

SCHOOL TEACHERS AND PUPILS.

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(a) In the case of *Lander v. Seaver*,²⁵ it was held that, although a school master has in general no right to punish a pupil for misconduct committed after the dismissal of the school for the day and the return of the pupil to his home, yet he may, on the return of the pupil to school, punish him for any misbehaviour, though committed out of school, which has a direct and immediate tendency to injure the school or subvert the master's authority.

In the recent case of *Derkins v. Goss*,²⁷ decided that the teacher has the right to make a rule, and to enforce it by whipping, prohibiting the boys from swearing, quarrelling or fighting on their way home from school and before the parental authority over them has been resumed.

(b) But it has been held that the teacher had no right to compel the pupil to study certain branches when the pupil was excused therefrom by his parent, and that if the teacher attempted to force the pupil so to do and the pupil refused and the teacher inflicted corporal punishment upon such pupil for such refusal, that the teacher would be guilty of assault and battery.²⁶

And it was said that until compulsory education was established that the court was unwilling to establish the rule that a teacher may punish a pupil for not doing something the parent has requested the pupil to be excused from doing.²⁸

The fact that the school was a public one, in which the studies were prescribed by statute, did not vary the general rule as to the right of the parent to direct the omission of a part of the prescribed studies.²⁹

4. *Power of Expulsion*.—The teacher has not, it seems, a discretionary power of expulsion, but only for reasonable cause.³⁰ The power of expulsion is usually placed in the hands of the school directors or other committee in charge of the school. And the teacher generally has power only to suspend the pupil until the matter can be brought to the atten-

tion of such superior body. This is regulated by statute in some of the States.³² For a wrongful expulsion the teacher would be liable in damages, not only to the child, but in *Roe v. Deming*, it was held that the father of a child, entitled to the benefits of the public school of the subdistrict of his residence, may maintain an action against the teacher of the school and the local directors of the subdistrict for damages for wrongfully expelling the child from school.³³

This question was very thoroughly discussed in *State v. Burton*,³⁴ in which it was said that "the teacher is responsible for the discipline of his school, and for the progress, conduct and deportment of his pupils. It is his imperative duty to maintain good order and require of his pupils a faithful performance of their duties. If he fails to do so he is unfit for his position. To enable him to discharge these duties effectually he must necessarily have the power to enforce prompt obedience to his commands. For this reason the law gives him the power, in proper cases, to inflict corporal punishment upon refractory pupils. But there are cases of misconduct for which such punishment is an inadequate remedy. If the offender is incorrigible, suspension or expulsion is the only adequate remedy. In general, no doubt, the teacher should report a case of that kind to the proper board for its action in the first instance, if no delay will necessarily result from that course prejudicial to the best interests of the school. But the conduct of a reculant pupil may be such that his presence for a day or an hour may be disastrous to the discipline of the school and even to the morals of the other pupils. In such a case it seems absolutely essential to the welfare of the school that the teacher should have the power to suspend the offender at once from the privilege of the school; and he must necessarily decide for himself whether the case requires that remedy. If he suspend the pupil, he should promptly report his action to the board. It will be seldom that the teacher in charge of the school will be compelled to exercise this power, because usually he can readily communicate with

²² 32 Vt. 114.

²³ 20 Cent. L. J., 418; S. C. Mo. 1885.

²⁴ *Morrow v. Wood*, 13 Am. Law Reg. (N.S.) 693.

²⁵ *State v. Mizner*, 50 Iowa, 145; 32 Am. Rep. 128.

²⁶ *Id.*

²⁷ *Fitzgerald v. Northcote*, 4 F. & F. 685.

³² Rev. Stat. Ohio, 4014.

³³ Ohio St. 666.

³⁴ 18 Am. Law Reg. 233; S. C. Wis., 1879.