belonged to him. After she leased the land the plaintiff and her husband and their family continued to live on the homestead as before, and the actual farming work on the land was done for the most part by the husband and two men, who had worked for him before the lease was made to the plaintiff. The court was satisfied that the hiring of the husband as a farm servant was no more than an empty form, and colourable. The only evidence as to such hiring and as to the manner in which the farm work was managed and carried on was that of the plaintiff and her husband, and the court held that it failed to prove definitely that the plaintiff conducted and managed the farming operations separately from her husband, and suggested the suspicion that her assuming to carry on the farm was colourable, and little more than nominal, and that her husband had a part in the conduct and management of the farming operations as well as in the manual work.

Per DUBUC, J.: There is sufficient evidence to support the findings of the trial judge on the facts, and this case should be decided on the principles laid down in *Murray* v. *McCallum*, 8 A.R. 277; *Dominion Loan and Investment Company* v. *Kilroy*, 14 O.R. 468; *Lavell* v. *Newton*, 4 C.P.D. 7; and *Ingram* v. *Taylor*, 46 U.C.R. 52; and the verdict should not be disturbed.

Verdict for the plaintiff set aside, and verdict entered for the defendants.

Cooper, Q.C., and *Barrett* for the plaintiff.

Culver, Q.C., for the defendants.

Full Court.] [May 18.

WOOLLACOTT *v.* WINNIPEG ELECTRIC STREET RAILWAY CO.

Trial by jury—Action for damages—Application for a jury.

The plaintiff in this case sought to procure an order for a trial of the issues and assessment of damages by a jury under the Jury Act, R.S.M., c. 81, ss. 60, 61, the effect of which is to provide that actions of libel and slander shall be tried by a jury, but that if a jury is desired by either of the parties in any other civil action or proceeding at law an application must be first made to a judge for an order to that effect.

It was contended on behalf of the plaintiff that the issues in this case should be tried by a jury because there would be a considerable conflict of testimony, and a difficulty in assessing damages, and that such actions were usually tried by a jury and not by a judge. His claim was for damages for being knocked down and injured by a car of the defendants, being run along the street at a high rate of speed and without sufficient warning.

Held, that the former policy of the law which entitled parties to a trial by jury if they wished had been changed by 51 Vict., c. 1, s. 33, and that now the onus is thrown upon the party who wishes a trial by jury, except in cases of libel and slander, of showing that the case should be tried by a jury and not by a judge, and that no sufficient reason was shown in this case why a special order for a jury should be made.

Thornton v. *Union Discount Co.*, 7 T.L.R. 322, 410, followed.

Judgment of DUBUC, J., refusing the application, affirmed.

Perdue for the plaintiff.

Munson, Q.C., for the defendants.