the plaintiff's action was purely speculative, and the judgment of the Court of original jurisdiction could not be maintained. *Judgment reversed.*

FULLER *v.* GRAND TRUNK COMPANY.

HELD—That a servant has no action of damages against his employer for any injury he may sustain through the negligence of his fellow servants.

BADGLEY, J.—This was a case from the district of St. Francis, which came up for revision under the following circumstances;—The plaintiff for a long period had been an engine driver in the employ of the Grand Trunk Company. He drove a freight train between Montreal and Portland, and went over the road constantly up to the very day of the accident. He was over the road the very day before and saw nothing to complain of; but on the following day when he got to a certain part of the road, the engine and one of the freight cars fell over the embankment, and the plaintiff was very much bruised. He now brought an action for damages. There was no evidence to show any negligence on the part of the Grand Trunk Company. There was nothing to show that they had ever been called upon to make the road good, or to take any precautions respecting it; the plaintiff himself not having made any representation respecting any defectiveness in the road, though he went over the road daily. When taken to Richmond after the accident, and asked by the Superintendent if the road was in bad order, he said he did not think it was. The case involved a principle—as to the right of action of a servant against his master. It had been said that we were to be governed wholly by the French law in this case. Now railways are of recent introduction, and had no existence at the time we derived our legislation from France. It might be assumed that the principles adopted in England where the railway system was greatly elaborated, and the principles which prevailed in the United States, where the system was also much complicated, and which principles, moreover, are much the same as those of the common law as it now exists in France, are the sure principles for our guidance at the present time. The plaintiff in this case was the servant of the Company. He undertook by the fact of his engagement in their service to guarantee himself from all the consequences of his engagement. The road belonged to the Company, but it was in evidence that there were persons of competent skill who had charge of the road, and any application to them would have been attended to. They were equally servants with the plaintiff, and if there was anything wrong, the blame must be on the servants, because they were in charge of the road. The leading case in England was Priestly *v.* Farrell reported in 3 Meeson & Welsby. The judgment went upon the principle that the plaintiff was in the performance of his duty as a servant. Lord Abinger said it was admitted there was no precedent of a servant bringing an action against his master for carelessness of a fellow servant, and, therefore, the Court was at liberty to look to the consequences of establishing such liability. Instances were given, such as that the owner of a carriage would be responsible to his coachman for the harness-maker, &c, which showed the absurdity of such argument. The next case was Hutchinson *v.* York and Newcastle and Berwick R.R., 5 Exchequer Reports, where several servants being employed by the same master, an injury to one occurred through the negligence of the others, and the same principle was followed. See also Barwell *v.* Corporation of Boston, 4 Metcalf's Rep., and Waller *v.* South Eastern R.R., vol. 9, New Series of the Jurist. Following the doctrine established in these cases, the judgment dismissing the plaintiff's action must be confirmed.

TESSIER *v.* BIENJONETTI.

HELD—That a deed of donation of real estate will not be considered fraudulent because the donor had a chirographary creditor, who obtained judgment against him eighteen months after the donation, which was made for good consideration; and the seizure and sale of the land donated in the donee's possession at the instance of the chirographary creditor will be set aside.

BADGLEY, J.—The circumstances of this case were as follows:—On the 29th January, 1861, one Legault made an *acte* of donation before notaries by which he conveyed to the plaintiff certain real estate in Soulanges, for the consideration mentioned in the deed. Tessier at once entered into possession of this land under the deed of donation. While the land was in his possession Bienjonetti, a chirographary creditor of Legault, obtained judgment against the latter in 1862, more than eighteen months after the date of the deed of donation, and during the time the plaintiff was the proprietor and holder of the land. Being only a chirographary debt, there could have been no real hypothecary claim upon the property by virtue of it. In due time execution was issued against the lands and tenements of Legault by Bienjonetti, and this lot of land was seized in the plaintiff's possession, as being the property of Legault. Now it was generally known, and known by the defendant also, that this land did not belong to Legault, but that the plaintiff was its reputed proprietor, and in actual possession of it as such. There could be no doubt that Bienjonetti was aware that the actual possession of the property was in the plaintiff, by virtue of the deed of donation. It would appear that by some mistake or other the plaintiff was too late to make his opposition to the sale, and he attended at the *décret*. The object of his attendance must have been to secure the property from being sold for less than he had paid for it. It was adjudged for £93 to Bienjonetti. Steps were taken by Tessier to prevent any title from being given. No money had been paid by Bienjonetti except the costs of the proceedings. The Court saw no difficulty in the case. The property did not belong to the defendant, and Bienjonetti was not even a mortgagee. At the time the property was sold he had no right or claim whatever against the land itself, or against its then owner. It had been said that the sale or donation was fraudulent, but this was not true, for Bienjonetti was only a chirographary creditor, and the property was only worth about £100, which was more than cov-