

tractor to maintain an action for the whole amount due thereunder.

The judgment appealed from, 16 Man. R. 366, was reversed. DAVIES and MACLENNAN, JJ., dissented on the ground that the evidence was too unsatisfactory to justify an extension of the time. The court refused to quash the appeal on the ground that the right of appeal had been taken away by s. 36 of the statute above referred to.

C. P. Wilson, and A. E. Hoskin, for plaintiff, appellant.
Alex. C. Galt, for respondents.

Man.]

McNICHOL v. MACCOLM.

[June 24.

Landlord and tenant—Negligence—Master and servant—Acts in course of employment—Alterations—Damage by steam—Responsibility of contractors—Control of premises—Cross-appeal between respondents—Practice.

In the lease of a shop the landlord agreed to supply steam heating, and, in order to improve the system, engaged a firm of plumbers to make alterations. Before this work was completed and during the absence of the tenant, the plumbers' men who were at work in another part of the same building, with steam cut off for that purpose, at the request of the caretaker employed by the landlord, turned the steam on again, which, passing through unfinished pipes connected with the shop escaped through an open valve in a radiator and injured the tenant's goods.

Held, that the landlord was liable in damages for the negligent act of his caretaker in allowing steam to be turned on without ascertaining that the radiator was in proper condition to receive the pressure, and that the plumbing firm was also responsible for the negligence of their employees in turning on the steam, under such circumstances, as they were acting in the course of their employment in what they did although requested to do so by the caretaker. The judgment appealed from, 16 Man. R. 411, was affirmed with a variation declaring the plumbers jointly liable with the landlord. The action was against the two defendants jointly, and the plaintiffs obtained a verdict at the trial against both. The Court of Appeal confirmed the verdict as to McN., and dismissed the action as to