corporation, the contract made in Canada, and the subject of the insurance being located in that country, the Supreme Court of this State had no jurisdiction of the claim between the mortgagee and the insurance company. The court treated the mortgagee as being in reality a plaintiff, although he was nominally a defendant, and that he was in effect prosecuting his claim against the insurance company just as though he had maintained a separate action therefor. Under these circumstances it was held that our courts had no jurisdiction of either the parties or the subject matter of the claim, and that the mere fact that the plaintiff had seen fit to bring in the mortgagee as a party to his action in no way changed the legal situation, and Judge Barrett thereupon dismissed so much of the case as related to the claim of the mortgagee to the insurance in question.

The court then held that the plaintiff was entitled to claim whatever he might show to have been the loss, less the amount proven to be due on the mortgage; in other words, the difference between the mortgage and the amount of the loss.

To meet this claim, the company showed that the provision of the policy in relation to further insurance had been violated in that there was considerable insurance on the property by American companies. The policy sued on contained this statement: "Further insured: $3,600 on first item and $2,400 on second item, in the Phoenix of London." The policy is in the Canadian form, and provided that the same should be void if the insured "now has or shall hereafter make or procure any other contract of insurance, * * * " and it was conceded that there was at the time of the loss, and in fact at the time of the issuance of the Guardian policy, considerable insurance other than that held by the Phoenix.

William B. Ellison, who was brought in to try the case as counsel for the plaintiff, met the claim of forfeiture by showing facts that he contended were evidence of waiver. These facts were as follows:

First—That Paterson & Son, who obtained the Guardian policy, had knowledge when they obtained it that the other insurance complained of was then current, and that Paterson & Son were in the transaction the agents of the Guardian. To sustain this proposition, Mr. Ellison showed that these words appeared in the body of the policy itself: "Agency, Montreal, Paterson & Son," and that upon the back of the policy, also written thereon by the Guardian, appeared these words: "Paterson & Son, agent, Montreal Agency." In addition to these facts, it appeared that the application had in the first instance been made to Paterson & Son, who were the general agents of the Phoenix, and that the Phoenix did not want the whole of the line asked for, and thereupon took $4,000 of the $10,000 required to the Guardian. The last-named company, of course, claim that Paterson & Son were not its agents and never had been, and that although there had been no application to it by the insured, that which was done by Paterson & Son was really on his behalf as brokers. The insured claimed that on the face of the policy, together with its indorsement, and in view of the customary division of risks between the two companies, that the Guardian had in effect adopted Paterson & Son as its agents in this transaction, and should be held to have had notice of whatever Paterson & Son as such agents had done when the policy was issued.

Second—That after the proofs of loss had been received and notice had thereby been expressly given to the Guardian, of the other insurance complained of, and its consequent breach of the policy, the Guardian denied liability on the sole ground that the cause of the fire relieved it. No claim of forfeiture now urged was made; and

Third—That while the provision of the policy was that it should be "void" in case of the breach of any of its provisions, yet the word "void" meant "voidable" at the election of the company, and that upon the company learning of the breach of the policy it should have, within a reasonable time, given notice of its election to rescind and repaid the premium. The question was raised to get a ruling upon the much-mooted question as to whether or not, where, by reason of something that existed at the inception of the policy, it never attached, there is the duty resting on the insurer to return the premium, which, of course, has, under such circumstances, been totally unearned; or whether the insured under such circumstances is simply entitled to make a claim for the premium. There are cases which intimate that, in view of the fact that the policy is voidable only at the election of the insurer in case of a breach of its provisions, the company must take the necessary steps to rescind, as in any other contract, namely, to give notice of its election, and repay whatever it received under the contract.

Judge Barrett, however, concluded that none of the circumstances just related were evidence of waiver, and he thereupon directed a verdict in favour of the Guardian.

A NATIONAL INSURANCE BUREAU.

Mr. Morrell has introduced a Bill in the House of Representatives having for its object the establishment of a "National Bureau of Insurance," the superintendent of which shall have supervision of all matters pertaining to Insurance, Insurance Companies and beneficial Orders and Associations, doing business in the United States, or in any State, Territory, District and Insular possession thereof.

Under the terms of the Bill, the superintendent is directed to watch "the machinations of irresponsible companies and agents who may, in bad faith, insure the lives of young children, and thus encourage a practice of unnatural parents and others having control of such children, by which said children are often subjected to neglect, exposure or violence, with a view of murdering them, etc., etc., to enquire into and propose remedies for said practice, etc.

The Bill provides that, after the 30th day of June, 1904, no person, firm or corporation shall be allowed to transact the business of Insurance within any State, District, Territory or Insular possession of the U. S. until he or it shall have previously fyled with the Superintendent of Insurance a duly authenticated certificate from the proper officer or Department of Government of such State District, Territory or Insular possession, or of some foreign government, showing that he or it has lawful authority to engage in and carry on such business under such government and within its dominions, and pro-