

what more could have been expected from an employer. The general rule requires of the master that he provide materials and implements for the use of his servant such as are ordinarily used by persons in the same business, but he is not required to secure the best known materials, or to subject such as he does provide to a chemical analysis, in order to settle by experiment what remote and possible hazard may be incurred by their use. This rule is recognized in the recent case of *Payne v. Reese*, 100 Penn. St. 301, in which the present chief justice said that the "duty of the master is to provide machinery and materials of an ordinary character." So also in *Crawford v. Stewart*, 19 Weekly Notes Cas. 418, which was an action to recover damages for injuries resulting from the falling of a scaffolding upon which men were at work the master was held not liable. The reason is stated by Justice Paxson, with his usual directness, in these words: "There is no evidence that the men who erected the scaffold were not competent workmen, nor that they were not supplied with suitable materials." The same rule is also stated in *Lewis v. Seyfert*, 20 Wkly. Notes Cas. 148. In the present case the work at which McCormick was employed was not a dangerous one. The place was not one that could be regarded as in any sense dangerous. The materials were those in common use for the purpose for which they were used by the defendant. The work was done under the supervision of a competent painter. The accident, happening under such circumstances, was outside the range of ordinary experience, and one therefore against which the measure of care due from the employer could not protect the servant. To hold otherwise would be to disregard the well-settled law upon the subject, and to make the employer an insurer of the safety of his employee. Penn. Supreme Court, Jan. 30, 1888. *Allison Manufg. Co. v. McCormick*.

*Schools—Authority of Teacher—Corporal Punishment.*

A pupil having been guilty of insubordination, his teacher, the appellant, after consulting with the township trustee, offered him his choice of a whipping or expulsion. He chose the former, which was inflicted with a

two-pronged switch from a tree, nine sharp blows being received. The pupil made no outcry, and the next morning came back to school as usual without showing any injury. The whipping was painful, and some abrasion of the skin was produced; but there was nothing to show any intentional, undue severity or improper motive on the part of the teacher. Held, that the evidence did not justify a conviction of assault and battery. The switch used was not an inappropriate weapon for a boy of Patrick's age of sixteen years and apparent vigor. Patrick's offence as a breach of good deportment in a school was not one to be overlooked or treated lightly. It was calculated, and was most likely intended to humiliate Vanvector in the presence of his pupils, and its tendency was to impair his influence in the government of his school. The motive was apparently revenge for having been required to stand by the stove for a time, as a punishment for a previous violation of good order. When the alternative of leaving the school or taking a whipping was presented to him, Patrick did not object to it, either as unreasonable or unjust. After consultation and mature deliberation, he decided to accept a whipping, on condition that it be administered privately. In a spirit of evident forbearance, the request thus implied was acceded to. With all these preparations in view, Patrick had no reason to expect that the chastisement would be a merely formal and painless ceremony. The legitimate object of chastisement is to inflict punishment by the pain which it causes as well as the degradation which it implies. It does not therefore necessarily follow that because pain was produced, or that some abrasion of the skin resulted from a switch, the chastisement was either cruel or excessive. When a proper weapon has been used, the character of the chastisement, with reference to any alleged cruelty or excess, must be determined by the nature of the offence, the age, the physical and mental condition, as well as the personal attributes of the pupil, and the deportment of the teacher, keeping in view the presumptions to which we have alluded. All the circumstances lead us to the conclusion that if Vanvector really gave harder blows than ought to have been given, the error was one