

filled with some soft substance); as less likely to produce injury, should a blow, by accident, fall elsewhere than upon the hand. This ferule was shown to be a common implement of punishment in schools, and to be in use in several of the other public schools of the city.

When the recess was over, the girl was directed to return to the recitation-room by the teacher, who requested a female assistant to accompany her there. Miss Gray then informed the pupil that she must submit to the punishment, and endeavored to reason her into acquiescence. The girl refused, saying, as before, "I won't be whipped;" and immediately, and before any blow was struck, set up a loud screaming, and, as the teacher made an attempt to inflict a blow upon her hand, she violently resisted. Up to this time, the assistant had remained a passive observer of what was taking place; but the teacher, finding it impossible to inflict the punishment alone, now asked the assistant to help her. Miss Hodges, accordingly, held Josephine's left hand, while Miss Gray inflicted several moderate blows upon the right hand. These blows were not severe, and could not have occasioned much pain. It was the opinion of both ladies that the girl's outcries, which she began before the first blow was given, arose from anger and the desire to make a sensation.

As these outcries disturbed the school, the principal, entering the recitation room, ordered Josephine to cease screaming, and, taking her hand, he told her that she must be punished until the outcry was stopped. This ceased shortly, but five blows being administered in Mr. Roberts' presence. After the principal left the recitation-room, Miss Gray entered into conversation with Josephine; remarking to her that she would not have insulted or resisted Mr. Roberts, and that the teacher must be respected and obeyed equally with the principal, in his absence and while exercising his authority. After considerable persuasion, the girl held out her hand voluntarily, and received from three to five light blows.

The assistant then left the room, and Miss Gray continued her efforts to produce a good effect from the discipline administered. In this labor she had reason to suppose herself successful, when, while sitting with her arm around the pupil, and engaged in friendly conversation with her (the school having been dismissed), they were interrupted by the violent entrance into the room of the girl's mother, brother, and sister, accompanied by another person, evidently laboring under great excitement produced by an exaggerated account of the affair, the mother at once proceeded, in her daughter's presence, to denounce the teachers, in an angry manner, for the punishment. But, after an explanation, she then, as in her testimony at the hearing, conceded the propriety of some corporeal punishment of her daughter, although she objected to the manner in which it was inflicted. In all, from fifteen to twenty blows were inflicted. These were administered by Miss Gray alone, and were upon the hand only. Josephine and her mother testified, that, for four days, her left arm and thumb bore marks which were caused by the others holding her. Her right hand, they also testified, showed some red marks, which disappeared by eight o'clock of the same evening. It appeared, at the hearing, that another teacher had been obliged to whip Josephine, for serious misconduct, a few months previous to this occasion; and that, during the preceding three or four months, she had disobeyed the principal of the school as often as once in two or three days. It also appeared, that the girl was a member of the third class, and that her teachers supposed her to be not over thirteen years of age. The common age of members of that class is even less than that. The Allston School, at the time of this occurrence, numbered over five hundred pupils. Mr. Roberts has been its master for eighteen years, and Miss Gray and Miss Hodges both are teachers of several years' experience.

The following rule was in force at the time of this occurrence:

"Discipline.—It is enjoined on the instructors to exercise vigilant, prudent, and firm discipline, and to govern by persuasion and gentle measures, as far as practicable. In every case in which a teacher shall think it necessary to inflict corporeal punishment, said teacher shall make and preserve a statement in writing of the nature of the offence, and the severity of the punishment; which statement shall be subject to the inspection of the sub-committee of the school."—*Regulations of the Public Schools of Cambridge*, chap. ii. sec. 9.

The Committee's Address says,—“In respect to corporeal punishment, the schools of Cambridge are, and have always been, subject to the principles, and under the protection, of the common law, which prevails throughout the land. What the wisdom of our courts and legislation, tender of personal rights, allows, and nothing beyond that, may be done here, as elsewhere. We have no peculiar rule. We confer no extraordinary power upon our teachers. The rule on this subject has been of long standing, and existed when several of the gentlemen who, in their petition asking for its

essential modification, express themselves as “shocked by the fact brought to light” regarding its existence, by the Foster case, were themselves members of the Board.

By the public law, the teacher stands to the pupil *in loco parentis*. What a father may lawfully do in the correction of his child, the teacher may do to the pupil. The authority of the teacher over the child in school, in matters of discipline, is measured exactly by the authority of the parent in the home government. Neither may abuse the child. Both have the right to inflict corporeal punishment; but both must act from proper motives, and administer the correction in a proper manner. There can be no dispute about these principles. They are sustained by numerous decisions. This subject has recently received the attention of the Supreme Court of Vermont, who, in the course of an able opinion, use the following language:—

“A schoolmaster has the right to inflict reasonable corporeal punishment. Much difference prevails as to the circumstances which will justify the infliction of punishment, and the extent to which it may properly be administered. On account of this difference of opinion and the difficulty which exists in determining what is a reasonable punishment, and the advantage which the master has by being on the spot to know all the circumstances, the manner, look, tone, gestures, of the offender (which are not always easily described), and thus to form a correct opinion as to the necessity and extent of the punishment, considerable allowance should be made to the teacher by way of protecting him in the exercise of his discretion. Especially should he have this indulgence when he appears to have acted from good motives, and not from anger or malice. Hence the teacher is not to be held liable on the ground of excess of punishment, unless the punishment is *clearly* excessive, and would be held so in the general judgment of reasonable men. But, if there is any reasonable doubt whether the punishment was excessive, the master should have the benefit of that doubt.”

On the point whether the *instrument* used by the teacher in inflicting the punishment was a proper one, the Court remark:—

“Evidence that the same kind of instrument was used in other schools in the vicinity will rebut the charge of malice, by showing that the teacher did not resort to an unusual instrument.”—*Lander v. Seaver*, 32 Vermont R., 123.

And to the same effect is the decision of the Supreme Court of North Carolina, in the case of *The State v. Peudergrass*, 2 Dever. & Bat. R., 365, wherein the Court say:—

“The teacher is the substitute of the parent, and is charged in part with the performance of his duties, and in the exercise of these delegated duties is invested with his power. Within the sphere of his authority, the master is the judge when correction is required, and of the degree of correction necessary; and like all others intrusted with a discretion, he cannot be made penally responsible for error of judgment, but only for wickedness of purpose. His judgment must be *presumed* correct, because he is the judge, and also because of the difficulty of proving the offence, or accumulation of offences, that called for correction; of showing the peculiar temperament, disposition, and habits of the individual corrected; and of exhibiting the various milder means that may have been ineffectually used before correction was resorted to.”

(See also *Stevens v. Fassett*, 27 Maine, 280; *Commonwealth v. Randall*, 4 Gray, 36; *Reeves' Domestic Rel.* 374, 375; *Wharton's Amer. Crim. Law*, 1259; 2 Kent Com., 205.)

Again:—“But there are substitutes for the rod worse than the rod itself. An eminent Massachusetts judge, whose jurisdiction made him familiar with the treatment of sailors, has expressed the opinion, that, since the abolition of flogging on shipboard, more cruelty has been practised toward them, under other forms of punishment, than they ever suffered from the lash. Is there no cause to fear, that this might, in some measure, prove true with children, whose teachers were forced to discover some substitute for corporeal punishment, that should, nevertheless, meet the case of the most obstinate and unruly? For, setting this aside, the teacher's range of other forms of punishment is small, and against each rises its special objection. We pass by those means of torture and cruelty, which, though sometimes resorted to, are not likely to disgrace Cambridge schools, to consider, for a moment, some of the substitutes for corporeal punishment in most familiar use.

*Deprivation of recess* may injure the health of the pupil, who, perhaps more than any other scholar, needs the pure air, or the opportunity to throw off the superabundant energy of his nature, that, pent up, drives him into the very mischief in the school-room for which he is punished. *Detaining a pupil after school* often produces inconvenience in family arrangements at home, and punishes the unoffending teacher, who must remain also, even more than the guilty pupil. There is something exceedingly repulsive in the *holding up of a scholar to ridicule* before the school, which is sometimes resorted to as a mode of discipline. Many a person dates a life of suffering back to the hour when, a sensitive child, he was