

SCHOOL TEACHERS AND PUPILS.

In an English case, where, on the boy's return to school, his master wrote to the boy's parent, proposing to beat him severely, in order to subdue his alleged obstinacy, and on receiving the father's permission, beat the boy for two hours and a half, secretly in the night and with a thick stick until he died, it was held that he was guilty of manslaughter and not murder, no malice being proven.¹⁷

And in the absence of all proof the law presumes that the teacher punishes his pupil for a reasonable cause and in a reasonable manner.

But this presumption, like all other legal presumptions, may be rebutted by proof.¹⁸ And the teacher has the right to show that the chastisement was reasonable, and for misconduct in school.¹⁹

(e) And the teacher's right to chastise his pupils is not affected by the fact that the pupil, voluntarily in the school, is of lawful age and, therefore, not entitled to attend school.²⁰

Upon this question the Supreme Court of Maine makes use of the following language: "But it is insisted that if such is the authority over one who is in the legal contemplation a scholar, the same cannot apply to the case of one who has no right to attend the school as a pupil. It is not necessary to settle the question whether one living in the district and not being between the age of four and twenty-one years can, with propriety, require the instruction of town schools. If such does present himself as a pupil, is received and instructed by the master, he cannot claim the privilege and receive it, and at the same time be subject to none of the duties incident to a scholar. If disobedient, he is not exempt from the liability to punishment, so long as he is treated as having the character which he assumes. He cannot plead his own voluntary act, and insist that it is illegal, as an excuse for creating disturbances, and escape consequences which would attach to him either as a refractory, incorrigible scholar, or as

one who persists in interrupting the ordinary business of the school."

(f) And the teacher has the right to punish the pupil within the bound of law, even though he has instruction from the father that the child must not be whipped.²¹ He is the absolute judge of the kind of punishment to be inflicted, with the limitation that it shall be reasonable and usual, and not destructive of the relation, or subversive of the contract under which the relation exists.²² It may be by whipping, or he may impose any reasonable restraint upon the person of the pupil which will prevent disorder in his school.²³

But it was held that where a person took a pupil into his house, agreeing to instruct and protect him and provide for his physical wants, he was not entitled to turn him out into the street, withdraw his care, and deny him shelter and the comfort of his home, under the name or form of punishment. Such mode of punishment is neither reasonable or usual.²⁴

3. *Jurisdiction*.—It is conceded that the right to punish extends to school hours, and that there seems to be no reasonable doubt that the supervision and control of the master over the pupil extends from the time he leaves home to attend school till he returns home from school.

In the recent case of *Balding v. State*, the Court of Appeals in Texas held that a public school teacher may require the preparation of lessons at the home of the scholar: "Teachers have the same right, the same as parents, to prescribe reasonable rules for the government of children under their charge, and to enforce by moderate restraint and correction, obedience to such rules. This authority of a teacher over his pupils is not, in our opinion, necessarily limited to the time when the pupils are in the school-room, or under the actual control of the teacher. Such authority extends, we think, to the prescribing and enforcement of reasonable rules and requirements, even while the pupils are at their homes."

¹⁷R. v. Hopley, 2 F. & F. 202.

¹⁸State v. Mizner, 50 Iowa, 145; 8 C., 32 Am. Rep. 128; Hathaway v. Rice, 19 Vt. 102.

¹⁹State v. Mizner, 43 Iowa, 248; 8 C., 24 Am. Rep. 769.

²⁰Id.

²¹Stewart v. Fassett, 27 Me. 266, 287.

²²24 Reporter, 314; 8 Cin. Law Bul. 217.

²³State v. Marx, Straus, 3 Tenn. Law Rep. 19.

²⁴Star v. Litchfield, 40 Barb. 511.

²⁵Fitzgerald v. Northcote, 4 F. & F. 650; Cooley on Torts, 171.

²⁶Star v. Litchfield, 40 Barb. 541.