

Correspondence
respecting
Mr. Thompson.

cases :—Robert Ferguson, esq., of the province of New Brunswick, employed Edouard Thibaudeau, esq., advocate, at the Carleton term, in the year 1828, to sue out of the said provincial court a writ of *saisie arrêt simple* against Robert Pitt, Samuel M'Kay and James M'Kay, and also a writ of *saisie arrêt en mains tierces* in the hands of Andrew Dean and Hugh Aitken, merchants in partnership at Ristigouche, in the district of Gaspé, for the sum of between 600*l.* and 700*l.*; as far as I can recollect the sum much exceeded 600*l.* The action was to be returnable before the Court of King's Bench for the district of Quebec. It was on the last day of the sitting of the term at Carleton last mentioned. The said judge refused his fiat, and thus prevented the issuing of the said writs. He was then on the point of starting, and replied that he had no power to cause writs like that to be issued; he then left the place for Paspébiac. I know these facts, firstly, from the statements made to me by the said Robert Ferguson and by the judge himself; and secondly, because I was of counsel in the case. I advised the said Robert Ferguson to follow the said judge to Paspébiac, where he would certainly obtain what he wanted. I obtained the fiat at Paspébiac aforesaid, after I had convinced the judge that he was in error, and the writs of *saisie* were consequently issued. Edouard Thibaudeau, esq., advocate, had then set off for Percé. The said writs were delivered to James Ferguson Winter, esq., then sheriff of the said inferior district. It was too late, however, for the defendants had left the said inferior district in a small vessel laden with their merchandize and effects, and I do not know what became of them; and the timber which had been in the hands of the garnishees in the cause was already shipped, or within the province of New Brunswick. Robert Ferguson told me repeatedly that he left off by paying the costs and losing his debt. From the residence of the said Robert Ferguson to Paspébiac, the distance is about 30 leagues. There is another case among others, which I shall cite. Germain Dionne, now deceased, in his lifetime of the neighbourhood of the place called Little Gaspé, came to Douglas Town in the month of August 1828, to obtain a writ of *saisie revendication*, to seize certain timber to him belonging, and then in the possession of one William Pickford. This also was on the last day of the said court, at the said term at Douglas Town. The said judge refused to wait an instant, telling the said Germain Dionne, in my presence, to follow him to Percé, where he would grant him the writ. I represented to the said judge, that the said Germain Dionne ran the risk of losing his recourse, because the said William Pickford was very shortly to leave the province of Lower Canada for Europe; and that the said Germain Dionne would be subject to great expense and loss of time by making the said journey, as he was then engaged in trading along the coast. The said judge would not listen to me, and immediately left Douglas Town for Percé. Germain Dionne followed him in the night to Percé, according to the advice I gave him; but when he reached Percé the said judge had left it for Paspébiac. The said Germain Dionne again returned to Douglas Town, where he found me at the house where I boarded, and when I learnt that he had made the journey to no purpose, I advised him to go home and get ready for the voyage to Paspébiac as quick as he could, for he told me at the time that he would rather lose his timber than lose his debts along the shore, by not collecting the fish which was due to him. He added, that he was going to use all possible speed, in order, if possible, to avoid either of the said losses. He then started for his own residence. I, myself, left Douglas Town the following morning, to go home. Germain Dionne came to my residence at New Carlisle in the beginning of November in the same year; it was in the night. I immediately drew up his affidavit, and delivered it to him, urging him to go the next morning early to get the fiat from the judge. He found it impossible to see the judge the whole of the next day; the answers he received were, that he could not see the judge that day. I then gave the said Germain Dionne the original and copy of the declaration in the said cause, and encouraged him to go back to the said judge, to whom I wrote a letter, by which I informed him of the nature of the action, and the claims of the plaintiff; I also represented to him the necessity there was that the writs above mentioned should be issued without delay. The said Germain Dionne left my letter and all the papers at the house of the said judge, but could not see him on this second day. He came to me a third time (and this was on the third day), and repeated what he had before told me. He begged of me to come to Paspébiac, which I did. I went to the judge's house, and made it my first object to ascertain whether he was at home, not knowing what to think of this delay. I then asked to speak to him, stating that I had urgent business with him. I was then asked to come in, and a few moments afterwards, the said judge appeared. I apologized as far as I could, and represented to him that the said Germain Dionne was exposed to the loss of his just rights, because the said William Pickford was ready to put to sea on the departure of the said Germain Dionne; that the said Germain Dionne ran the risk of not being able to go to Quebec, to dispose of his fish, because the season of the navigation was very far advanced; that the said Germain Dionne had likewise incurred great expense in leaving home to come to Paspébiac in a boat at a season of the year when it was beyond doubt very dangerous to take such long voyages along the coast, and that he was anxious to take advantage of the fine weather which had prevailed for some days past, to return home; that his claim did not exceed the jurisdiction of the said provincial court (I believe the sum in question was 200*l.*, as far as I can recollect); and I added, that I was going to read the affidavit and the declaration of the said Germain Dionne, and that he (the said judge) would be convinced that the affair was one of mere ordinary occurrence. I read the said documents, and the judge immediately granted the fiat, after having sworn the said Germain Dionne, telling me that if he had known what the business was, he would have granted the fiat long before; and on my remarking that I had written him a letter, which he must have received, he acknowledged that he had received it, as well as the affidavit and declarations of the said Germain