Held, that, as the plaintiff's claim was based wholly upon a common law right of action, the rule of common employment applied, and he was bound to shew that the injury had resulted from some negligent practice on the part of the foreman of which the defendants were aware, and that, as he had failed to shew this, he could not recover.

Bartonshill Coal Co. v. *Reid*, 3 Macq. 290, followed.

Smith v. *Baker* (1891) A.C. 325; *Sword* v. *Cameron*, 1 Sc. Sess. Cas., 2nd Ser. 493, and *Pattersons* v. *Wallace*, 1 Macq. 748, distinguished.

Appeal from judgment of MACDONALD, J., noted vol. 45, p. 573, dismissed with costs.

Trueman, for plaintiff. *Galt*, K.C., and *Towers*, for defendants.

Full Court.] WILLIAMS *v.* BOX. [February 21.

Mortgagor and mortgagee—Foreclosure—Real Property Act, R.S.M. 1902, *c.* 148, *ss.* 71, 113, 114 *and* 126—*Certificate of title, effect of.*

Appeal from decision of MATHERS, J., noted in vol. 45, p. 491, dismissed, RICHARDS, J.A., dissenting.

Robson, K.C., and *Coyne*, for plaintiff. *Wilson*, K.C., for defendant.

Full Court.] [March 2.

SEYMOUR *v.* WINNIPEG ELECTRIC RY. CO.

Negligence—Street railway—Liability for injury to person risking his life to save that of another.

A statement of claim alleging, in effect, that a child about two years of age had fallen on the track of the defendants' street railway on a public street in the city; that one of the defendants' cars was approaching the child at a high rate of speed, and that, owing to the negligence of the motorman in charge of the care in not stopping it, the child's life was endangered without negligence on her part, that the plaintiff, observing this, necessarily rushed in front of the car in an attempt to save the child, and that, owing to the motorman's negligence in not stopping the car or reducing its speed, he was struck and injured by the car, discloses a good cause of action.

Eckert v. *Long Island Railroad Co.*, 43 N.Y. 502, followed.

Anderson v. *Northern Railway Co.*, 25 U.C.C.P. 301, distinguished.