

He contends that in every case where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required, so as to shew that the buyer relies on the seller's skill or judgment and the goods are of a description which it is in the course of the seller's business to supply, there is an implied warranty that the goods shall be reasonably fit for such purpose. This, no doubt, is the common law of England as now contained in section 14 of the Sales of Goods Act.

Applying then the facts of this case to this law it seems to me that it must be held that the plaintiff did by implication when he bought the cartridges in question make known to the defendants the purpose for which the goods were required. It was not necessary that the purchaser should say to the defendants that he intended to shoot with the cartridges. The cartridges could have been used for no other purpose. On the other hand, I do not see how it can be said that the buyer relied in any way on the seller's skill or judgment. The purchaser knew that what he was buying were goods not made by the defendants, but manufactured by the Union Metallic Cartridge Company, well-known makers of repute, and sold by the defendants in a sealed package as it had come from the makers. The goods were of that description which it was in the course of the sellers' business to supply, so that all that is lacking in this case to create the implied warranty is the fact that the plaintiff did not rely upon the sellers' skill or judgment. But it seems to me that the case comes under the proviso of section 14 (1) of the Sales of Goods Act, "that in case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose."

Mr. McCullough contends that this proviso is not a declaration of the common law and therefore not in force in this province. (It is to be hoped that some day we may have a Sales of Goods Act enacted in this Province so that such questions will not be raised). But *Chanter v. Hopkins*, 4 M. & W. 399, and *Olivant v. Bayley*, 5 Q. B. 288, are authorities against this contention and in favour of the view that the proviso is part of the common law and therefore in force in this province.

The plaintiff here bought a specified article under the trade name U. M. C., or the Union Metallic Cartridge Com-