

no power to sell, yet of late years the Probate Division considered it had greater powers than the old Ecclesiastical Court in this respect.

ASSAULT — SCHOOL MASTER — ASSISTANT TEACHER — CORPORAL PUNISHMENT OF PUPIL—SCHOOL REGULATIONS—NEW TRIAL —BIAS OF JURY—WEIGHT OF EVIDENCE.

In *Mansell v. Griffin* (1908) 1 K.B. 160 a Divisional Court (Phillimore and Walton, JJ.) deal somewhat elaborately with an appeal from the order of a judge of a County Court granting a new trial. The action was brought by the plaintiff, a pupil in a public school, against the defendant, an assistant teacher, to recover damages for an assault, the facts being that the defendant had struck the plaintiff with a flat ruler on the arm, for a breach of school discipline. The plaintiff's arm was covered at the time, and the defendant had no knowledge that the plaintiff was, as the fact was, suffering from cartilaginous tumours, and the blows fell on one of these tumours which produced a more serious effect than would have been caused in the case of a child in normal health. The rules of the school provided that corporal punishment of pupils was only to be inflicted by the head master, and all such punishments were to be by birch or cane; but there was no evidence that the parents of the plaintiff had any knowledge of this regulation. The jury found the punishment inflicted was moderate, and that the instrument used was improper according to the school regulations, but was not so hurtful as a birch or cane: that the defendant had exceeded her authority under the regulations, and that there was no damage. On these findings the judge of the County Court entered judgment for the defendant but on the application of the plaintiff granted a new trial on two grounds: (1) A suspicion of bias on the part of the jury, and (2) That the first finding was against the weight of evidence. The Divisional Court held that there was no evidence on which a new trial could be granted on the ground of bias, but on the question of the weight of evidence, which was a matter of discretion, they declined to overrule the County Court judge, but remitted the case to him for reconsideration on that point. On the merits of the case the Divisional Court was of the opinion that the rules as to punishment were domestic regulations, and not being known to the parents, did not affect the implied authority which they might be presumed to have delegated to the defendant to