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An Honorable Mention at Paris Exhibition, 1876.
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The Publishers frequently receive letters from their friends complaining of the non-receipt of the JOURNAL. In explanation they would state, as subscriptions are necessarily payable in advance, the mailing clerks have instructions to discontinue the paper when a subscription expires. The clerks are, of course, unable to make any distinction in a list containing names from all parts of the United States and Canada.

HOME LESSONS IN ENGLAND.

The following extract gives a view of the bearings of the new Code on power to exact "home lessons." At the request of a number of parents at Bradford the following case was submitted to counsel for opinion:—

(1) "Whether the School Board duly constituted under the Acts for the borough of Bradford, or any committee of that board, have any legal right under the Acts or the Code of the Governmental Department or the by-laws and regulations of the board to exact 'home lessons' and to dispose of the time of children attending any of the schools of the board out of school hours; and if any such right purports to be conferred by any of the board's by-laws and regulations, whether the by-laws and regulations purporting to confer that right are not 'ultra vires'?"

(2) "Whether any child who may be corporeally or otherwise punished by any officer or teacher of the board for neglecting or refusing to learn or do 'home lessons' has any, and if so, what right of action, criminal or civil, against such officer or teachers, or against the board?"

OPINION.

1. "I am of opinion that there is nothing in any of the Acts of Parliament relating to public elementary education, in the Code of the Governmental Education Department, or in the by-laws and regulations of the School Board for the borough of Bradford made in pursuance of such Acts, which entitles the School Board for the borough of Bradford, or any committee of that board, to exact 'home lessons,' i. e., to dispose of the time of children attending any of the schools of the board out of school hours, without the express or implied authority of the respective parents or guardians of such children respectively: The authority of a parent is only second to that of the State, and unless a court of law has interfered to prevent him exercising such authority or there is some statutory or common law obligation against which the parent exercises his authority it is paramount, and he may dispose of the time and occupation of his child in any manner which in his opinion is best. There is no common law liability of a parent to educate his children. The Education Acts of 1870 and 1876 are the

only ones which create any statutory obligation of a parent to educate his children; and in construing these Acts it must be remembered that they are penal and must be construed strictly. The sections referred to below are the ones which create this liability. By the 74th section of 33 and 34 Vic., c. 75, it is enacted that the School Board may make by-laws *inter alia* (1) requiring parents of children between five to thirteen to attend school (and by a later statute this permissive power is made compulsory); (2) determining the time during which children are to attend.

"It is therefore quite clear that the Education Acts create no duty beyond that of causing children to attend school during school hours, and give no authority to the teachers of schools conducted under the Education Acts to dispose of the time of children out of school hours which they did not possess before these Acts.

"The authority which a teacher derives at common law is one delegated by the parent, and thus standing in *loco parentis* the teacher 'has a portion of the power of the parent committed to his charge—viz., that of restraint or correction as may be necessary to answer the purpose for which he is employed.' The Education Acts having made the attendance of children at school during certain hours practically compulsory, the teacher is by these Acts clothed with such power of the parent as may be necessary for carrying out the purposes of the Act—viz., the education of children during school hours; any further power must be derived from the parent, and if a parent expressly forbids his child to prepare 'home lessons' the implied delegated authority is negated, and the teacher has no power to inflict any punishment for the neglect of such child to prepare such lessons.

"Not only do the Acts not provide for 'home lessons,' but there is a section of the Act of 1876 which negatives the power of teachers to employ the time of children attending school out of school hours. By sections 5 and 6 of 39 and 40 Vic., c. 79, a penalty is imposed upon any person who takes into his employment (except as mentioned in section 9) children of ten or above ten who have not obtained the certificate therein mentioned. Section 9 provides that a person is not to be deemed to have taken any child into his employment contrary to the provisions of the Act if it is proved to the satisfaction of the court (*inter alia*) 'that such employment, by reason of being during school holidays or during the hours during which the school is not open, or otherwise does not interfere with the efficient elementary instruction of such child, and that the child obtains such instruction by regular attendance for full time at a certified efficient school.'

"That a child attending a certified school regularly during school hours may be employed out of school hours, although the certificate of proficiency named in the Act has not been obtained, clearly shows that the Acts do not between school hours interfere with the common law right of a parent to dispose of the time and occupation of his child as he may please.

"If any such right as the one referred to in the case purports to be conferred by any of the board's bye-laws or regulations, such bye-laws and regulations are, for the reasons before stated, *ultra vires*, and consequently void.

2. "From the above it follows that a teacher who punishes a child by corporal or other forcible punishment for neglecting to prepare 'home lessons' by command of his father is acting outside the scope of his authority under the Education Acts, and in direct opposition to the one through whom he must claim any authority not derived from such Acts, and would be