence was to be disbelieved, two possibilities existed. First, the insured was murdered by Pierre or, secondly, there was a conspiracy between the two brothers to defraud the insurer and Jasper was still alive. The insurer relied on the second defence.⁹⁸ In the end the insurer could not prove its case and the court ordered that the sum insured be paid into Jasper's estate. Pierre Basson committed suicide when he was about to be arrested for another murder. It seems that Jasper's case was not the only one of "murdering for insurance" in which Pierre Basson was involved. The detective who investigated the case was of the opinion that Pierre murdered at least nine or ten people. In all the other cases the life insured disappeared or drowned after ceding their policies to Basson.⁹⁹

The next, *S v Robinson*,¹⁰⁰ is an extraordinary case. Holmes JA describes the case as "a grim and sombre drama of despair and mercenary death, uniquely macabre because the deceased arranged his own murder, in circumstances of dire financial stress, for the purposes of financial gain to his widow and avoidance of imprisonment for fraud".¹⁰¹ The facts are fairly simple. Al Jackson, the deceased, insured his life and appointed his wife as his beneficiary. He approached Bennie Esterhuizen to murder him, which request was declined. Esterhuizen was, however, willing to arrange for Quinton Robinson to do the deed. It was also agreed that Mrs Jackson would pay Bennie R5000 out of the

[News24/South_Africa/News/0,,2-7-1442_1658258,00.html](#) (2 June 2005).

96 In addition to the cases discussed below, see also *Du Toit v Standard General Insurance Co Ltd* 1994 1 SA 682 (W). In this case Du Toit, the appellant, was a beneficiary in terms of two policies concluded on his wife's life to the amount of R5 000 000. The policies were dated 1 April 1992 and 1 May 1992. Apart from these two policies, there were other policies which brought the amount Du Toit received on his wife's death to R7 000 000. Du Toit's wife was murdered on 12 June 1992 and he claimed the sum insured from the insurers on 29 June 1992. The insurer did not pay and allegations were made, even in the press, that Du Toit was involved in bringing about his wife's death (at 685B). At the inquest on her death held on 1 June 1993 it was found that it was not possible to identify the person or persons responsible for her death (at 686B). Du Toit now sued the insurer for interest on the amount payable under the policies for delaying payment of the sum insured until after the inquest.

97 (1903) 13 CTR 1094.

98 At 1104.

99 Bennett *The Evil That Men Do* (196-?) 18.

100 1968 1 SA 666 (A).

101 *S v Robinson* (n 100) at 676F-G.

insurance moneys. Bennie in turn agreed to pay Quinton R2000. On the day of the murder, Al drove Quinton to the place where the murder was to take place. Al's body was later found by the police with a bullet wound above the ear. From the medical evidence it was clear that this was not a case of suicide. It later transpired that Al had said, just before he was shot by Quinton, that he could not go through with it. He was nevertheless shot. All three accused, Quinton, Mrs Jackson and Bennie, were found guilty of murder by the trial court and were all sentenced to death. The crisp question to be decided by the Appeal Court was whether Al's intentional and unlawful murder, at his own request, rendered his killers less blameworthy and amounted to extenuating circumstances.¹⁰² The court found that there were extenuating circumstances and the death sentences were substituted with ones of imprisonment.¹⁰³

In *Theron v AA Life Assurance Association Ltd*,¹⁰⁴ the appellant, Theron, who is described as a friend of the life insured, ironically named Fortuin, was the named beneficiary of a policy taken out on Fortuin's life. On 28 February 1985 Fortuin applied for insurance on his life for R100 000 and an additional accidental death benefit of R100 000 – a typical case of so-called double indemnity.¹⁰⁵ The policy was issued on 20 March 1985. On 21 July 1985 the insured was run over by a motor vehicle. Nothing more is said about the accident, but it is assumed that it must have been a hit-and-run accident. The insurer refused to pay out after the insured died and claimed that the insured had made certain material misrepresentations or that he had failed to disclose a material fact. The material fact, according to the insurer, was that the insured was severely mentally retarded. The insurer also claimed that the insured did not have the necessary mental capacity to conclude the contract of insurance.¹⁰⁶ So much for the basis on which the insurer allegedly refused to pay. The real reason for the insurer's refusal to pay was that the insurer suspected foul play.¹⁰⁷

At the time of his death, Fortuin was renting accommodation from Mrs Williams, a divorced mother with two small children. Mrs Williams testified about various aspects of Fortuin's life, including the work he was doing and his perceived mental ability. Many aspects of her evidence were uncontradicted and conclusive for the court's decision. But the insurer argued that Mrs Williams's

102 *S v Robinson* (n 100) at 674G-H.

103 *S v Robinson* (n 100) at 674C. See also 679H-680A.

104 1995 4 SA 361 (A).

105 See n 3 above.

106 *Theron v AA Life Assurance Association Ltd* (n 104) at 364E.

107 Often insurers suspect foul play but, as in *Wainwright's* case, cannot prove that the insured's death was caused by the beneficiary. An attempt is then made to invalidate the contract on another basis such as, eg, misrepresentation.

evidence should have been rejected as a whole on the basis that she had been part of a conspiracy to murder the insured.¹⁰⁸ It was alleged that Theron, Mrs Williams and the insurance agent who sold the policy to Fortuin conspired to take out the policy on his life and then to have him murdered. According to this version of events, the "plot entailed putting the insured in Williams's house and paying his rent, taking out the policy in his name, murdering him and claiming the benefits due under the policy on the basis of fraudulent evidence that there was nothing wrong with him".¹⁰⁹ Since there was no factual basis for the claim or any evidence to support it, the court dismissed it outright.

A case which made many headlines deals with the infamous Dr Omar Sabadia, a Pretoria psychiatrist who conspired to kidnap and murder his wife Zahida Sabadia.¹¹⁰ The state charged Dr Sabadia with persuading a patient of his to obtain professional killers to murder his wife. The patient first approached a private investigator who declined the offer whereafter he enlisted the help of his uncle and another person. Various plans for the murder were hatched, but in the final version it was decided that Dr Sabadia and his wife would be hijacked and that she would be murdered by the "hijackers". Dr Sabadia and his wife dined out on the night of the murder and after returning to their vehicle they were hijacked. Zahida was subsequently murdered and her body was hanged in a tree. Dr Sabadia and his co-conspirators were subsequently found guilty and sentenced. Although the case itself revolved around the admissibility of evidence and a determination of an appropriate sentence, it is the motive for the murder which is relevant to the current discussion.¹¹¹

The court found that there was no reasonable doubt that Dr Sabadia had a motive to kill his wife. It was clear that Dr Sabadia was in dire financial straits. His income from payments he had received from medical aid funds had steadily decreased until they finally stopped and he owed money either to his brother-in-law or to Zahida's family. Evidence was also led indicating that Dr Sabadia and Zahida had a history of marital problems. The court further found that Dr Sabadia was to benefit to the amount of R2,9 million from an insurance policy on Zahida's life and that he and his children were beneficiaries of another policy to the amount of R375 000. The court noted that these amounts could have been used to alleviate Dr Sabadia's financial problems. The court

108 *Theron v AA Life Assurance Association Ltd* (n 104) at 368G-I.

109 *Theron v AA Life Assurance Association Ltd* (n 104) at 368I.

110 Du Plooy-Gildenhuis & Blackbeard "The Sabadia Conspiracy" 1999 *THRHR* 148 discussed *S v Manyape* (unreported case CC 159/97 TPD) in which Dr Zabadia was charged. The report itself was not available to me and the subsequent exposition relies on Du Plooy-Gildenhuis & Blackbeard's discussion of the case.

111 See Du Plooy-Gildenhuis & Blackbeard (n 110) 154.

also noted that Dr Sabadia had shown very little interest in establishing how he had to go about claiming the money, and was of the opinion that this was rather strange. The court believed that if Dr Sabadia was not guilty of murdering his wife he would at least have made some enquiries.

In *Hoare v S*¹¹² the deceased was murdered by his wife, Lynn Harvey, his stepson, John, and a hired killer, Paulus Mokoena. The court found that there was a family conspiracy, over a period of time, to kill the deceased. The commercial motive for the killing was to get hold of the proceeds of more than R500 000 which was paid out after the death of the deceased. It was also clear that the policy had lapsed but that it was reinstated by Lynn Harvey before the murder. On the day of the murder the deceased was given alcohol by his family members, and when he was so drunk that he became incapacitated, he was stabbed to death by Mokoena. Mokoena was to be paid out of the insurance moneys, but this never happened. From the newspaper report it appears that the police did not suspect the family until Lynn Harvey claimed the sum insured.¹¹³ She had previously told the police that she knew nothing about her husband's policies.

The most recent case deals with Adriaan Myburgh who conspired with two others to have his mother murdered. Myburgh made several trips from Limpopo to Gordon's Bay in the Western Cape where his mother lived.¹¹⁴ On 8 October 2003 her throat was cut in her house. Fortuin AJ found that Myburgh had murdered his mother so that he could claim the sum insured. She also found that this was the only reason for the murder.

7 Conclusion

Murder for insurance is an old crime, but what is rather surprising is that the crime is still so common. Various reasons exist for this. First, it is clear that it is fairly easy to become a beneficiary of a life insurance contract. In a number of instances an insurable interest is presumed, and a beneficiary appointed by the life insured need not have an insurable interest. Secondly, it is claimed that the purpose of an insurable interest is to prevent or deter a beneficiary from murdering the life insured. However, in most instances of close relationships an insurable interest is presumed and need not be proved to exist. In these

112 [2005] JOL 15646 (T).

113 See Sukhra (n 95).

114 See *S v Myburgh* (unreported case SS 217/05) 23 February 2006 (CPD). All attempts to obtain a copy of the judgment from the Registrar of the High Court, CPD, have been unsuccessful. For the brief summary given here, I had to rely on Nicholas "Murder policy pays out 'life'" in http://www.news24.com/News24/South_Africa/News/0,,2-7-1442_1887372,00.html (23 February 2006).

instances it seems that the existence of a putative insurable interest often induces the murder of the life insured rather than acting as a deterrent. Thirdly, subject to the application of the *plus valet* rule, a beneficiary need not have an insurable interest. The conclusion is that if the purpose of an insurable interest is to prevent or to deter a beneficiary from murdering the life insured, it often fails to do so. At most, an insurable interest may serve as *prima facie* evidence that the insurance contract is not a wager on the life insured. So, how can the law assist in making the crime less prevalent? Some tentative suggestions may be made.

The wider principle that holds that no one should be allowed to benefit from his or her own wrongdoing must be firmly established. In the context of murdering for insurance it is this rule which must be further investigated and explained. Also, the role of the insurer in this context must be clarified. As mentioned above, in American law an insurer may be liable for issuing a policy in which the insured or the beneficiary had no insurable interest. The desirability of such a rule for South African law needs to be considered.

Finally, it is clear that no number of legal rules will prevent the commission of murder for insurance. The avarice and greed of individuals are too great for that. But it makes no sense to retain legal rules and requirements which do not fulfil their purpose. Such rules are superfluous, and where the rule is uncertain and contentious, it ought to be abolished. So, perhaps it is time to consider abolishing the requirement of an insurable interest in life insurance.