

Case No. 8,552. LOVELL v. ALLIANCE LIFE INS. CO.
[3 Cent. Law J. 699; 6 Ins. Law J. 239.]

Circuit Court, E. D. Missouri.

Oct. Term, 1876.

INSURANCE—STATEMENTS IN APPLICATION—EFFECT OF MISSOURI STATUTE
AS TO MATERIALITY.

This action was brought on a policy for \$10,000. The defendant answered that by the terms of the policy, the application with all the statements therein became a part of the policy, and each and every representation made in obtaining the policy were warranties, that among other representations made by the assured, he stated that neither of his parents had ever had consumption, while in truth his mother had died of that disease, and that such representation was a warranty and avoided the policy. The plaintiff demurred on the ground that the policy sued on was executed in Missouri, and after the passage of the act of March 23, 1874 (Laws 1874, p. 89), which enacts that “no misrepresentation made in obtaining or securing a policy of insurance on the life or lives of any person or persons shall be deemed material, or under the policy void, unless the matter misrepresented shall have actually contributed to the contingency or event on which the policy is to become due and payable; and whether it so contributed in any case, shall be a question for the jury,” and that the defendant had failed to allege that the matter complained of in any way contributed, to the death of the assured.

THE COURT held (1) that the application having been made in Missouri, and the policy delivered and the premium paid here, that it was a Missouri contract; (2) that the act comprehended in its term all representations made in obtaining the policy, whether they were technical representations, or warranties.