

[IN THE COURT OF APPEAL.]

MANSELL *v.* GRIFFIN.

C. A.

1908

March 13.

*Assault—Schoolmaster—Assistant Teacher—Public Elementary School—
Corporal Punishment—School Regulations—County Court—New Trial.*

APPEAL from the judgment of a Divisional Court (Phillimore J. and Walton J.), reported ante, p. 160.

The action was brought in the county court by a girl who had been a pupil in a public elementary school, through her father, as next friend, against an assistant mistress in the school, for assault.

The jury having found certain findings in answer to questions left to them by the county court judge, upon the application of the plaintiff the judge ordered a new trial on the ground that the jury was biassed, and also that one of their findings was against the weight of the evidence. The defendant appealed against this order, on the ground (*inter alia*) that there was no evidence of bias on the part of the jury.

The Divisional Court, being of opinion that there was no evidence of bias on the part of the jury, referred the case back to the county court judge that he might consider whether he would grant a new trial on the ground that the verdict of the jury was against the weight of the evidence, taking that ground by itself. See the report of the case in the Court below. (1)

The plaintiff appealed against the order of the Divisional Court.

H. M. Sturges, for the plaintiff.

H. Lynn, for the defendant.

THE COURT (Lord Alverstone C.J., Farwell L.J., and Kennedy L.J.) dismissed the appeal, and, under the circumstances, did not think it necessary to express any opinion on the question of law with regard to the authority of an assistant teacher in a public elementary school to inflict corporal punishment on a

(1) Ante, pp. 164, 168, 169.

C. A. pupil otherwise than in accordance with the school regulations,
 1908 which had been dealt with in the Court below.

MANSELL

v.

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Appeal dismissed.

Solicitors for plaintiff: *C. T. Courtney Lewis, for Langley-Smith & Son, Gloucester.*

Solicitors for defendant: *Baker & Nairne.*

E. L.

C. A.

[IN THE COURT OF APPEAL.]

1908

March 13.

SMITH'S DOCK COMPANY, LIMITED v. TYNEMOUTH CORPORATION.

Rates—General District Rate—Occupation of Land—“Land covered with Water”—Pontoons floating over excavated Ground—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 211, sub-s. 1 (b).

The appellants (1), a dock company, were the owners and occupiers of certain hereditaments on the north-west bank of the river Tyne. Part of the hereditaments consisted of a yard with buildings used for building and repairing ships. The appellants excavated a certain space of ground alongside of their yard which before the excavation was dry land belonging to them. After the excavation the water of the Tyne flowed at all states of the tide over the excavated ground. The appellants constructed two pontoons which were used by them in their business of repairing ships. The most important part of the appellants' business was done by means of the pontoons. The pontoons floated over the excavated ground, each pontoon being kept in position by iron arms or booms working up and down on hinges as the tide rose or fell. The arms were arranged in pairs one above another, and were attached at one end to the pontoon and at the other to piles driven into the excavated ground; but the pontoons could be detached from the piles, and might have been kept in position by means of chains instead of the iron arms:—

Held (affirming the decision of a Divisional Court)—(1.) that the appellants were in occupation of the excavated land so as to be rateable in respect of it, inasmuch as they were in occupation of the land before and during the excavation, and afterwards the most important part of their business was done over the site; (2.) that the excavated

(1) The terms “appellants” and relation of the parties at quarter
 “respondents” are used throughout sessions.
 this report with reference to the