

arise, was matter of defence, and the fact that the amount of the note formed one of the items of the account kept by the plaintiff with the defendant and Mrs. James, if of any importance at all, did not affect the question of jurisdiction. These were matters of defence, which the judge, having jurisdiction to try the action, had jurisdiction to pass upon.

J. M. Ferguson, for plaintiff. *Shirley Denison*, for defendant.

Meredith, C.J.C.P., Britton, J., Clute, J.]

[April 28.

McMURRAY v. EAST MISSOURI SCHOOL SEC. NO. 3.

Public schools—Teacher's salary—Written agreement.

Appeal by defendant from the judgment of the County Court of Oxford in favour of the plaintiff, the jury having found a general verdict for the plaintiff, assessing the damages at \$50, for which sum judgment was entered. It was not disputed that the plaintiff was engaged as a teacher for 1908, but the agreement was not reduced to writing. The defendants contended that this being so it was not binding on them. Sec. 81, sub-s. 1, of the Public Schools Act, 1 Edw. VII. c. 39, provides that: "All agreements between trustees and teachers shall be in writing, signed by the parties thereto, and shall be sealed with the seal of the corporation."

Held, that the case of *Birmingham v. Hungerford*, 19 C.P. 411, settles this question in favour of the defendants. That case was decided under 23 Vict. c. 49, s. 12. The present statute, 1 Edw. VII. c. 39, s. 81, sub-s. 1, is the same, with the exception that the words, "to be valid and binding," which were used in s. 12 have been dropped in subsequent consolidations, but the dropping of these words has not altered the effect of the provision. See *Young v. Corporation of Leamington*, 8 Q.B.D. 579, 8 App. Cas. 517. The conduct of the defendants having been unmeritorious the appeal was allowed without costs and the action dismissed without costs.

C. A. Moss, for defendants. *J. L. Ross*, for plaintiff.