

*Judgment of the Lords of the Judicial Committee of the Privy Council, on the appeal of THE PROVINCIAL INSURANCE CO. OF CANADA v. LEDUC, from the Court of Queen's Bench, for the Province of Quebec, Canada; delivered 26th June, 1874.*

*Present:—SIR JAMES W. COLVILLE, SIR BARNES PEACOCK, SIR MONTAGUE SMITH, SIR ROBERT P. COLLIER.*

JUGÉ: Que l'avis de délaissement de la chose assurée, donné par l'assuré à l'assureur, est suffisamment accepté et équivalent à une cession, lorsque l'assureur prend possession de la chose assurée et en prend soin, sans dire en quelle qualité il le fait.

The respondent, Joel Leduc, is the plaintiff, and the appellants, the Provincial Insurance Co. of Canada, are the defendants in a suit brought in the Superior Court for Lower Canada, district of Montreal, upon a policy of insurance upon the body, tackle, apparel, and other furniture of the schooner *Babineau Gaudry*. The policy was effected by the plaintiff as well in his own name as for and in the name and names of all and every other person and persons to whom the same did, might, or should appertain, in part or in all, for \$500 upon the said ship, etc., beginning the adventures at and from Montreal to trade between the Island of Newfoundland, Nova Scotia, West India Islands, Cuba, safe ports in the United States, Quebec and Montreal to and from ports in the Lower Provinces, the risk commencing at noon of the 15th December, 1866, and ending at noon of the 15th of December 1867. The vessel, etc., were valued at \$7,000 and it was agreed that in case a total loss should be claimed for or on account of any damage or charge to the said vessel, the only basis of ascertaining the value should be her valuation in the said policy. The vessel was warranted free of war risk. The policy contained a stipulation in the following words:

"Not allowed under this policy to enter the Gulf of St. Lawrence before the 25th day of April, nor to be in the said Gulf after the 15th day of November. Nor to proceed to Newfoundland after the first day of December or before