

Domestic Discipline – Section 280

The prosecution must satisfy you beyond reasonable doubt that any assault in this case was unlawful, which means not authorised, justified or excused by the law. The law permits a parent [or a person in the place of a parent, school teacher or master¹] to use by way of correction, discipline, management or control towards a child under that person's care, such force as is reasonable under the circumstances.

It is accepted here that [the complainant] was in her father's care at the time. It is for the prosecution to satisfy you beyond reasonable doubt either -

- 1. that the defendant's actions in [describe actions] were not by way of correction, discipline, management or control of his child; or**
- 2. that the force he used was not reasonable.**

It is for you to decide what is reasonable on an objective view of the circumstances as you find them to be. It is important that you understand that the defendant does not have to prove that he was disciplining [or controlling etc] his child or that the force used was reasonable; it is for the prosecution to prove either that he was not disciplining her, or that the force used was not reasonable under the circumstances.

If the prosecution has satisfied you beyond a reasonable doubt, either that the defendant was not disciplining the child or, alternatively, that the force he used was not reasonable under the circumstances, it has established that the defendant's actions were not lawful on this basis. If it cannot do so, the defendant is entitled to be acquitted.²

¹ *Horan v Ferguson* [1995] 2 Qd R 490 contains dicta (at 504) that "school...master" should be given "a broad meaning to cover any person employed by the school authorities to maintain the school as an educational community."

² This direction is largely based on that given in *R v DBG* (2013) 237 A Crim R 581, which was uncontentious on appeal.