

2017

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Rowbotham, J. (2017) 'When to Spare the Rod? Legal Reactions and Popular Attitudes Towards the (In)Appropriate Chastisement of Children, 1850-1910', SOLON Law, Crime and History, 7(1), p. 98-125.

<http://hdl.handle.net/10026.1/14277>

SOLON Law, Crime and History
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WHEN TO SPARE THE ROD? LEGAL REACTIONS AND POPULAR ATTITUDES TOWARDS THE (IN)APPROPRIATE CHASTISEMENT OF CHILDREN, 1850-1910

*Judith Rowbotham*¹

Abstract

This article reflects on the boundary between acceptable and unacceptable violence through an examination of the corporal punishment of children, with a key focus on those standing *in loco parentis* rather than parents themselves. Through advice manuals and didactic literature, the debates are revealed which considered merits and demerits of the use of corporal punishment as opposed to moral persuasion as a way of inculcating necessary social lessons, intended to create good citizens. These manuals and the fiction are used, alongside newspaper reportage of court cases (heard for the most part in the summary courts, before magistrates – who themselves represented good citizenry) where school masters (and some mistresses) were summonsed on charges of assault against their pupils, to illuminate the reasoning behind the continuing acceptability of corporal punishment of children in Victorian and Edwardian England and Wales. The article argues that these incidents and the literary sources suggest that the rationalisation focused on the state of mind of the individual inflicting the punishment, and their motivations.

Keywords: Corporal punishment, children's upbringing, didactic children's literature, parental discipline, *in loco parentis*, schools, schoolmasters, inappropriate violence.

Introduction

During the last half of the nineteenth century, the contemporary debates over what constituted acceptable and unacceptable types of violence became very complex, especially where this involved the boundaries separating the necessary and appropriate chastisement of children versus that which was inappropriate.² This article explores the intricate nuances that framed Victorian and Edwardian comment on the issue of the corporal punishment of children, looking particularly at that meted out by those deemed to be standing *in loco parentis*, rather than being the parents themselves.³ The reason for this particular focus lies in a widely discussed statement made in a letter in 1871 by Lord Shaftesbury. Shaftesbury

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² See, for instance, discussions on the utility of corporal punishment in the home, in schools, ordered by the courts and in the military in various leading articles and letters: Editorial, *The Times*, 24 June 1871; 'Cruelty to Children', *Pall Mall Gazette*, 17 December 1872; MSN, 'Crimes of Violence', Letter, *The Times*, 24 October 1874; 'Crimes of Violence', *The Times*, 11 January 1875; Editorial, *The Times*, 15 August 1879.

³ Primarily school-teachers, but also those with young apprentices, or employers of the young up to and including 16, in practice.

recognised the 'evils' of an over-stern parental disciplinary regime but as pointing out at the same time that the issue was of 'so private, internal and domestic a character' that it was placed 'beyond the reach of legislation'.⁴ The importance of not intruding upon the domestic sphere was shored up by contemporary belief in the importance of maintaining paternal authority as the foundations of a well-regulated family life, which in turn was the rock on which the nation and empire rested.⁵

In the relatively rare cases where violent physical abuse of children came before the courts, it was typical that neighbours were often reluctant to alert the authorities or appear as witnesses.⁶ When not fatal, such cases rarely emerged from the summary courts, where reliance was put on the ability of magistrates to bind a parent over to 'keep the peace' towards the abused child.⁷ But that sacrosanct aura of domestic privacy and internality did not pertain to the locations where those acting *in loco parentis* were to be found, from schools to workshops and these became a key focus for a scrutiny of where corporal punishment was being inappropriately employed. The growing awareness of child cruelty from the 1860s on, spurred by the efforts of men like Reverend Benjamin Waugh, fuelled a willingness to investigate the problems of adult cruelty to children via the opportunity provided by the expansion of state provision of education, rather than intruding into family life.⁸ Through a focus on the contemporary scrutiny on the use of corporal punishment by individuals and institutions identified as being *in loco parentis*, it is possible to gain fresh insights into the legal and cultural understandings of the extent and also the limits to parental authority and how far appropriate use of physical violence was considered a positive element in that power.

1 The Child as Object of Punishment

As the popular literature of the day reveals, it was considered proper for the law to take an interest in the proper management of children within locations such as schools, especially state-funded ones, and workshops, both to ensure the authority of parents was not being improperly extended and to provide an indirect example for working class parents in particular of how to discipline their children effectively. Through an examination of

⁴ Cited, amongst others, in Cathy Cobley, *Child Abuse and the Law* (Routledge, 1995), p.15.

⁵ John Tosh, *Manliness and Masculinities in Nineteenth Century Britain: Essays on gender, family and empire* (Pearson Education, 2004) for instance.

⁶ See, for instance, 'Cruelty to Children', *Sunday Times*, 10 March 1872.

⁷ See 'Rights of Children', *Pall Mall Gazette*, 17 December 1872. This comment was very probably authored by James Fitzjames Stephen, who had returned from India in the early summer of 1872 and returned to his journalist contributions to papers like the *Pall Mall Gazette*.

⁸ For a discussion of how the debates began to emerge from 1860 on, see George Behlmer, *Child Abuse and Moral Reform in England, 1870-1914* (Stanford University Press, 1982).

contemporary scrutiny of cases that came before the court, amplified by the explanatory framing commentary provided in Victorian and Edwardian literature, the apparent contradictions within the criminal justice process of the day are highlighted. Legal cases, particularly as presented to the public through newspaper reportage and the contemporary literature illuminate the contemporary debate, revealing the reasoning and justifications behind the conclusions reached. Both genres of writing implicitly addressed their audiences on the problems of the day, and their contributions to the debate on social problems of the day is characterised by narratives of their attempted (re)solution.⁹

Key to comprehension of what now seem paradoxical in Victorian and Edwardian attitudes towards corporal punishment is linking these attitudes to the trope of civilising emotions, which was a dominant theme in guiding judgments on the appropriate usage of violence in popular culture, and consequently in the courtroom.¹⁰ It had, as a result of Enlightenment thought and reaction to the excesses of the French Revolution amongst other factors, become a marker of civilisation when the emotions were governed by reason or at least by an instinctive sense of the need for restraint.¹¹ The expectations of the public expression of appropriate emotions, and the importance of this to demonstrating possession of a 'right frame of mind' marked individuals out as being properly British when reacting to violence.¹² A consciousness of these expectations is argued by the author to be both familiar territory to newspaper and popular literature readers, and crucial to understanding legal and the popular reactions to expressions of violence, both public and private. In the last half of the nineteenth century, new boundaries were drawn which reflected a new repugnance for 'gratuitous' violence, which (amongst other things) saw a criminalisation of types of interpersonal violence that had previously been considered as acceptable.¹³ It is worth remembering that a crime is understood as being conduct that breaks the law, and does so in a way that negatively affects the welfare of the community as a whole, and does not just hurt the victims of such law-breaking. Thus conduct which affronted the self-esteem of the imagined community inhabited by respectable Britishness could be taken very seriously.

⁹ See, for instance, Maureen Moran, *Victorian Literature and Culture* (A and C Black, 2006), exploring the extent to which Victorians were, in their literature, both confident and self-critical of their attitudes, p.23; 'Introduction', Judith Rowbotham, Kim Stevenson and Samantha Pegg, *Crime News in Modern Britain. Press Reporting and Responsibility 1820-2010* (Palgrave Macmillan, 2013); also David Vincent, *Literacy and Popular Culture: England 1750-1914* (Cambridge University Press, 1983).

¹⁰ Judith Rowbotham, 'Criminal Savages. Or 'Civilising' the Legal Process', in Judith Rowbotham and Kim Stevenson (eds.) *Criminal Conversations* (Ohio State University Press, 2005) pp.91-105.

¹¹ Judith Rowbotham, 'Gendering Protest: Delineating the Boundaries of Acceptable Everyday Violence in Nineteenth Century Britain', *European Review of History*, 20 (2013) 945-66.

¹² Rowbotham, 'Criminal Savages'.

¹³ *Ibid*; see also Rowbotham, 'Gendering Protest'.

This included violence identified as gratuitous rather than purposefully didactic when it came to the disciplining of children via corporal punishment.

In exploring attitudes to corporal punishment in cases before the courts then, the reasoning behind the judgments made at the bar of both popular opinion and the courts was rooted in contemporary cultural conventions and expectations of parenting.¹⁴ But there was no unanimity over how, in the Victorian 'modern' world, the traditional thinking governing childhood and youth disciplinary practices should respond to the challenge emerging from new post-Enlightenment thinking about the management of the moral landscape of childhood.¹⁵ Medical as well as social thought reflected on the usefulness of physical, as opposed to mental or moral, pain as part of the upbringing of the young. The tension lay in how to achieve a balance between 'tried and tested' practices emphasising corporal punishment as a key tool, and the more modern strategy of relying, instead, on discipline focused on causing mental pain via appeals to the developing moral sensibilities of the child. Such comments reveal how highly contingent attitudes towards corporal punishment of the young were. In practice, they were shaped by a range of factors, with class and gender considerations ranking very high. A number of leading commentators on juveniles including Matthew Hill, alongside evangelical didactic authors like Silas Hocking and Hesba Stretton, were doubtful that lower class juvenile delinquents could count as children – their depravity (which included a high degree of self-assertive independence) had aged them and the only way to redeem them was to reduce them to childhood once again, by force if necessary.¹⁶ Education, in the moral sense of the term, was the key to redemption. As Charles Adderley MP reflected, 'education.... means punishment'. This meant that while an appeal to the better nature of a child or youth should be tried first, where that failed, the only sensible subsequent strategy was to target the body and inflict corporal punishment in order to train the delinquent in better ways.¹⁷

Linked to this, there is clearly merit to the arguments that the decline in use of public corporal punishments related to a will to emphasise, instead, a more psychologically than

¹⁴ This includes those standing *in loco parentis*, as guardians, including – while at school – teachers.

¹⁵ Hugh Cunningham, *Children and Childhood in Western Society Since 1500*, 2nd ed. (Routledge, 2005); Andrew Stables, *Childhood and the Philosophy of Education: An Anti-Aristotelian Perspective* (Bloomsbury, 2011).

¹⁶ Harry Hendricks, 'Constructions and Reconstructions of British Childhood; an interpretative survey, 1800-present', in Allison James and Alan Prout (eds.) *Constructing and Reconstructing Childhood: contemporary issues in the sociological study of childhood* (Psychology Press, 1997), p.34; Silas Hocking, *Her Benny* (Religious Tract Society, 1879).

¹⁷ 'Punishment not Reformation', *The Spectator*, 19 January 1856, p.72.

physically painful process for those deserving of being disciplined.¹⁸ Apart from anything else, this differentiated between pain which was voluntarily experienced and that which was involuntary. Voluntary pain referred to mental anguish, which was self-generated by a morally inspired learning process, which was acceptable because it represented a choice to learn, and was held to be more durable in its effects.¹⁹ The chief merit of the experience of an involuntary physical pain caused by corporal punishment of some kind was that it should promote a sense of helplessness and dependency, something considered 'natural' to childhood, and (it could be hoped) then prepare the way for the moral lessons taught by mental anguish over wrongdoing.²⁰ Certainly, many studies of Victorian and Edwardian childhood agree that corporal punishment was still a significant factor in child-rearing strategies. However, most also agree that parents were less likely to see it as an everyday resort, certainly amongst middle and upper class parents – and by implication, as a something that was only 'normal' as a regular punishment strategy amongst the less educated and refined working classes.²¹ However, it is important to look beyond the focus on the child, because many of the key nuances that inflected contemporary debates over corporal punishment of the young (especially those that relate to cases which before the courts) were at least equally concerned with the state of mind of the adult meting out the punishment, because therein lay the measurement of whether the inflicted violence could count as gratuitous – and therefore potentially criminal – or not. This, therefore, is one central focus for this article. Here, it is worth considering that Foucault referred to an 'excess of force or violence', not an absence of it in his considerations in *Discipline and Punish*.²²

Reflecting on Appropriate Adult-perpetrated Violence

John Carter Wood has also pointed out that a characteristic of the Victorian and Edwardian periods was provided by 'new understandings' of violence. He labels the encounter between the new concerns about violence as something which was a challenge to 'civilised' standards and customary acceptance of violence as amounting to the "'invention" of violence as a social problem'.²³ A core point to consider is that, both past and present, what we understand as 'violence' relates to its visibility. It is only labelled as violence when, via some

¹⁸ Michel Foucault, *Discipline and Punish- the Birth of the Prison* (Random House, 1995).

¹⁹ Jeremy Bentham, of course, was a powerful proponent of this differentiation, in his work on utilitarianism for instance. See 'Jeremy Bentham' in D.D. Raphael (ed.), *British Moralists 1650-1800. II: Hume-Bentham*, 2 vols (Oxford University Press, 1969), pp.328-30.

²⁰ See, for instance, Hendricks, 'British Childhood', p.43.

²¹ *Ibid*; also Hugh Cunningham, *The Invention of Childhood* (Random House, 2012), pp.119-21; also Colin Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times* (Wiley and Sons, 2013).

²² Foucault, *Discipline and Punish*, p.177.

²³ John Carter Wood, *Violence and Crime in Nineteenth Century England: The Shadow of Our Refinement* (Routledge, 2004), p.i.

channel or other, it becomes visible within a community, be that the everyday neighbourhood community inhabited by individuals who are labelled as perpetrators or violence or its victims, or a less tangible, and imagined community – made aware of violence by ‘evidence’ presented to them in print or illustrative form. Such imagined communities can include interest groups (such as those campaigning against domestic violence). They can also include legal ones, from those evolving legislation to those implementing it through the criminal justice system. As Carter Wood, again, reminds us ‘concerns about violence have fluctuated dramatically, as particular forms of violence have rapidly gained public attention and then faded from view’. Also, that what this underlines is that ‘changes in “cultures of violence” and changes in (real) violence are two different things’.²⁴

As the century progressed, nineteenth century state and society demonstrated their new sensitivity to violence, as part of the subjective cultural framework that had developed in the last years of the eighteenth century. Public performances of violence, in the shape, for instance, of riotous crowds and unruly gatherings became problematized in a way that also affected the state’s conceptualisation of its own perpetration of violence in the name of the law.²⁵ A stronger link between the purposes of violence and presumed, morally delineated, outcomes was made – resulting, amongst other things, in new attitudes to the use of legally sanctioned, or legally ordered violence. It was no longer deemed useful or appropriate for executions to be public, for example.²⁶ In addition, the regular use of corporal punishment of varying types within the adult world diminished, as Foucault and others have noticed.²⁷ Floggings in the military became distasteful and inappropriate, for instance, and such attitudes began to affect the more minor use of violence by the legal system, for those deemed to be in need of discipline from a senior authority.²⁸

Accompanying this, there was also a widespread revisiting of what constituted an appropriate use of force within the private or domestic sphere. A more modern conceptualisation of domestic violence was one consequence of this, and it linked with new gender stereotyping associated with the perpetration of violence.²⁹ This led to a situation

²⁴ John Carter Wood, ‘Conceptualising Cultures of Violence and Cultural Change’, in S. Carroll (ed), *Cultures of Violence. Interpersonal Violence in Cultural Perspective* (Palgrave Macmillan, 2007) p.79.

²⁵ Rowbotham, ‘Gendering Protest’.

²⁶ See, for instance, Randall McGowen, ‘Civilizing Punishment: the End of Public Executions in England’, *Journal of British Studies*, 33 (1994) 257-82.

²⁷ Foucault, *Discipline and Punish*. See also Wood, *Violence and Crime*; Pieter Spierenburg, *Violence and Punishment. Civilising the Body Through Time* (Polity Press, 2012).

²⁸ Scott Claver, *Under the Lash: A History of Corporal Punishment in the British Armed Forces* (Torchstream Books, 1954); Raymond Gard, *The End of the Rod: A History of the Abolition of Corporal Punishment in the Courts of England and Wales* (Universal-Publishers, 2009).

²⁹ Rowbotham, ‘Gendering Protest’, pp.950-2 for example.

where women, as the usual everyday prime caregivers to children, certainly in their younger years, were identified as instinctively passive, when it came to violence, and its usual victims rather than being those who inflicted it. This, in turn, had significant impacts on attitudes to disciplining children as part of the broad scenario of child rearing. Fathers became associated with the task of doling out necessary physical chastisement when required; and it was a mark of their failure in fatherhood for them to fail so to do.³⁰

2 Bringing Up the Child Properly: Conflicting Advice to Parents

As a result of such cultural changes in attitudes to violence, the choices surrounding a decision about when and where physical punishments were the appropriate reaction to child misbehaviour were far from straightforward for Victorian and Edwardian adults. There was a substantial tension between the long-standing tradition that physical chastisement of the young was a necessary corrective strategy, and more modern concerns about the impact of physical violence on the child. These were also allied to contingent beliefs about the lessons that certain groups of children within society might absorb about the use of violence towards them by adults. For instance, contemporary concerns about domestic violence perpetrated by adult males extended beyond wives to include children, at least the younger ones.

It can seem paradoxical that so many Victorians were so ready to challenge age-old tradition when it came to reconceptualising the chastisement of the young as a negative, or certainly as a last resort, one to be used only when all other strategies had failed. It was after all an age that was still very much shaped by its Christian heritage, where Biblical authority, which for most contemporaries seemed to endorse such chastisement, was still resorted to as providing the moral justification for actions by those in authority (including parents).³¹ And many of the Victorians willing to advise avoiding physical chastisement were themselves deeply devout Christian thinkers. But alongside this was a real contemporary concern over incidents involving what was identified as the inappropriate corporal punishment of children.³² As recent research has underlined, both parliament and the courts were prepared

³⁰ This point, for instance, is a key point in Hocking, *Her Benny*, where Benny's father is too dissolute and depraved in his drunkenness to teach his son appropriate lessons of discipline.

³¹ Consider, for instance, the Biblical underpinnings of the popular exhortation 'spare the rod and spoil the child', 'He that spareth his rod hateth his son; but he that loveth him chasteneth him betimes', Proverbs 13.24. King James Version.

³² There was, of course, also concern about domestic violence, especially where appropriate masculine spousal authority to sanction a wife's conduct overstepped the boundaries of acceptability.

to modify the powers of patriarchal authority within the legal system when exemplary cases seemed to demand it.³³

The irony, for many observers, is that at the same time, and well into the twentieth century, the criminal justice process (especially operating within the magistrates' courts) in England and Wales remained positive, overall, about the beneficial effects of appropriately delivered corporal chastisement, either instead of or as well as incarceration. The power to order and inflict such punishment was held by many to be essential to the proper management of schools, industrial schools and reformatories. Indeed the ordering of judicial corporal punishment (JCP) by the courts endured until the Criminal Justice Act 1948.³⁴ The majority of the sentences for JCP were passed on those considered to be children, up to 14; it was used more rarely for adults, especially those past 21.

The dilemma for many contemporaries interested in the effective upbringing of children was how to interpret the advice in Proverbs. Traditionally, it was held that a parent (or those standing *in loco parentis*) was behaving lovingly in chastising the young, to discipline their hearts and minds through the infliction of physical pain so that they would become useful members of society, full of moral rectitude and respect for authority.³⁵ However, concerns about the usefulness (physical and moral) of corporal punishment as a means of training for the young, to educate them in 'good' behaviour, had begun to be voiced.³⁶ By the middle of the nineteenth century, this was also being linked to concerns over brutal disciplinary strategies and punishments doled out to adults in prisons and in the armed services.³⁷ Foucauldian style theorisation relates the growing concerns over the public use of physical punishments to an increasing emphasis on disciplining the individual by use of essentially mental (and so private) strategies aimed at, instead, training the mind to accept authority

³³ See, for instance, Ben Griffin, *The Politics of Gender in Victorian Britain: masculinity, political culture and the struggle for women's rights* (Cambridge University Press, 2012); John Tosh, *A Man's Place: masculinity and the middle class home in Victorian England* (Yale University Press, 1999).

³⁴ Post 1948, it could still be ordered for breaches of discipline in prisons, and though rarely invoked, this was only abolished under the Criminal Justice Act 1967.

³⁵ See, for example, the details in Linda Pollock, *Forgotten Children. Parent-Child Relations 1500-1900* (Cambridge University Press, 1983).

³⁶ For a more detailed summary of the development of attitudes over time towards childhood, including punishment, see Pollack, *Forgotten Children*, pp77-8; also Heywood, *History of Childhood*.

³⁷ See, for instance, Ensign O'Donoghue, 'Corporal-Punishments Commission: defects in military education and promotion from the ranks', *Fraser's Magazine*, 13, 1836. See also Margaret Abruzzo, *Polemical Pain: slavery, cruelty and the rise of humanitarianism* (John Hopkins University Press, 2011); Roger Morris, *Cockburn and the British Navy in Transition: Admiral Sir George Cockburn 1772-1853* (University of Exeter Press, 1977).

and the agendas of those in positions of power.³⁸ However, this fails to consider the dimension provided by the state of mind of those inflicting the punishments.

Comments from educationalists and novelists can be used to frame the comments made in courtrooms, and in so doing, they reveal the philosophical landscape where the focus was as much on the adults doling out the punishment as on the child recipients. This new focus was encouraged by the expansion of schools, both private and state ones, and the consequent discussion of ensuring these worked effectively. Dickens, for instance, used his fiction to critique the effects on child-training and education of a belief that the child was naturally inclined to evil, making it easy to conclude that only severe strategies would be likely to eradicate the 'devil' within a child, including rote learning of appropriate facts. Perhaps his best-known exposition of negative aspects of this now comes within *Hard Times* (1854), but the most evocative and detailed depiction for contemporaries came with the creation of Wackford Squeers, in his earlier novel, *Nicholas Nickleby* (1838-39). Of particular interest was the impact was the depiction of Squeers' casual brutality, a reflection of his mood and temper and as such, it was completely unreasoned.³⁹ The picture was advertisedly based on the reality of education in Yorkshire boarding schools, but despite Dickens' sensational depiction of Dotheboys Hall, there is little substantial evidence from other Yorkshire schools or institutions elsewhere that such extremes of brutality were a regular phenomenon.⁴⁰

Dickens, however, was always a sensationalist in addressing issues that he was passionate about, and more insight can be gained into the place of corporal punishment in child-rearing and the expectations of those administering this discipline by looking to nineteenth century educational philosophies purveyed by figures like Maria Edgeworth. She had been influenced by figures like Rousseau, but also Reverend Isaac Watts, so bringing together the educational tropes of the evangelical and the natural child.⁴¹ In his *Divine Songs for the Use of Children*, first published in 1715, Isaac Watts had emphasised the importance of adult-led moral training for the young, rather than physical chastisement. For him, life and its

³⁸ Foucault, *Discipline and Punish*. See also, for example, Myra Glenn, *Campaigns Against Corporal Punishment: Prisoners, Sailors, Women and Children in Antebellum America* (State University of New York Press, 1984).

³⁹ Charles Dickens, *The Life and Adventures of Nicholas Nickleby* (Chapman Hall, 1839)

⁴⁰ These schools had become notorious as a result of the trials of William Shaw, not for beating his pupils but for neglecting them. The novel utterly destroyed Shaw's reputation, however, and made that of Dickens as a reformer. See James L Hughes, *Dickens as an Educator* (Appleton, 1903), especially p.35, describing Smike's story as 'heart-stirring'. For further details of the civil proceedings against Shaw, see <http://www.researchers.plus.com/shaw.htm>, accessed 11 July 2016.

⁴¹ Hendricks, 'British Childhood'.

experiences (duly ordained by God) would work to provide the necessary physical trauma that would drive home the moral lesson administered through parental training:

Birds in their little nest agree,
And 'tis a shameful sight
When children of one family
Fall out and chide and fight.⁴²

Inevitably (witness Cain and Abel), the message of such moral songs was, that a failure to 'agree' in childhood would lead 'to murder and to death'.⁴³ Other moralists, notably the sisters Ann and Jane Taylor, reinforced this message (owning their debt to Watts), through various productions such as *Hymns for Infant Minds*, and *Rhymes for the Nursery*, all maintaining the message of moral training being the most effective way of producing the desirable adult social self. Verses were repeated by caring and responsible parents into the infant ear, with messages such as:

And when you're good and do not cry,
Nor into wicked passions fly,
You can't think how Papa and I,
Love Baby

But:
And when you saw me pale and thin
By grieving for my baby's sin,
I think you'd wish that you had been
A better baby.⁴⁴

The expectation was that the child could be moralised by its parents or their substitutes into learning that (to quote another, later author, Alice Corkran) 'punishment follows wrong-doing as surely as night follows day' – but a punishment that was generated by that wrong-doing.⁴⁵ Thus, for doing 'what Mama forbid' and playing with fire, the naughty child set her pinafore a-blaze, receiving bad burns to her face and arms, and:

For many months before 'twas cur'd
Most shocking torments she endur'd
And even now, in passing by her
You see what 'tis to play with fire.⁴⁶

⁴² Isaac Watts, Song IX: Love Between Brothers and Sisters', in *Divine and Moral Songs for Children* (R. Miller, 1816), first published 1715, pp.16-17; see also the previous Song VIII: Against Quarrelling and Fighting, which made the point that it was animal nature to 'growl and fight', but that God's son had provided the example of being 'gentle as a lamb', pp.15-16.

⁴³ Ibid.

⁴⁴ Jane and Ann Taylor, 'Good Mamma', *Rhymes for the Nursery* (Harvey and Darton, 1804), pp.6-7.

⁴⁵ Alice Corkran, *Down the Snow Stairs; or Good Night and Good Morning* (Blackie and Sons, 1887); for more discussion on this theme, see also Judith Rowbotham, *Good Girls Make Good Wives: Guidance for Girls in Victorian Fiction* (Basil Blackwell, 1989).

⁴⁶ Ibid, 'Playing with Fire', pp.27-8.

The comments of Maria Edgeworth are particularly valuable in revealing the thinking behind this emphasis on mental disciplining of children, via moral exhortation, and where it intersected with more traditional methods. Writing in the late eighteenth and at the start of the century, Edgeworth's works and thinking remained influential throughout the Victorian and Edwardian periods, and for many provided the practical strategies that applied the moral thinking of figures like Watts. For Edgeworth, the key to effective childrearing was the judicious use of emotional reactions to bad or inappropriate conduct, in preference to any automatic recourse to physical punishments. In her novels and educational works, she placed a particular emphasis on shame, as a governor of right attitudes and conduct in the young. She insisted that 'the dread of shame is a more powerful motive than the fear of bodily pain', and that consequently the 'idea that it is disgraceful to be governed by force should be kept alive in the minds of children', instead of regular fear of physical pain from whippings.⁴⁷ This did not mean that she discounted corporal punishment as a resource for the effective disciplining of the young (especially boys). However, as with the invocation of shame (which she insisted should be 'very sparingly used' to prevent the 'mind from becoming insensible' to it), she argued that the infliction of physical pain should be a last resort in most cases.⁴⁸ She agreed that both 'Pain and shame, impress precepts upon the mind', but asserted that a more enduring effect was created when the pain was mental, in association with shame, rather than physical.⁴⁹

3 Educating the Young through Whipping the Conscience, not the Child

Edgeworth's arguments found a ready echo in the works of many popular Victorian authors writing for (and about) children in their fiction. Like Jane and Ann Taylor, authors like Mrs Ewing, Mrs Molesworth and George MacDonald depicted the lessons of shame, allied to remorse, as providing a far more powerful and enduring tool of character improvement and reformation than 'a good whipping' in their novels for the young. They insisted that the infliction of moral pain had more lasting impacts, in terms of the creating of a lasting and disciplinary sense of shame, than physical chastisement, on both boys and girls. In one of Mrs Emma Marshall's most popular tales, *Salome*, the erring brother Raymond learned this lesson at his sister's sickbed. Salome was feared to be dying, because she had sought to help him out of a scrape, and 'the stricken child' summoned him to her bedside – not to reproach him, but to tell him how much she loves him and to ask him to kiss her. Mrs Marshall asked her readers to consider the impact of the shame Raymond felt, as he learned

⁴⁷ Maria and Richard Edgeworth, *Practical Education*, 2 vols. (J. Johnson, 1798) Vol.1, p.225.

⁴⁸ *Ibid*, p.220.

⁴⁹ *Ibid*, p.36.

the 'sore pain' of remorse. She acknowledged that 'naturally selfish people do not suddenly become unselfish', but insisted that once a spirit of shame over previous bad conduct had been awakened, then good influences could continue to sustain that feeling as an impetus to good behaviour.⁵⁰

Most of these didactic authors shared Edgeworth's view that from the perspective of the child and young adult, physical chastisement could have the opposite effect to that intended. The argument was because the recipient of a whipping was simply told they had done wrong, without the reasons for its wrongfulness being explained to them by their parents and moral guardians, they were likely to perceive corporal punishment as unjust. And 'Unjust punishments do not effect their intended purpose, because the pain is not associated with the action which we would prohibit; but, on the contrary, it is associated with the idea of our [adult] tyranny.'⁵¹ Edgeworth strongly advised that corporal punishment should be used sparingly, and only when it could be inflicted 'with the reasonable hope of preventing greater pain in future'.⁵² Popular Victorian school stories written for boys, from Hughes' *Tom Brown's School-Days* (1857) to later works by men like Talbot Baines Reed on are actually notable for the absence of depictions of regular thrashings handed out by masters for minor infractions. The emphasis in these texts was on masters training the boys by creating a sense of shame for deeds done – or left undone – which promoted a more sophisticated version of Edgeworth's concepts of practical education.⁵³ The headmaster in one of Reed's popular tales informed the hero, Charlie, that he had been sent to Randlebury School for two reasons: 'one is that your head may be furnished, and the other that your character may be trained'.⁵⁴ Of the most well known Victorian school stories in the moral vein, it was only in Farrar's *Eric: or Little by Little* that schoolboys were depicted as regularly receiving corporal punishment – and the novel's purpose was partly to warn adults against it. As Farrar

⁵⁰ Mrs Emma Marshall, *Salome: or 'Let Patience Have Her Perfect Work'* (Thomas Nelson and Son, 1885), pp.198-9; 235.

⁵¹ Edgeworth, *Practical Education*, pp.205-6.

⁵² *Ibid*, p.206.

⁵³ These comments do not, of course, include the school stories which can be categorised as belonging to the 'Penny Dreadful' genre, and which certainly featured regular scenes of flogging and physical brutality within public and other fee-paying independent schools. While their appeal to boys of school age was considerable in the 1860s and 1870s, as such schools proliferated in real life as well as fiction, this should not be exaggerated. The respectable backlash against them, spearheaded by the *Boys' Own Paper* and the other respectable publishing houses like Cassells and Partridge and Company, from the 1880s on achieved a circulation and popularity (along with the enduring popularity of Hughes, *Tom Brown's School-Days*, for instance) that the Penny Dreadfuls never achieved. See Mike Huggins and James Mangan, *Disreputable Pleasures: less virtuous Victorians at play* (Psychology Press, 2004); Jack Cox, *Take a Cold Tub, Sir!: the story of the Boys' Own Paper* (Lutterworth Press, 1982); Isabel Quigly, *The Heirs of Tom Brown: the English School Story* (Chatto and Windus, 1982); Kelly Boyd, *Manliness and the Boys' Story Paper in Britain 1855-1940* (Palgrave Macmillan, 2003).

⁵⁴ Talbot Baines Reed, *Adventures of a Three Guinea Watch* (Religious Tract Society, 1883), p.35.

reflected, flogging a boy like Eric Williams had ‘the worst effects’, because he ‘burned, not with remorse or regret, but with shame and indignation’. He echoed Edgeworth when he insisted that what had a far more positive impact on Eric and his peers was when masters like Mr Rose instead employed the ‘useful [moral] warning without the formality of regular discipline’.⁵⁵

This does not mean that school stories in particular (including those for girls) did not feature the infliction of bodily pain on individuals as a result of direct disobedience to school discipline via a prank or other piece of inappropriate mischief-making. However, that pain was depicted as consequently self-inflicted and this served, supposedly, as a reminder to readers as well as fictional characters that the physical discomfort was made worse by the painful knowledge that it was their own fault that they were suffering. Such pain could also, especially in boys’ stories, be a mechanism which – when accompanied by the impulse to decency – would help a ‘manly’ boy learn bodily endurance of the type that would qualify him to be properly ‘British’.⁵⁶ The impact of these tales was supposedly reinforced by the idea that they were based on ‘real’ schoolboy experiences – *Tom Brown’s School-Days* was advertised as being written by ‘An Old Boy’, and filled with asides to readers about Rugby School in the time when it was set, 1830s. Reed created schools like Randlebury and Parkhurst on his research amongst friends who had been to Radley.⁵⁷

The invocation of ‘reality’ was an important element in respectable Victorian fiction.⁵⁸ As one Victorian commentator, and author of hagiographic biographies, commented:

Moral truths and qualities are best discerned and best appreciated when they are embodied in real forms. And, to men, the needed forms are human. Man is the only medium through which instruction and impression can come to man.⁵⁹

Thus reading about ‘plucky’ boys, with a proper British spirit, who learned to endure in a positive spirit the scrapes, bruises and occasional broken limbs integral to participating

⁵⁵ Frederick Farrar, *Eric: or Little by Little* (Adam and Black, 1858), pp.113, 80.

⁵⁶ See, for example, Jack Cox, *Take a Cold Tub, Sir!: the story of the Boys’ Own Paper* (Lutterworth Press, 1982); Quigly, *The Heirs of Tom Brown*; Boyd, *Manliness*; also Judith Rowbotham, ‘“Only when drunk”: the stereotyping of violence in England, c1850-1900’, in Shani D’Cruze (ed.), *Everyday Violence in Britain, c1850-1950: Gender and Class* (Routledge, 2000), 155-69, p.162.

⁵⁷ This was one of the challenges to the Penny Dreadful genre, and certainly one of the appeals to parents, who had continued to purchase *Tom Brown’s School-Days* from its publication in 1857, because of its ‘real-life’ echoes. See, for instance, Patrick Howarth, *Play Up and Play the Game: the heroes of popular fiction* (Methuen, 1973), p.52; Cox, *Take a Cold Tub*, p.42

⁵⁸ Judith Rowbotham, ‘“All Our Past Proclaims Our Future”: Hagiographic Biography and Reinterpretations of the Past for a Golden Age, 1850-1870, in Ian Inkster et al (eds) *The Golden Age: Essays in British Social and Economic History 1850-1870* (Ashgate, 2000), 225-36.

⁵⁹ A.J. Morris, *Glimpses of Great Men: or, Biographic Thoughts of Moral Manhood* (Ward and Company, 1853), p.1.

thoroughly in school sports was held to be the best form of reinforcing the everyday practical process of learning self-discipline.⁶⁰ But it was also important to show that the shirkers, cowards and idlers who also featured in these stories also received their meed of physical pain, usually in enhanced form, as their misdeeds and wrong-doings demonstrably brought them misery, bodily as well as mental in its impact. The odious schoolboy Tom Drift, responsible for the bravely-born 'brutal ill-treatment' of hero Charlie, found the tables turned on him. Set upon by the roughs he had so unwisely mixed with, Tom ended up in 'excruciating pain', having been thrown over the parapet of a bridge into the stream below, knocking himself unconscious and breaking an arm. During his recovery, nursed tenderly by Charlie as well as the school-maids, Tom became a 'docile penitent', and in his subsequent life-career, the memory of Charlie's influence again redeemed him.⁶¹ As Edgeworth insisted, the point of punishment – whether handed out by authority directly, or brought down on a culprit by wrongdoing – was not to 'torment' but 'to make the necessary impression' on a child's mind.⁶² It is, here, important to point out that such stories, while apparently predominantly written for upper class and upper-middle-class boys, were much more widely read (including by girls as well as by working class boys). Richards points out that the 'largest audience' for these stories was 'boys who had not been and never would go to public school', a phenomenon fully recognised by school story authors like Reed and publishers like the Religious Tract Society.⁶³

4 The Realities of Schooling and Punishment

As well as in fictional public schools, the advertised ethos in the majority of real Victorian private schools (catering predominantly for a middle-class clientele) regarding punishment of pupils readily chimed with this avoidance of corporal punishment for pupils in their charge.⁶⁴ Under common law, fathers had a right to chastise their children as part of their paternal

⁶⁰ The reality, as well as the fictional depictions of sport, had to do with the acquiring of physical endurance – 'pluck', see Richard Holt, *Sport and the British. A Modern History* (Clarendon Press, 1990), pp.80-1.

⁶¹ Reed, *Adventures of a Three-Guinea Watch*, Chapters 9; 28; 29 in particular. Girls' school stories rarely featured actual corporal punishment of a pupil, but regularly featured similar episodes of culprits bringing real pain on themselves as a direct result of their wrong-doing. See L.T. Meade, *A World of Girls* (Cassell, 1886); Judith Rowbotham, *Good Girls Make Good Wives: Guidance for Girls in Victorian Fiction* (Basil Blackwell, 1989).

⁶² Edgeworth, *Practical Education*, p.221.

⁶³ Jeffrey Richards, *Happiest Days: The Public Schools in English Fiction* (Manchester University Press, 1988), p.18.

⁶⁴ Private schools were fee-paying, but were not, under the Act, counted as public schools. They were more numerous, partly because frequently they were quite small in size, when compared with the public school – ranging from a handful of pupils to around 100 in some of the bigger and more popular private schools. I do not include grammar schools under this heading, as they generally had a different and more ancient foundation.

duty: this duty could be delegated by them to those who would act *in loco parentis*.⁶⁵ Private schools varied in terms of whether or not they were boarding establishments, where masters stood *in loco parentis*, day and night, over a term, or whether they were day schools, where the masters were merely responsible for discipline during school hours. Many prominent educationists associated with these private schools publicly insisted that they genuinely did not believe that corporal punishment was a useful asset in managing boys. Both University College and King's College Schools advertised that they did not discipline boys through use of corporal punishment, for instance, and this is likely to have been inspired by a belief it would appeal to parents of potential parents as being a reflection of the universal pedagogical thinking.⁶⁶ The reality was almost certainly somewhat more complex in those private schools which did advertise themselves as avoiding corporal punishment. Pressed by the Schools Inquiry Commission, a number of private school headmasters did admit the occasional use of the cane. The head of Bramham College, near Tadcaster, declared his opposition to corporal punishment of any kind but – citing Solomon who had advised it, and adding he was not wiser than that great Biblical King – he agreed that though he disliked it, as a last resort, sometimes 'three or four smart strokes were given with a cane'.⁶⁷

For most educational establishments, for both boys and girls, many teachers and parents continued to accept it as an essential disciplinary tool, one which could not be safely dispensed with. A more realistic fictional depiction of the adult thinking that came out in support of corporal punishment can be derived from the book often described as the most unrealistic, in terms of the boy characters it portrayed: Farrar's *Eric: or Little by Little*. The benign Mr Rose, Eric's housemaster, was depicted as being so outraged to learn that boys under his charge have been led astray that he flogged not only the main ringleader, but also the other boys involved. Farrar insisted to his readers that 'his authority was established like a rock from that night forward...Mr Rose's noble moral influence gained tenfold strength from the respect and wholesome fear that he then inspired' through his epic flogging of sinful boyhood.⁶⁸ Various contemporary memoirs of the main public schools, including Eton, Harrow, Winchester and Marlborough, make it plain that corporal punishment of boys was a

⁶⁵ William Blackstone, *Commentaries on the Laws of England*, 4 vols, 1765-9, facsimile available at http://files.libertyfund.org/files/2140/Blackstone_1387-01_EBk_v6.0.pdf, I, pp.284-5. The core Victorian case was *R v Hopley* (1860) 2 F&F 202, where Cockburn, LCJ endorsed the right of a teacher, acting *in loco parentis*, to chastise, so long as chastisement was carried out to a moderate and reasonable level. See also Dymphna Glendenning, *Education and the Law* (Bloomsbury Professional, 1999) pp.516-17, taking note of *Fitzgerald v Northcote* (1865) 4 F&F 656, where the right of a schoolmaster to chastise was again upheld (but not the right arbitrarily to expel).

⁶⁶ See for instance the report of prize-giving at University College School in 1869, 'Middle Class Education', *The Times*, 11 December 1869; also Richard Aldrich, *School and Society in Victorian Britain: Joseph Payne and the New World of Education* (Routledge, 2012), pp.73-4.

⁶⁷ 'English Private Schools', *Pall Mall Gazette*, 7 August 1868.

⁶⁸ Farrar, *Eric: or Little by Little*, p.257.

regular feature of school life. If headmasters took the lead in dispensing punishment, the right to flog boys was also delegated down to masters and occasionally even to senior boys, as part of the strategy of keeping order in schools which, as these same memoirs also show, were frequently riotous and disorderly.⁶⁹ As Vindex, in a letter to *The Times* reflected: 'in every community, but especially in a community such as a Public School, regulations must exist for the maintenance of social order and due subordination', and those regulations must be enforced, if necessary, by a 'good licking'.⁷⁰

Grammar schools were the day equivalent of the public schools, not just in terms of the education they sought to provide but also of their ethos. At the start of the nineteenth century, there had been around 800 of these across the country, providing a more or less decent classical education for either middle class boys or boys of better class, but poor, families.⁷¹ There was also a tradition that bright (and respectable) working class boys, generally sponsored by a local clergyman, could gain a scholarship to local grammar schools and there learn not just academic but also social and moral lessons.⁷² Thus again, delivery of physical punishment in these schools reflected the perspectives and tensions outlined above. A locally well-reported incident affecting Manchester Grammar School between March 1906 and the spring of 1907 underlines that in such institutions, echoing the public schools, when disciplining pupils the usual emphasis was on the moral lessons to be learned via physical chastisement – administered as a 'short, sharp shock' intended to bring a boy to a consciousness of his delinquencies. In a letter to *The Times*, the School's High Master, Mr Paton, insisted that 'Discipline is the suppressed premise of all schoolwork.... It is the necessary preliminary and accompaniment of all instruction and character training.' He went on to explain that because of the immaturity of pupils in a school, such institutions had to be 'patriarchal, not democratic' in their approach to instilling discipline as part of the necessary educational process of training future citizens in 'the habit of law-abidingness, the spirit of reverence for constituted authority'. Consequently, 'The schoolmaster rightly claims a position of superior authority and the power of summary punishment, because future citizens must learn to obey laws before they begin to make them'.⁷³ Though the City Council was unhappy with Paton's stance on the necessity of corporal punishment in cases of disobedience and dishonesty in particular, the Governors of the School, along with a majority of parents (as letters to the *Manchester Guardian* underline) supported Paton, who remained

⁶⁹ Mangan and Huggins, *Disreputable Pleasures*, pp.14-21 in particular.

⁷⁰ Vindex, 'Public School Discipline', Letter to the Editor, *The Times*, 21 November 1869.

⁷¹ See, for instance, M. L. Clarke, *Classical Education in Britain, 1500-1900* (Cambridge University Press, 1959), especially ch.6.

⁷² Such scholarships were usually endowed by local dignitaries and it was on such a scholarship that, for instance, Thomas Paine attended Thetford Grammar School 1744-9.

⁷³ J.L. Paton 'Public School Education: Discipline', *The Times*, 29 December 1906.

in post until retiring in 1924.⁷⁴ The experience of girls at grammar and other schools was less likely to involve corporal punishment in the late nineteenth and early twentieth centuries, but it was certainly not unknown, for girls guilty of disobedience or dishonesty. However, as already discussed in relation to school stories for girls, the preferred emphasis was on learning self-discipline through a learning process that relied on instilling the 'right' feminine moral values.⁷⁵

5 Class Considerations and Correctional Strategies

However, there was also a powerful class dimension to the debates over corporal punishment within an educational environment, which also nuanced the gendered attitudes towards the issue. There was a considerable amount of both popular discussion and political debate over the usefulness and appropriateness of corporal punishment as part of the educational strategy in the schools provided for the children of the working classes and providing an elementary (also described as a primary) education throughout a pupil's school career.⁷⁶ There was general and growing agreement in the nineteenth century that Britain needed a more educated working class population. But it was not held to be necessary for the majority of that population to have more than an elementary education in order for them to become useful citizens.⁷⁷ There was agreement that an upcoming generations of working class children needed to be educated not only in basic literacy skills but also in at least the basic standards of 'Britishness' in order to mould them into an asset and not a threat to the state and to British culture.⁷⁸ What this perspective on education and its purposes also reveals is a widespread attitude amongst the respectable middle and upper classes (essentially those with power in local and national government) to the effect that in their natural state, the working classes were both unruly and undisciplined and as such, a danger

⁷⁴ J. A. Graham and B. A. Phythian, *The Manchester Grammar School 1516-1965*, which devoted the whole of Chapter 8 to Paton. See also Experto Credo, Letter to the Editor, *Manchester Guardian*, 14 March 1907; W. Hume Elliot, Letter to the Editor, *Manchester Guardian*, 14 March 1907; Old Boy, Letter to the Editor, *Manchester Guardian*, 14 March 1907; Alice H. Turner, Letter to the Editor, *Manchester Guardian*, 14 March 1907.

⁷⁵ Jane McDermid, *The Schooling of Girls in Britain and Ireland, 1800-1900* (Routledge, 2013), pp.22; 95-6; 69-70.

⁷⁶ For most pupils from working class backgrounds, secondary education was unheard of, though as the century went on, the quality and scope of the elementary education provided improved, and there were also, increasingly, educational establishments which did provide some degree of secondary education to the more able and ambitious working class children. See Denis Paz, *The Politics of Working Class Education in Britain, 1830-1850* (Manchester University Press, 1980); W.E. Marsden, *Unequal Educational Provision in England and Wales: the nineteenth century roots* (Routledge, 2005).

⁷⁷ Ibid.

⁷⁸ See, for instance, Steven Caunce, Ewa Marzierska, Susan Sidney-Smith and J.K. Walton (eds), *Relocating Britishness* (Manchester University Press, 2004); Rohan McWilliam, *Popular Politics in Late Nineteenth Century England* (Routledge, 2012), pp.84-90; Boyd, *Manliness*.

to national stability and happiness.⁷⁹ What is interesting is that, in terms of such attitudes, there was very little gender distinction being made in terms of assessment of the threat levels, except that for some moral reformers there was, if anything, a greater fear of the negative moral influences that girls could have potentially.

Thus, in developing educational strategies for the expanding number of schools catering for working class children, there was far less belief in the idea that such pupils would be readily susceptible to the moral lessons along the lines of Edgeworth and others, developing the necessary self-disciplining sense of shame. Accompanying this was a perspective that, when it came to teacher-pupil relations in elementary schools, there was a real class differential existing between teachers and pupils which could (and often would) provide a potential challenge to the authority of the teacher and the consequent ability to enforce the levels of respect and obedience necessary for the learning of academic and moral lessons. A teacher might have come, as in the case of Charley Hexam in Dickens' *Our Mutual Friend* (1864), from the lowest and most unrespectable ranks of the working classes, but in becoming a teacher he or she elevated their social status.⁸⁰ The problem was ensuring that elementary school pupils recognised the enhanced authority of any teacher, including the deference due to those higher on the social scale (especially if the pupils knew of a teacher's mutually humble origins).

One thing that was obvious, both in school fiction and the memoirs of middle and upper class secondary school boys, was that masters in such establishments were unequivocally all 'gentlemen', and accepted as such by their pupils. Indeed a phrase regularly used of disobedient pupils was that they had let themselves down by behaving in an 'ungentlemanly' fashion. When, in Rosa Nouchette Carey's *Lover or Friend*, Cyril Blake, the promising young master at the fictional public school based on Charterhouse and Radley, found that his supposedly dead father was not only alive but also from a trades background, he himself (as well as the headmaster, Dr Ross) agreed that there was no way that he could stay a master in an English public school. Even though Cyril had had 'a great moral influence' over the boys, their respect for his authority would be irretrievably lost were they to find out he was

⁷⁹ Jeffrey Richards, 'Football and the Crisis of British Identity', in Counce et al, *Relocating Britishness*, 88-109.

⁸⁰ It was not until the end of the Victorian era that the professionalisation of teaching began to confirm teachers formally as members of the middle classes, but as Kay Shuttleworth, one of the pioneers of mass education and teacher training insisted, becoming a teacher ensured an elevation in social status. See Matthew Arnold, *Reports on Elementary Schools 1832-1882* (Eyre and Spottiswode, 1910), p.105; Asher Tropp, *The School Teachers: the Growth of the Teaching Profession in England and Wales from 1800 to the Present Day* (William Heinemann, 1957).

not, by birth, a 'gentleman' and so entitled to expect respect from them.⁸¹ Given their likely working class or lower middle class backgrounds, the social status of masters (and mistresses) in elementary schools was much more equivocal in the period covered by this article.

This factor, plus the supposed natural unruliness and undisciplined nature of elementary school pupils and an allied belief in the natural antipathy to many of them to any form of compliance with duly appointed authority, ensured a significant majority of educational comment endorsed the regular use of corporal punishment for working class children of both sexes. It is dangerous to generalise too far, because of the lack of coherent information on elementary schooling across England and Wales until some years after the passage of the Elementary Education Act 1870.⁸² However, on the evidence of reported comment from teachers and School Boards on the topic, as well as reportage of prosecutions of teachers for assaults on their pupils, there does seem to have been a general agreement that corporal punishment was an essential tool in the management of schools and individual pupils. At the seventh Annual Conference of the National Union of Elementary Teachers, held in Liverpool, the conclusion on corporal punishment was that teachers 'regarded it as the most disagreeable' but also as a 'necessary part' of the duty of any teacher.⁸³ That conclusion was endorsed regularly at subsequent conferences up to 1914.⁸⁴ Equally typically, the Birmingham School Board, in 1877, announced in its annual report that it would be 'exceedingly glad if corporal punishment could be abandoned altogether', but considered that, 'owing to the difficulty of dealing with rough and untrained children', it was 'not advisable' to do so.⁸⁵ For decency's sake, girls were generally either caned on the backs of their legs, or on their hands. Boys were usually caned or flogged on shoulders, back or buttocks. A passing slap on the head or ears was never accounted as corporal punishment.⁸⁶

⁸¹ Rosa Nouchette Carey, *Lover or Friend* (Macmillan, 1890), p.383. For him to continue as a schoolmaster in secondary education, he would have had to emigrate to New Zealand or Australia.

⁸² On this point, see Gillian Sutherland, 'Education', in F.M.L. Thompson (ed.) *The Cambridge Social History of Britain, 1750-1950* (Cambridge University Press) pp.119-70, p.121.

⁸³ 'Annual Report, Teachers' Union', *The Times*, 19 April 1876

⁸⁴ See, for instance, 'School Discipline: Paper to the Elementary Teachers' Union', *The Times*, 19 April 1877.

⁸⁵ 'Report, Birmingham School Board', *The Times*, 7 December 1877.

⁸⁶ See, for example, George Potter 'Corporal Punishment in Schools', Letter to the Editor, 3 August 1878, which acknowledge such passing violence took place but insisted these were not regularly recognised punishments. This, though, was general. The author remembers, from her mid-1960s grammar school days, one teacher who regularly threw pieces of chalk at pupils she thought were being inattentive in class. To her knowledge, no one ever complained, though the chalk could advertisedly sting quite considerably when it landed (the teacher had a good aim, and was practised in her throwing).

6 Courtroom Testimony: the Emotional Dimensions to Chastisement

In Kipling's *Stalky and Co*, one story contains some lines which are particularly illuminating of the class nuances to this question. It illuminates middle and upper class comprehensions of the usefulness of corporal punishment and expectations that this would not be understood by the lower classes. It also illuminates for all classes the state of mind in which chastisement should be delivered. Kipling's collection of short stories was based on his reminiscences of the United Services College, at Westward Ho! in North Devon. The boys there, intended mainly for imperial government or military service, consequently needed training in self-discipline, pluck and endurance – and corporal punishment was a regular part of that training. As he flogged the three schoolboys who comprised *Stalky and Co*. for a misdemeanour, the headmaster, Mr. Bates, reminded them that 'Among the – lower classes this would lay me open to a charge of – assault' (the dashes represented the landing of the rod on the shoulders of the boy being flogged – indicating measured, and disciplined strokes, as the rhythm of the sentence suggests).⁸⁷ Mr Bates insisted that they needed to 'be more grateful for your – privileges' than they were. Kipling demonstrated they had learned a lesson and appreciated the 'justice' of this comment (and the headmaster's flogging of them) when they subsequently retired to their washroom in order to admire the red weals on their backs. Rather than dwelling on pain and what Bates described as the 'flagrant injustice' of his deciding to flog them (they had managed to annoy a house master without actually breaking any rules), they instead approved his 'straight eye' and ability to cane them soundly.⁸⁸

This episode frames the reasons why the courts took notice of any episode brought to court. It highlights, in particular, the issue of the emotions involved in relation to those dimensions, drawing particularly on newspaper reportage of actual court proceedings featuring episodes of 'inappropriate' or 'excessive' corporal punishment. It thereby further underlines the nuances and practical complexities involved in negotiating the fine line between justifiable violence and that which was reprehensible on the part of adults when performed in the name of appropriate disciplining of British youth. It meant, amongst other things, that it could be more difficult for teachers in elementary schools to make a case that their chastisement of a pupil was proportionate and would be understood as such by pupils and their parents, than for teachers in secondary schools.

Elementary schoolmaster William Phillips was, in 1864, charged by his 13-year-old pupil James Horsey with assault in a case brought before the Bow Street stipendiary magistrate,

⁸⁷ Rudyard Kipling, 'The Impressionists', *Stalkie and Co*. (Macmillan, 1899).

⁸⁸ *Ibid*.

Mr Vaughan. The case turned upon the number of strokes Phillips had given – with the schoolmaster insisting that his normal rule was to ‘avoid inflicting corporal punishment as far as possible’, and that his rule when he did resort to it was ‘one stroke’ on back or hand. In the incident before the court, however, Horsey had been defiant and insubordinate after the single stroke with a cane on his back, and ‘Feeling the necessity of maintaining discipline’ Phillips had given ‘three or four more cuts with the cane’. It was the fact that Phillips was unsure of how many extra cuts he had given that was crucial. The stipendiary said he fully agreed that ‘discipline must be maintained’ but that for ‘punishment to be effective’ with such pupils it had to be ‘administered with forbearance and moderation’ or it would lose its effect and be seen as tyrannical and unjust. Consequently, he fined Phillips 15 shillings and costs.⁸⁹

The Wandsworth Police Court stipendiary, Mr Bridge, shared Vaughan’s views. In an assault case brought against Charles Hussey (or Hissey), the head of Lower Tooting Graveney Board School by James Wallsgrave, aged 10, Bridge commented that ‘the law was clear, that a schoolmaster might give that punishment that a prudent father would inflict upon a child but the flogging must not be excessive’. In this case, Wallsgrave had been caned for being ‘disobedient and saucy’, with the punishment book showing an entry of four strokes with the cane. But Wallsgrave’s father testified that he had found five weals on his son’s back. For his ‘error of judgment’, Hussey was fined 10 shillings, plus 2 shillings costs.⁹⁰ These two cases can usefully be contrasted with the treatment by the Rotherham magistrates of the Reverend John Christie, the head of Rotherham Grammar School. A case of assault was brought by a parent against Christie, charging an ‘excessive flogging’ of one of his pupils. In this case the pupil displayed his bruised shoulders and arms to the court, and medical evidence was given, with the doctor (one, though, known for his opposition to corporal punishment) insisting it had resulted not only in bruising but also muscle damage to a ‘delicate’ boy. The magistrates, however, rejected the case, feeling there was insufficient evidence of excessive (in other words, anger-driven) violence from ‘a gentleman in such a respectable position’ as Mr Christie. They insisted they were ‘not satisfied it was an unreasonable caning under the circumstances’, and commenting unfavourably on a parent who did not appreciate the value of such an exercise in discipline to the child.⁹¹

⁸⁹ ‘Police News: Bow Street’, *The Times*, 30 May 1864.

⁹⁰ ‘Punishment in Board Schools’, *Standard*, 2 February 1877; ‘Summary of the Morning’s News’, *Pall Mall Gazette*, 2 February 1877.

⁹¹ ‘Charge Against a Schoolmaster’, *Sheffield and Rotherham Independent*, 19 December 1868; ‘Charge Against a Schoolmaster for Beating a Scholar’, *Nottinghamshire Guardian*, 18 December 1868.

As this underlines, many magistrates supported the use of corporal punishment, seeing it as a valuable aid to discipline. Numbers of them were capable either of ordering it themselves as a sentence or regretting the impossibility of ordering it for boys and young men in particular. In the Marlborough Street Police Court, the stipendiary, Mr Tyrwhit, announced that while normally he did not 'advocate the infliction of corporal punishment', when it came to unprovoked 'indecent' perpetrated against innocent (and respectable) girls by drunken young men, it was, 'with fellows such as you' a 'fit punishment'. The accompanying three months imprisonment with hard labour was 'too lenient'.⁹² Nor did newspapers disagree: in one editorial *The Times* insisted that 'a vigorous application of corporal punishment does operate as a cure for garrotting' – stereotypically an offence perpetrated by juvenile males from 12 upwards to young men in their early twenties.⁹³ This robust attitude towards the value of corporal punishment is hardly surprising, given that the men who filled the magistracy (whether legal professionals working as stipendiaries, or lay magistrates), along with the majority of newspaper proprietors, editors and journalists commenting on such topics, were products of either public schools, grammar schools or fee-paying private schools who had been imbued with the moral ethos discussed above. Many of them, also, will have had that reinforced via their university education. Even titles like *Reynolds News* or *News of the World*, with a more working class audience expectation shared similar attitudes towards corporal punishment, if the moral dimensions were less clearly laid out in their reportage. However, closer examination reveals that the general approval of corporal punishment as a tool for disciplining a child was highly contingent on the context of individual cases.

A core case for Victorian public thinking was *R v Hopley* (1860), where Thomas Hopley, a well-respected private schoolmaster, had obtained from the father of his pupil, Reginald Cancellor, permission to chastise him; and on one fatal occasion, had beaten the boy so severely that he had died from the effects of the beating. Hopley was convicted of manslaughter, sentenced to four years, because in the words of Cockburn, LCJ, if (from such a beating) 'evil consequences to life or limb ensue, then the person inflicting it is answerable to the law, and if death ensues it will be manslaughter'.⁹⁴ Crucially, what the case established was the concept that while corporal punishment was a perfectly reasonable response to the need to 'correct evil in a child', when inflicted by anyone *in loco parentis*

⁹² 'Police: Marlborough Street', *Reynolds News*, 28 July 1871.

⁹³ Editorial, *The Times*, 24 June 1867.

⁹⁴ *R v Hopley* (1860) 2 F&F 202. The case was very widely reported: see also 'Home Circuit: Lewes, 21 July', *The Times*, 23 July 1860; 'Assize Intelligence', *Daily News*, 23 July 1860; 24 July 1860; 'Manslaughter by a Schoolmaster - Horrible Cruelty', *Huddersfield Chronicle*, 28 July 1860; 'Beating to Death by a Schoolmaster', *Leicester Chronicle*, 28 July 1860.

(and also, implicitly, a parent) that correction must also be 'reasonable' in that it had to be 'moderate'.⁹⁵ What, in Hopley's case, had made the chastisement unreasonable and immoderate was the clear evidence not just that the beating had been prolonged over two-and-a-half hours, but also that Hopley had thoroughly and completely lost his temper with the boy. The chastisement had been carried out not in a spirit of calm reproof, but rather in what Cockburn, *LCJ*, defined as 'the gratification of a passion or of a rage' resulting from what Hopley had identified as the wilful refusal of Cancellor to learn his lessons.⁹⁶

This identification as a legal principle of the spirit in which corporal punishment had to be delivered was crucial to the cases mentioned above in relation to elementary school teachers prosecuted for assault. The Bow Street stipendiary, Mr. Vaughan, said to William Phillips that, in punishing Horsey, he had 'unfortunately' allowed his temper to 'get the better' of him, leading to his mistake in beating his pupil too severely.⁹⁷ Equally, Mr Bridge deemed that Charles Hussey was 'suffering from temper, and not as cool as he should have been'.⁹⁸ Again, and again, in cases brought in the summary courts for assault on elementary pupils, the core factor driving magistrates' decisions was not the severity of the beating, but rather the mood of the master (or mistress) inflicting the chastisement. When, in 1894, Mr Davenall of Hogarth Road Board School was charged with assaulting a number of his pupils, his response to the court had been that he had 'deemed it necessary to inflict punishment in order that he should not lose control of the school'. He had, as his witnesses attested, the reputation of a 'lenient teacher' and there was no doubt in the minds of the magistrate that the ringleader, Waller, and his supporters had been 'grossly misbehaving'. But, Mr. Curtis Bennett said the punishment was 'altogether unjustifiable' because Davenhall had 'lost his temper and behaved in a way that showed he was unfit to have the control of boys'.⁹⁹

Even before Cockburn, *LCJ*'s pronouncement in *R v Hopley*, the issue of the mood of those administering chastisement was considered crucial in cases involving those standing *in loco parentis* to working class children. In 1851, the Manchester Borough Court had heard a charge of assault against William Arnold McGill, a highly respectable local chemist and druggist, and a local councillor in Manchester's St Michael Ward, for a 'violent and brutal outrage' on his 17-year-old apprentice. The Bench had stated that 'In order to avoid cruelty, it was necessary for those who administered it to do it coolly and with care', but that instead,

⁹⁵ *R v Hopley* per Cockburn, *LCJ*.

⁹⁶ *Ibid*.

⁹⁷ 'Police News: Bow Street', *The Times*, 30 May 1864.

⁹⁸ 'Punishment in Board Schools', *Standard*, 2 February 1877; 'Summary of the Morning's News', *Pall Mall Gazette*, 2 February 1877.

⁹⁹ Davenhall was fined a total of 80 shillings with 100 shillings costs for the assaults. 'Police', *The Times*, 22 March 1894.

McGill had demonstrated 'great violence and passion'. They had consequently fined him 5 guineas and cancelled the boy's indentures, embarrassing McGill thoroughly in the eyes of his fellow townsmen who had crowded the court.¹⁰⁰ By contrast, Miss Hannay brought a successful libel case against Mr Birch, a local preacher who was also involved with a local orphanage. Several of the pupils under his care attended the Hamer Street Board School for girls, of which Miss Hannay was headmistress, and Birch had written to the *Manchester Guardian* to complain that several of the orphanage girls had been subjected to 'cruel' treatment, being caned or slapped by Miss Hannay or her teachers. Crucially, no charge of assault had been brought before the local magistrates and even in the libel case, no evidence was brought which suggested that the use of corporal punishment admitted by Miss Hannay for her regime was inflicted by either Miss Hannay herself or any other teacher in a temper. Miss Hannay claimed any physical correction was 'light and moderate', and some girls were brought as witnesses to support her case. Mr Birch brought witnesses who claimed they had been bruised 'black and blue' by the punishment inflicted on them. But in no testimony was it suggested the teachers inflicting punishment were in a passion. As a result, Miss Hannay won her case and was awarded £100 damages against Mr Birch.¹⁰¹

7 Corporal Punishment and the Finer Moral Sensibilities

However, there is a further nuance to this. Certainly, *R v Hopley* established formally a legal perspective used by summary and higher courts in relation to corporal punishment: that it needed to be inflicted in the 'right' frame of mind. Part of the Victorian comprehension of what constituted a 'right' frame of mind included a clear, class-based distinction in expectations of boys (and girls) who might have chastisement inflicted on them for the purposes of correcting their evil tendencies. Working class children were, for the most part, not expected to display the finer moral sensibilities that were supposedly inherent in the majority, at least, of upper and middle class children and equally supposedly made them more susceptible to the moral educational strategies advocated by Edgeworth et al.¹⁰² Consequently, the virtue of corporal punishment for them related strongly to the administering of a punishment that was moderate and proportionate to the offence (usually,

¹⁰⁰ 'Violent Assault on a Parish Apprentice by his Master', *Manchester Times*, 4 January 1851.

¹⁰¹ 'Hannay v Birch', *Manchester Times*, 20 July 1878. This paper is cited as the fullest coverage, as the *Manchester Guardian*, in which the libellous letters had appeared, provided much less detail. The case is also interesting for the implications that as witnesses, girls were considered much less credible than boys, and it did not help Mr Birch's case against Miss Hannay that he seemed so uncritically to accept their testimony. The Judge, Cockburn, LCJ, who had presided in *R v Hopley* (1860), certainly implied that he thought Mr Birch gullible to have accepted the testimony of his young female witnesses at face value.

¹⁰² See, for instance, Sabine Schuelting, *Dirt in Victorian Literature and Culture. Writing Materiality* (Routledge, 2012), pp.127-8, making the point that many in the Victorian middle classes felt for the working classes that which, in terms of attitudes to dirt, for example, they were incapable of feeling themselves.

in the court cases, shown to be some form of insubordination), and which could instil a respect for duly appointed authority, as a strategy for inculcating obedience. Authority was felt to be best expressed, within the courtroom and other adult scenarios, through calm self-control; demonstrating a level of self-control not expected of the less refined working classes.¹⁰³ But the upper and middle classes were more refined and more 'civilised', and demonstrated this by their possession of 'discipline', learned at school through close acquaintance with the Classics (particularly Greek texts) and the models they provided.¹⁰⁴ It was this moral discipline which, expanded on and applied in adult life, worked to ensure the pre-eminence of both Britain itself and her Empire.

Thus, for instance, returning to *Stalky and Co*, Kipling regularly reminds readers that the key purpose behind the training received at the United Services College was training its products to go out and run the British Empire effectively. Two linked stories in particular underline this – in 'Slaves of the Lamp' Part I, Stalky and Co. used a subversive strategy to pay back a master for (as they saw it) embarrassing them in front of their peers, and without leaving a trace of their own culpability in the matter. They were, as a consequence, suitably flogged and from that, learned a greater moral subtlety in implementing their schemes. Subsequently, the virtue of such training – the insight allied to physical endurance – was displayed in 'Slaves of the Lamp' Part II. In that, the now adult Stalky was adjudged by his former schoolfriends, all involved in running the Empire in various roles, to have 'duplicated that trick' he had played upon his schoolmaster upon insurgents in North West India.¹⁰⁵ From that, the Pathan insurgents learned that the authority of the Empire was swift, and appropriate, and that resistance to its authority was vain. But the underpinning message was that if the realities of running the Empire were brutal, and harsh, it also required morally imaginative strategies to manage the potential trouble-makers. To evolve such strategies required not brutality but a refined level of moral sensibility, and a comprehension of shame that was mental, rather than physical in its presentation. Thanks to its advanced disciplinary strategies in its public schools, Britain was fortunate that it had produced sufficient 'Stalkies' to go forth to run the everyday crises of Empire. As Beetle (one of the 'and Co.') proclaimed

¹⁰³ Rowbotham, 'Civilising Savages'.

¹⁰⁴ Niall Livingstone and Gideon Nisbet, *Epigram* (Cambridge University Press, 2010), pp.143-4, which explores the extent to which reading the Classics, especially Greek, in the original provided both creative and logical thinking which allied to Protestant moral piety to produce the ideal balance represented by Britishness. The problem for the working classes, Victorian optimists like John Stuart Mill felt, was that they lacked the discipline and insights provided by learning to read the Classics in the original language. At best, the aspiring member of the middle class was likely to read only in translation.

¹⁰⁵ Kipling, 'Slaves of the Lamp. Part I'; 'Slaves of the Lamp. Part II', *Stalkie and Co*.

in response to the claim that Stalkie was unique: 'India's full of Stalkies – Cheltenham and Haileybury and Marlborough chaps'.

One aspect of this was that while most public and fee-paying school masters would have endorsed the advice of Reverend J Howson of Liverpool Collegiate School, 'Never inflict a punishment of that kind if you feel angry', a difference was made between temper and moral outrage.¹⁰⁶ Returning to Farrar's *Eric: or Little by Little*, the high-minded schoolmaster Mr Rose was so 'morally outraged' by the corrupt influence of Benson and his followers that he flogged them mercilessly – and this was acceptable. It was not 'temper' but a manifestation of righteous wrath targeting evil.¹⁰⁷ Appreciating this gives extra depth to the episodes involving the Rotherham Grammar School headmaster, John Christie, and the Maamchester Grammar School headmaster, J.L. Paton. In both cases, but (given that the former came to court, while no reported prosecution of Paton has yet been discovered) particularly the former, the judgment of the courts, and more widely of respectable public opinion, endorsed the making of this difference. In the case of the Rotherham Grammar School pupil, it was reported that the boy had been discovered by Christie to have wilfully, and to the distress of his fellow pupils, tortured a bird and killed it. Christie's consequent moral outrage had resulted in a severe beating (the medical evidence of the bruising makes that plain), but the court still felt that, given the circumstances, that the headmaster had administered an appropriate chastisement – and that implicitly, the boy should have profited from it had his father not inappropriately interfered with the school's wholesome disciplinary strategy.¹⁰⁸

Conclusion

This article has focused on the prosecution of individuals acting *in loco parentis*. There were, if less regularly, prosecutions of parents appearing in the summary courts on charges of child cruelty, but the vast majority of them are relatively predictable in what they reveal and the cases discussed here explain the reactions of the courts to those found guilty. They were overwhelmingly convictions of working class parents for their 'brutal', 'cruel' or occasionally 'unnatural' treatment of their offspring, identified as such because, as a result of some particular provocation, or as a manifestation of an inherently brutal temperament, uncivilised parents had lost their temper. In temper, these parents had inflicted a level of corporal punishment on their sons or daughters that had become visible to the community and so the

¹⁰⁶ 'English Private Schools', *Pall Mall Gazette*, 7 August 1868.

¹⁰⁷ Farrar, *Eric: or Little by Little*, p.257.

¹⁰⁸ 'Charge Against a Schoolmaster', *Sheffield and Rotherham Independent*, 19 December 1868; see also, typical of the general feeling in national and local newspapers: 'Charge Against a Schoolmaster for Beating a Scholar', *Nottinghamshire Guardian*, 18 December 1868.

courts had to take notice of these incidents. It was not so much they physical extremes they had proceeded to, but the state of mind in which they had inflicted their chastisements.¹⁰⁹ Occasionally a middle class parent might appear, in which case – shamefully – intoxication was likely to be held overtly to be a key factor in causing a parent to lose their temper.¹¹⁰ For the middle and upper classes, a perceived need for a boy in particular to learn pluck and endurance ensured that very frequently harsh corporal punishment endured as a regular part of schooling was viewed as a way of imparting necessary lessons. But lessons learned in that apparently harsh way were justified where linked to the moral landscape that pupils had to learn to negotiate. There, lessons taught by shame and mental anguish were more important than those that might be taught simply by application of a birch or cane to a boy's (bare) posterior or shoulders and the weals and bruises left as a consequence. Those physical marks could help to remind a boy (occasionally a girl) of the core moral lessons to be learned. Where possible, and particularly within the respectable home circle, it was best for corporal punishment to be only occasionally employed. Maria Edgeworth's practical instructions helped many parents to formulate morally-centred strategies for rearing their children in the best way, with various warning reminders provided in the fiction of writers like Mrs Henry Wood, Charlotte Yonge and G.A. Henty of the consequences of a failure on their part to instruct their children appropriately.

In the larger community of the school, wider lessons had to be taught by those standing *in loco parentis* to pupils. But acceptance of the need for corporal punishment performed by such guardians was hedged about with a number of moral caveats that made both the occasion for punishment and the spirit in which it was delivered the key issue. The case of *R v Hopley* (1860) resonated regularly in subsequent court proceedings because it underlined to a shocked Victorian public that even well-meaning, well-respected men with, in general, a genuinely paternal approach to their pupils, could lose their temper with individuals. With that, they lost a sense of proportion and so lost a sense of the levels of chastisement that it was fitting to deliver. Equally, it was of critical importance to maintaining social hierarchy and stability that the working classes respected the authority of their 'superiors' (employers, officers etc). Thus the educational experience of a working class lad or girl was warped by the infliction of even mild chastisement in the wrong spirit – where it was obvious to all, including the pupils, that the master or mistress had lost their temper. The hazard of being an elementary school master or mistress was that in that apparently humble position, the teacher had a wider, national (even imperial) duty to keep calm and carry on their tasks in a

¹⁰⁹ See, for instance, Southwark: William Tinckney for Cruelly Beating His Son', *Standard*, 17 January 1850; 'Gross Barbarity to Two Children by Their Father', *Reynolds News*, 27 January 1861.

¹¹⁰ See, for instance, 'Clerkenwell. A Cruel Mother', *Daily News*, 1 January 1851.

performance of authority that both evoked paternal interest and inspired respect and a willingness to be obedient.

What has been revealed in this exploration into the landscape of the delegation of Victorian and Edwardian parental authority is that what constituted the inappropriate abuse of a child under 18 was a complex matter. In the eyes of contemporaries the focus was not so much on the degree of physical damage inflicted during a flogging, caning or birching but on the spirit in which it was carried out by the adult in charge. Contemporary cultural attitudes made the assessments of the appropriate boundaries to corporal punishment contingent upon a number of factors. While these included the class (and to an extent the gender) of the recipient of a caning, birching or flogging, more importantly it rested in an assessment of the mood of the adult in a position of parental authority. It became established in the courts, and endorsed in public opinion, as child abuse when the administration of corporal punishment to a juvenile was carried out impulsively and in a fit of temper, rather than out of a determination to cause physical pain only to awaken conscience or teach a deterrent lesson. This helps to explain why, in the early twentieth century, the emphasis shifted away from an almost unquestioning support for maintaining parental authority to the need for protection for the child from unreasonable and cruel exercise of that authority. It is unlikely the National Society for the Prevention of Cruelty to Children, or the Children's Act 1908, could have emerged without the clarification provided by court cases dealing with inappropriate levels of violence perpetrated by those standing *in loco parentis* who did not also display a quasi-paternal affection which would serve to moderate their temper when faced with a recalcitrant charge. The substantial acceptance that the exercise of parental authority had to be governed and limited by affection now justified the intrusion into the domestic space that Shaftesbury had once insisted could never be acceptable to the legislature, the courts or public opinion.