Crim.A. 7/53

DALAL RASSI

v.

THE ATTORNEY-GENERAL

In the Supreme Court sitting as a Court of Criminal Appeal
[July 31, 1953]
Before: Cheshin J., Assaf J., and Landau J.

Criminal Law - Assault - Principal of Orphanage - Principles of English Common Law - Jewish law - Right to inflict corporal punishment on inmates - Punishment to be humane and reasonable and for sole purpose of correcting child.

The appellant, a nun and a supervisor of an orphanage, was convicted on a number of counts of assaulting children under her care in that she had inflicted corporal punishment upon them for bad behaviour; she was fined IL. 150 and directed to furnish security for good behaviour. It was contended on her behalf that she stood in loco parentis and as such was entitled to inflict such corporal punishment on the children as she considered necessary.

Held: dismissing the appeal:

(a) that the principles of English common law should be applied according to which parents are entitled to inflict corporal punishment upon their children in order to bring them up correctly and teach them discipline;

(b) when parents send their children to a school they delegate this right to the teachers;

(c) both parents and teachers are obliged to exercise the greatest care, and may only inflict punishments which are humane and reasonable and for the sole purpose of correcting the child. They may only use methods of punishment which are not likely to involve danger to life or health;

(d) in the circumstances of this case the punishments inflicted by the appellant in this case were excessive. In view of the previous devoted service of the appellant to children and to the poor, the fine should be remitted, Landau J. dissenting on this point.

Palestine cases referred to:

(1) *Cr. A.* 31/41 *Mohammad Saleh Abu Miriam v. The Attorney-General;* (1941), *S.C.J.* 128.

(2) *Cr. A.* 8/46 *Imkheiber Hussein Kataf v. Attorney-General; (1946),* 13 *P.L.R.* 39.

(3) *Cr. A. 116/47 Hasan Amhad Atiyeh v. the Attorney-General* (1947), 2 *.L.R.* 729.

English cases referred to :

(4) *Fitzgerald v. Northcote* (1865), 4 F. & F. 656.

(5) *R. v. Hopley* (1860), 2 F. & F. 202.

(6) Cleary v. Booth (1893) 1 *Q.B.* 465.

(7) *Mansell v. Griffin* (1908) *1 K.B.* 160.

(8) R. *v. Newport (Salop) Justices v. Ex parte Wright* (1929) 2 *K.B.* 416.

Hawari for the appellant.

Miriam. Ben-Porat, Deputy State Attorney, for the respondent.

CHESHIN J. The appellant, a Greek Catholic nun, was an inspector and supervisor in the orphanage "Wassfiya" in Nazareth, of which Monsignor George Hakim is the head. In the middle of 1952 the appellant was charged in the District Court of Haifa on 27 counts, and on December 31, 1952, she was convicted on 6 counts and acquitted on the remaining counts. The offences of which the appellant was convicted are as follows: - two counts of assault under section 250 of the Criminal Code Ordinance, 1936; causing injury under section (241(a) of that Ordinance; failure to notify a death under sections 5(1)(a) and 10(1) of the Public Health Ordinance, 1940; the burial of an infant without the certificate of a licensed medical practitioner under sections 18(1) and 10(2) of that Ordinance; failure to offer foreign currency for sale to the Minister of Finance under regulation 6(1) and 1.0(3) of

the Defence (Finance) Regulations, 1941. For the first three offences the appellant was sentenced to an inclusive fine of IL. 150.- or to three months imprisonment in default of payment, and for the three last mentioned offences she was sentenced to pay an inclusive fine of IL. 11.- Apart from these punishments the appellant was ordered to provide personal security in the sum of IL. 500.- to ensure her good behaviour for a period of two years. The appellant appeals before us both against the conviction and the severity of the sentence, while the respondent has filed a cross appeal against the leniency of the sentence.

2. In regard to the three charges of assault the learned Judge said :

> "I find it proved that in the year 1951, on a date unknown, after the child Samiah Jerees Saker had run away from the institution and had returned thereto, the accused punished her by smacking her face, kicking her in the back, pulling her by the hair, and causing her pain in the lower part of her back.:
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> I also hold that on June 21, 1952, the accused, after she suspected that Afaf Jad'oun Khalil had torn a dress, smacked Afaf's face, knocked her head against a wall, threw her down to the ground, smacked her on the hands, kicked her on her legs, hit her with a stick and caused a swelling on her head.
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> The third charge proved is that relating to the child Seleen (Hazna) Jereyis Ibrahim, a girl of eleven. The child stated in evidence that on one occasion in class she was playing with a blade of grass and emitted a sound through it. When the accused heard this she smacked her face twice and thereafter pierced her lower lip several times with a needle she had taken from one of the other children, as a result of which her lip bled.

In argument before us counsel for the appellant did not challenge the findings of the learned Judge. He submitted, however, that the appellant had punished the children as parents punish their children and that she was therefore not liable for what she had done.

The question therefore arises whether, and to what extent, a teacher, the director of a school, or an inspector and supervisor in a children's institution is entitled to inflict corporal punishment upon the pupils or children in his care.

3. Our Criminal Code provides that "Any person who unlawfully assaults another is guilty of a misdemeanour" (Section 249). That is the rule, and the only exception in regard to this specific offence derives from the definition of "assault". This definition, which is found in section 248, states: "A person who strikes, touches, or moves... the person of another... *without his consent* ...is said to assault that other person, and the act is called an assault." This language shows that an assault which is committed with the consent of the victim is not a criminal assault since it lacks the elements of the offence as laid down in the Criminal Code. Can it be said that a teacher who indicts corporal punishment upon his pupil is covered by the exception to the rule stated in section 249? And if so, when, how, and on whose behalf is the consent to commit the assault given? It is not easy to give a clear and direct answer to these questions. It may be said that a father, in handing over his child to others to be educated, authorises the teacher to train the child in the way he should go by all the means at the teachers disposal, including the whip and the strap. It may also be said that the father delegates to the teacher his own authority to punish the child by corporal punishment. The question then will be - what is the source of the father's own legal power and authority? Whence does he derive the legal right to strike his son ? It is not disputed that these matters are not dealt with expressly in the written law (save for what is said in regard to a civil claim in section 25(g) of the Civil Wrongs Ordinance). We must rely, therefore, on what has been handed down from generation to generation, on custom which has acquired the force of law. In the absence of a custom such as this we must rely upon the Common Law of England.

4. It must be said at once that we are not dealing with the question of a wrongful act and its punishment from an educational point of view, but from the legal point of view alone. In other words, we are not called upon to judge which educational system should be selected by the teacher-whether he will choose the road described by the ancient sage "He that spareth his rod hateth his son; but he that loveth him chasteneth him at times" (Proverbs 13, 94), or whether he will try to achieve his purposes in other ways which do not involve physical punishment and pain. We must ask ourselves which method is permitted and which

forbidden by the Criminal Law; which actions are regarded as criminal offences and which actions are not of a criminal nature.

There is no serious dispute between counsel for the parties that a father and a teacher are entitled to punish young children in their care, and even inflict corporal punishment. The only question is one of the degree of punishment and its relationship to the seriousness of the child's bad behaviour. We may refer for this purpose to the Common Law, not only because we are required to do so by Article 46 of the Palestine Order in Council and section 4 of the Criminal Code Ordinance, 1936, but also because these provisions are applicable to this branch of the Criminal Law which, after all, is not confined to our own country.

5. The rights and duties of a teacher in respect of pupils in his charge are clear and defined in the Common Law of England. In the judgment in the case of *Fitzgerald v. Northcote* (4), it was said by Cockburn, C.J. :

> "A parent when he places his child with a schoolmaster, delegates to him all his own authority, so far as it is necessary for the welfare of the child."

In an earlier case dealing with the right of a teacher to punish his pupils, Cockburn, C.J. said :

> "According to the law of England, a parent or a schoolmaster, who for this purpose represents the parent, and has the parental authority delegated to him, may, for the purpose of correcting what is evil in the child, inflict moderate and reasonable corporal punishment, always, however, with this condition, that it is moderate and reasonable. If it be administered for the gratification of passion or of rage, or if it be immoderate or excessive in its nature and degree, ...or if it be protracted beyond the child's powers of endurance, or with an instrument unfitted for the purpose and calculated to produce danger to life and limb; in all such cases the punishment is excessive, the violence is unlawful..." (*R v. Hopley* (5), and Russell on Crime, 10th Edition, p. 649).

This judgment of Cockburn C.J. is regarded as the leading authority in English Criminal Law on the subject with which we are now dealing, and the opinion expressed therein has been accepted without reservation by English legal writers. (See Hailsham, Laws of England, vol. 12, p. 140.)

In *Cleary v. Booth* (6), the Court of Queen's Bench was referred to *Hopley's* case: (5), and Collins J. said :

> "It is clear law that a father has the right to inflict reasonable personal chastisement on his son. It is equally the law, and it is in accordance with very ancient practice, that he may delegate this right to the schoolmaster. Such a right has always commended itself to the common sense of mankind. It is clear that the relation of master and pupil carries with it the right of reasonable corporal chastisement."

Judgments following those quoted above were given in *Mansell v. Griffin* (7), and *R. v. Newport Justices* (8), and also in other cases. These cases established the rule that parents are entitled to inflict corporal punishment upon their children in order to educate them in the correct paths, and to teach them discipline. When parents send their children to o school, they delegate this right to the teachers and principals. Both parents and teachers, however, are obliged to exercise the greatest care. They may only inflict punishments which are humane and reasonable, and they may punish only for the purpose of correcting the child and not to satisfy their own feelings. They may only use an instrument which is not liable to endanger the life of the child, or injure him. If they disregard these rules and exceed the limits which are allowed to them, they are liable to answer for their actions.

8. And now from the general to the particular. It is not disputed that for the purposes of the matter before us there is no distinction between a teacher who receives a child from a parent, and a teacher in an orphanage who receives children from the community into his care. The learned judge took proper cognisance of the principles laid down by Cockburn C.J. in *Hopley's* case (5). He analysed the evidence after paying particular regard to the fact that the prosecution witnesses were very young girls, and after sifting the evidence

thoroughly he reached his conclusions. Where doubt existed in his mind whether the evidence was adequate for conviction, and whether a particular punishment inflicted on one of the children of the institution really did exceed the permitted limits, he decided in favour of the appellant. It was only in three cases of the many referred to in the indictment that he found that the punishments exceeded the limits laid down in *Hopley's* case (5), and in respect of these charges the learned judge convicted the appellant. In these circumstances, and seeing that the learned judge rendered his opinion upon the basis of correct legal considerations, this court will not disturb the conclusions at which he arrived. (See also *R. v. Newport Justices* (8).)

9. Mr. Hawari has argued before us on behalf of the appellant that Nazareth is not like Tel Aviv, and that the customs of the Arabs are not the same as those of the Jews. A young girl who runs away from her home and stays in a strange house - as did Samia Jerees Saker - is regarded by the Arabs, so Mr. Hawari contends, as having stayed from the straight path, and according to the customs of the Arabs it is right, so he argues, that she should be severely punished, even to the extent of being killed. How is it possible, asks Mr. Hawari, to try the parents or teachers of such a girl, who have inflicted upon her a punishment which appears to be too severe by the standards of another people who are less sensitive in matters involving morals and modesty? The reply to Mr. Hawari's complaint is simple and clear : no one seeks to change the ethical standards of the Arabs, or impose upon them ways of life which are contrary to the inheritance of their fathers. In a democratic State such as ours there is no religious compulsion, and each man may live according to his own faith. But a distinction must be drawn between ways of life and the manner in which such ways are imposed upon members of the community. The authorities of the State will not prevent Arab parents or teachers from instructing their daughters and pupils and impressing upon them that they are to remain in their own homes and not go to live in the houses of strangers, nor will it prevent them from giving other similar instructions to their daughters and pupils on how to conduct themselves in life. But the ways and forms of punishment for breach of such instructions, however, are not unlimited. Every one who exceeds the permitted limit, be he father or teacher, Arab or Jew, man or woman - is liable to the same punishment. The choosing of a punishment and the method of its infliction upon a wrongdoer are not matters affecting merely an individual or a number of individuals or a particular section of the community. They affect the State as a whole, the community as a

whole. The granting to a parent or a teacher the right to punish a wayward son or an offending pupil for purposes of education must not be interpreted as handing the child into the hands of those responsible for him without any limitations whatsoever, or as an unconditional submission to the manners of a particular community or the customs of a particular race. These matters, moreover, are not new. The question of the extent to which the particular customs of the Arabs may be permitted to influence the criminal element in a particular act has arisen on a number of occasions in the courts of this country (particularly in cases of murder against a background of vendetta and "saving the family honour") and the reply in all such cases has been the same : a man may not take the law into his own hands.

In *Miriam v. The Attorney-General* (1), for example, Trusted C.J. said : "This Court has never recognised "honour" as in any sense a defence", and in *Kataf v. The Attortney-General* (2), Fitzgerald C.J. said : "It is of course within the knowledge of this Court that the Arabs place a very high value on sexual morality, and the Court will always give full consideration to the effect of customs and traditions which have been accepted by the people as forming part of their way of life, provided that such customs and traditions are not repugnant to natural justice as conceived by British standards." And in *Atiyeh v. The Attorney-General* (3), which followed *Kataf's* case (2), it was said : "It cannot be suggested that the killing of a girl because of the offense which was attributed to this girl (namely, elopement with another man) would not be repugnant to natural justice as conceived by British standards." It is only necessary to substitute the word "Israel" for the word "British" in the two last mentioned judgments in order to apply the principle there laid down to the present case.

To sum up, it is not disputed that the three girls of the orphanage "Wassfiya" deserved to be punished for what they did. This was imperative for the maintenance of discipline in the institution and ensuring compliance with its rules. In regard to the punishment which a teacher may inflict, however, the law draws no distinction between a child who is rich or poor, Jewish or Arab, from the village or from the city. One law applies to them all. Christian children, just as Jewish or Moslem children, are entitled to the protection of the law. It would indeed be a tragedy for the State and its inhabitants if acts of cruelty towards children or adults were to be permitted under the guise of religions or racial customs.

As to the merits of the matter, the question whether the punishment inflicted on the children was too severe - that is to say, whether it exceeded what was permitted in accordance with the principles laid down above - is a question of fact to be decided by the court which tried the case (See R. n. *Newport Justices* (8).) The learned judge decided to convict the appellant and since it is quite impossible for us to say that the punishments which were inflicted upon the three girls - as they are described in the extract from the judgment of the court below which we have cited - were humane, reasonable, and not inconsistent with the principles of natural justice as prescribed by Israel standards - we do not propose to interfere with his discretion. We therefore reject the arguments relating to the conviction on the three counts of assault.

11. We also find no substance in the arguments addressed to us in connection with the three other convictions. We agree with the learned judge that even if the appellant was not a "director" but only a "manager" this is sufficient for the purpose of the two offences under the Public Health Ordinance, 1940, in respect of which she was charged and convicted. We also accept the findings of the learned judge in regard to the last count, namely that dealing with the possession by the appellant of one and a half dinars in contravention of regulation 6(1) of the Defence (Finance) Regulations, 1941. According to the evidence of the appellant this paltry sum remained in her possession as the balance of an amount of five dinars which had been given to her once when she crossed the border to the Old City of Jerusalem. The learned judge believed the appellant and even expressed his surprise that this charge had been included with the other serious charges. However, he convicted the appellant after holding that she was technically guilty since she was not exempt from the obligation of offering even this small amount for sale to the Minister of Finance when she returned from this excursion. We can find no flaw in this conclusion of the learned judge.

12. I now wish to add a few words on the question of sentence. As I have said, the appellant was sentenced to a fine in respect of each of the offences which she committed. The acts which she committed in contravention of the Public Health Ordinance and the Defence (Finance) Regulations have no direct connection with her educational work in the institution "Wassfiya" and we see no reason therefore to interfere with the sentence - an inclusive fine of IL. 11.- which was imposed upon her. In dealing, however, with the

question of the punishment imposed upon the appellant for the offences which she committed as a teacher and a supervisor of children we cannot altogether disregard her past, her personality, and her deeds in the interests of poor children in general, and the children of "Wassfiya" in particular. The appellant is a nun who has devoted herself to acts of religion and charity since she was a girl of 15. She said in evidence that she did this out of love for the poor. For more than 30 years she has served her community, but not for the sake of reward. When she was still in Syria, the land of her birth, she went about in cities and villages and helped the poor, the sick, and the orphaned. She concerned herself particularly with orphaned children. She collected about her abandoned children who had nothing, she taught them, she gave them food and drink, and she attended to their spiritual needs. It was to this purpose that she devoted the 500 gold sovereigns which she received as an inheritance from her family. She continued her work in this country for the orphanage "Wassfiya" in Nazareth. It is true that her punishments grossly exceeded the permitted limits, but according to her conceptions and her ideas she was acting for the benefit of the children and in order to guide them in the correct path. The children in the institution itself regarded her as their mother, and they used to call her mother. According to the recommendation of the learned judge, the appellant should be removed from all educational contact with children, and we have no intention of interfering with this recommendation on his part. It seems to me, however, that the learned judge did not take into consideration the fact that the fines will not be paid from the pocket of the appellant because she - being a nun - has nothing. It is the orphanage that will pay the fine and the monies of the orphanage are monies devoted to charity. And where would be the justice in punishing the members of the community who support the institution, for the deeds of the appellant?

For these reasons, and in view of the circumstances of the case, I do not think, of course, that the sentence imposed upon the appellant should be increased and that she should be sent to prison, as is asked in the cross appeal. On the contrary, it seems to me that in respect of the offences which were committed by the appellant in her work with the orphans and for their benefit it is sufficient for her to furnish security, as was decided by the learned judge.

ASSAF J. I agree with the judgment of my colleague Cheshin J. and wish to add some points based upon our own sources. General instructions to a father in educating his

children are already given in the Book of Proverbs : "He that spareth his rod, hateth his son; but he that loveth him chasteneth him at times" (Proverbs 13, 24); "Correct thy son, and he shall give thee rest; yea, he shall give delight unto thy soul." (ibid. 99, 17); "Foolishness is bound up in the heart of a child; but the rod of correction shall drive it far from him." (ibid., 22, 15). In later sources, however, we find more specific instructions both to a father and to a teacher who educates his pupil. An instruction was already given by Rav, the first of the sages of the Talmud, to Rabbi Samuel the son of Shilat, one of the great educators of his generation : when you strike a child - strike him with a shoe lace (Bava Batra, page 22a), that is to say, with a light strap. And on the basis of these words of Rav, Maimonides laid down : "And the teacher strikes them in order to frighten them. He does not strike them with the blow of an enemy, with a cruel blow. He may not beat them therefore, with whips or canes, but only with a light strap" (Rules in "Talmud Torah" Ch. 2). The words of Maimonides were accepted as the rule and similar provisions are found in the Shulhan Aruh, Yorei Dea, Art. 245, and in other works of the authorities. So Rabbi Hai Gaon writes in his well-known poem "Morals and Intellect": "And if you have sons and daughters always punish them with mercy and compassion."

2. One of the prominent sages of Palestine has given us a clear picture of the custom that prevailed more than two centuries ago :

> "There is a very bad custom that when a young child complained to his parents that the teacher had and mother who warn the teacher in front of the child not to beat him, and when the child hears that his teacher has no right to beat him he pays no attention to his lessons and becomes more and more wilful. The custom in former times was otherwise, for when the child complained to his parents that the teacher had struck him they used to hand the child a present which he himself had to take to his teacher; and they themselves used to say to the teacher : We thank you ! You will receive a suitable present every time the child complains that he has been beaten." (Rabbi Moses Chagiz, "Tzoror Ha'Chayim", Wansbeck - 1728).

3. Although it is possible to find a great deal of sound comment and good advice on the relationship between a father and his child and between a teacher and his pupil in both the older and more modern works dealing with morals and matters of education, the questions which were asked on this subject in order to procure a legal decision are few indeed. There are therefore few precedents, unlike the position in England where there is a rich legal literature on the subject. It is nevertheless desirable to cite the few responsa that do exist in this field.

I shall first quote a responsum of Rabbi Natronai Gaon Sura (858-858), written in a mixture of Hebrew and Aramaic but which I quote here in its Hebrew translation :

> "And as for the teachers of children to whom you have referred, who beat the children often - children certainly never learn unless they are beaten. The words of Rabbi Samuel, the son of Shilat lay down the rule. We are accustomed, therefore, to deal with small children, or with big children if they are weak, in accordance with the direction of Rabbi Samuel. As far as healthy children are concerned frequent punishment is quite permissible. To inflict frequent punishment upon small and weak children, however, is cruel. In such a case, we warn the teacher once, twice or even three times. If his conduct improves, well and good; and if not, we remove him from his post". (L. Ginsberg, Geonica, II, 119).

4. It is clear that the Gaon speaks of teachers who beat the children frequently, but who cause them no injury. There is no question here, therefore, of the payment under the five heads : damages, sorrow, medical expenses, loss of employment and insult. There are, however, two responsa of rabbis who lived in the first half of the 18th century which do deal with teachers who injured their pupils, and their attitude on the matter is very different.

The first and the more important of them is Rabbi Jacob Reicher of Prague who served towards the end of his life in the Rabbinate of the community of Metz. In the collection of his responsa "Shevut Yaacov", part III, paragraph 140 we read :

> "Is a teacher who became angry with his pupil and, in order that he should become a better pupil, beat him until he injured him, liable or not under the five heads of damage? The answer is that he is five from liability for all damage as appears clearly from the book of "Makkot" in the section dealing with expulsion, page 8A : "As the chopping of wood is an act of free choice (the law of unwitting murder applies) to every act of free choice - this excludes the father that smites his son or the teacher that chastises his pupil or the agent of the Court..." And there is no room for the argument that this exemption applies only to expulsion and not to liability under the four heads of damage become the verse in the Torah speaks only of exemption from expulsion... and although we accept the rule that a child is to be beaten with a shoe lace and not with cruelty, the teacher is not to he fined in any event for an act committed by him in the past... more particularly as it is a source of great pain to teach a pupil who does not pay attention to his lessons... However, I held in my judgment that the teacher should pay the doctor the expenses of administering a good cure, in order to prevent the teacher from becoming accustomed to act as he did, for it is not desirable for a wise man to become angry and for a teacher to be too strict, for anger rests in the bosom of fools."

As appears from the above responsum the case with which it deals is of a teacher who injured a grown-up pupil. Rabbi Gershon Coblenz, one of the Court Assessors of Metz, however, was of the following opinion :

> "What is the position of a teacher who beat a small pupil of six or seven years of age until he broke his leg and then wishes to seek exemption from his liability to pay damages under the five heads of damage thinking that a teacher who chastises his pupil is free from liability, and who runs to the passage in "Makkot": "As the chopping of wood is an action of free choice... this excludes the father that smites his son or the teacher that chastiseth his pupil" and that since he is not liable to be expelled he is therefore not liable under the five heads of damaged?

> In my opinion that teacher has dived into deep waters and has brought up nothing, for that teacher should be shunned until he makes his peace with the injured pupil... There is no difference in such a case between the teacher and anyone else - and that teacher who beat his pupil excessively can in no way be compared with the teacher who chastises his pupil, and he is liable in damages" (Responsa, Kiryat Hana, Article 22).

5. And one of the most distinguished teachers of his generation, who published a special work on methods of teaching and instruction, writes :

> "And there is one valuable piece of advice which I give teachers and that is that they should take great care not to strike pupils on the head or on the face, and not to become angry... for this is very likely to be detrimental and unlikely to be beneficial". (Maarechet Avraham, Rabbi Avraham of Ettingen, who was a teacher in the community of the Hague, Fjorda, 1769).

It would seem that this valuable advice never reached the appellant, and it is for this reason that she behaved as she did.

LANDAU J. I agree that the appeal against the conviction should be dismissed. In regard to the sentence relating to the three counts of assault I agree that the cross appeal should be dismissed, but I have grave doubts whether it is desirable to interfere in this instance with the discretion of the learned judge and reduce the fines (or the periods of imprisonment in default of payment of the fines) imposed upon the appellant. Piercing a lip with a needle until blood fines, kicking the back of a grown girl, knocking a child's head against the wall - these are not means of correction, even under the most severe educational system, but simply acts of cruelty. The learned judge was correct in saying that punishments of this kind did more to satisfy the base instincts of the appellant than to improve the ways of the child. It seems to me, moreover, from the evidence in this case, that Mr. Hawari's allegation that behaviour of this kind is customary among the Arabs of this country is grossly exaggerated.

This is what was said by one of the witnesses for the defence, Qum Mary Khoury, who is also a "mother" and a teacher in a convent in Nazareth :

> "When I beat a girl I do so with a strap or piece of wood on her hands... no teacher in the world would pierce a girl's lip because she made a noise in class... I have never heard of a thing like this... I do not smack girls in the face."

Even the appellant herself did not justify her actions in her evidence and argue that she had acted in accordance with ethical, educational methods. Her contention was that the acts alleged had never been committed, that she had not pierced a lip with a needle, that she had not kicked, but that she had administered only smacks and blows, as a mother who beats her daughter. The appellant's good deeds in the past were not disregarded by the learned judge when he came to assess the punishment. The appellant failed grievously and I would confirm the sentence imposed upon her.

Appeal against conviction dismissed. Appeal against sentence upheld in part, and cross appeal of the *Attorney-General dismissed. Judgment given on July* 31, 1953.