plete corporate existence at the time the services were rendered, and possibly there may have been no *quasi* contract to bind the non-incorporated party at that time; though there may be now to bind an existing party who could not then consent, but has since received the benefit. But call it what you please, it is a liability which may be assumed at all events: and which may result as well from that assumption as from an original contract or *quasi* contract. In England, in equity, a corporation is held liable for the acts of those who procured its incorporation, even to the extent of agreements which such persons may have made with third parties. Surely then, a corporation is bound in some form towards those to whom it owes its very existence, if not by the legal fiction of the *quasi* contract, at least by the fact of its own assumption and acceptance and use of the powers got for them by the labors of the plaintiffs. I am by no means clear that there was not here a *quasi* contract under the authority of Pothier's examples. The liability attaches in those cases because the parties could not create it for themselves. What reasoning separates those instances from the present one? for even a vacant succession can be bound by a *quasi* contract. In the 1st vol. of the English Railway and Canal Cases, p. 129, there is one reported of *Edwards et al.* v. *The Grand Junction Railway Co.* The point was the liability of the company, after incorporation, for what had been agreed to on their behalf before incorporation. I think this is a much stronger case for the plaintiffs than that one was; but even there, the language of the Vice-Chancellor (and his judgment was confirmed in appeal) was very plain. He said:—"I think that where parties are going before Parliament for the purpose of being incorporated, a door would be open to great frauds if bargains made by persons acting as their agents, when they are in a scattered and individual state, were not binding on the company when incorporated." That, as I have said, was not the point that comes up here; but it was a stronger point for the corporation; yet they were held to bargains made while they were in "a scattered and individual state," and I see no reason why the present defendants should not also be so held.

As to the existence then of a *quasi* contract in this case, though there may possibly be some doubt, I incline to say there was one. I see some authors in discussing this question prefer the term "*engagement*" in some cases where the will of the parties is no element, and where the obligation arises from a mere fact (see Laurent, vol. 20, art. 305 to 309). In one place this writer asks: "Pourquoi la loi fait-elle naitre des obligations d'un fait? nous avons déjà indiqué le motif général; c'est ou l'utilité des parties interessées, ce qui est aussi un intérêt général, ou une considération d'équité." Apart, however, from the question of *quasi*-contract, the obligation of the defendants is supported by the principle I have before adverted to, that they have taken and used what was got by the plaintiffs' services, and they cannot make profit at their expense.

Judgment for plaintiff.

De Bellefeuille & Bonin for plaintiffs.

Alphonse Ouimet for defendant.

SUPERIOR COURT.

MONTREAL, Jan. 15, 1881.

Before PAPINEAU, J.

NEVEU v. RABEAU, and NEVEU, T. S.

Contestation of declaration of garnishee—C. C. P. 862, 864.

The declaration of a garnishee cannot be contested without leave of the Court, but such leave may be granted even after the delays have expired, on payment of costs.

Motion by T. S., that contestation of declaration of T. S. filed in the cause by plaintiff be rejected, because not filed within the delays, and leave of the Court not having been obtained.

PAPINEAU, J. La présente cause est accompagnée de saisie-arrêt avant jugement. Le tiers saisi a fait une déclaration. Le jugement a été prononcé sur la demande principale. Un peu plus de 8 jours après le jugement, le demandeur, sans la permission de la cour, a produit une contestation de la déclaration, et l'a signifiée au T. S. en lui donnant avis d'y répondre dans les délais voulus par la loi. Le tiers saisi fait motion pour rejeter cette contestation. La motion est bien fondée en vertu des Arts. 862 et 864 C. P. C., et elle est accordée. Si le demandeur avait demandé permission de laisser sa contestation dans le dossier en payant les frais de la motion, la cour