ranty that the engine would be "quiet running" but only a recommendation of the type of engine chosen for the work required. The clause was general in its terms and had not in view any particular use of the engine

Chalmers v. *Harding*, 17 L.T. 571, foll wed.

Hull and *Sparling*, for plaintiffs. *H. A. Burbidge* and *F. M. Burbidge*, for defendant.

Metcalfe, J.] [October 26.

HEWITT v. HUDSON'S BAY CO.

Workmen's Compensation for Injuries Act—"Workman," meaning of—Sales clerk not a workman—Trial by jury—King's Bench Act.

A sales clerk in a shop is not a workman within the meaning of that term, as used in the Workman's Compensation for Injuries Act, R.S.M. 1902, c. 178, so that an action by a sales clerk against his employee for damages for injury alleged to have been sustained through the employee's negligence, is not one which, under section 59 of the King's Bench Act, R.S.M. 1902, c. 40, must be tried by a jury.

To entitle a workman to the benefit of the Act, the labour performed must be manual.

Bound v. *Lawrence* (1892), 1 Q.B. 226, followed.

Deacon, for plaintiff. *Rothwell*, for defendants.

Mathers, C. J.] [November 2.

PARKS v. CANADIAN NORTHERN RY. CO.

Railway company—Liability for animals killed on track—Railway Act, R.S.C. 1906, c. 37, s. 294, sub-ss. 4 and 5—Fences—Construction of statutes—Negligence or wilful act or omission of owner of animals getting at large.

The liability of a railway company, under sub-sections 4 and 5 of section 294 of the Railway Act, R.S.C. 1906, c. 37, for damages in the case of animals at large killed or injured by a train, is not limited to territory where the company is by section 254 obliged to erect suitable fences, and the company can only escape such liability by shewing that the animal got at large through the negligence or wilful act or omission of the owner or his agent or the custodian of such animal or his agent.