COMMENTS UPON INDICTABLE OFFENCES IN THE JUVENILE DELINQUENTS ACT*

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I. *Introduction*

Section 9 of the Juvenile Delinquents Act states under what circumstances and by which procedure a child may be deferred from the juvenile court to the ordinary criminal courts.

Its application is of capital importance for the future of the child who appears before the juvenile court, because it takes him from the jursidiction of a court created not only to meet his needs, but also to further his greater good, and places him before a purely criminal court.

The section reads as follows:

> 9. (1) Where the act complained of is, under the provisions of the *Criminal Code* or otherwise, an indictable offence, and the accused child is apparently or actually over the age of fourteen years, the Court may, in its discretion, order the child to be proceeded against by indictment in the ordinary courts in accordance with the provisions of the *Criminal Code* in that behalf; but such course shall in no case be followed unless the Court is of the opinion that the good of the child and the interest of the community demand it.
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> (2) The Court may, in its discretion, at any time before any proceeding has been initiated against the child in the ordinary criminal courts, rescind an order so made. 1929, c. 46, s. 9.

The study of the text of this section, has given me again the opportunity of perceiving what meaningful purposes can be contained in but a few words. Canadian legal doctrine, as such, pertaining to section 9 of the Act, is, to the best of my knowledge, inexistent. However, our jurisprudence upon it though quite limited is of great interest, and to be of some effective use in a study of this nature, demands, I believe, frank comment. In so making I beg to be excused for respectfully differing in some

*R.S.C., 1952, c. 160. For a general analysis of the Act see Pepler, The Juvenile Delinquents Act, 1929, (1952), 30 Can. Bar Rev. 819.

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instances from the opinions expressed by the learned judges who have decided the cases mentioned. I only too well realize that, though profound thought and very lengthy consideration have been given to this article, the views expressed here in contradiction to any jurisprudence, may well be entirely at fault. But, whatsoever may be of it, I feel on one point we will all agree that a study which might help to further, in however small a way, the advantage of our delinquent youth is worthy of some consideration.

II. *Scope of The Act in Relation to this Section*

The dispositions of section 9 of the juvenile delinquents Act should, I believe, be given application only whilst keeping in mind the principles set forth in sections 2 (1)(h), 3(1) and (2), 4, 8 (1), 10(1) and (2), 12(1), (2), (3) and (4), 28(2) and 38.

Section 2 (1)(h)[1] not only defines the juvenile delinquent as one who violates any provision of the Criminal Code,[2] of the federal and provincial statutes, or of any municipal by-law or ordinance, but even as one who, in certain cases, infringes rules of purely moral conduct. Provided he fulfills the condition of being under 16, 17, or 18 years of age (depending upon the province concerned), he will be considered a juvenile delinquent and not a criminal.

To clearly illustrate that the law intends to restrict the responsibility of such an individual, section 3(1)[3] of the law determines that whatever may be the nature of the crime or of the infraction in itself committed by him, this act does not constitute a crime, nor an infraction, but purely a delinquency.

Moreover, section 3(2), states that the delinquency, whatever it may be which has been committed by a child, renders him not an offender, but one in a condition of delinquency, and thus, in need of help, guidance and proper supervision.

The legislators' intention to this effect is doubly emphasized

[1] Section 2(1)(h) " 'juvenile delinquent' means any child who violates any provision of the *Criminal Code* or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute;"

[2] Section 2(1)(a) " 'child' means any boy or girl apparently or actually under the age of sixteen years, or such other age as may be directed in any province pursuant to subsection (2);"

[3] Section 3(1) "The commission by a child of any of the acts enumerated in paragraph (h) of subsection (1) of section 2, constitutes an offence to be known as a delinquency, and shall be dealt with as hereinafter provided."

when one considers that it has been felt advisable to stress this further by the inclusion of section 38[4] which is to the same purpose.

Sections 4[5] and 8(1),[6] of the Juvenile Delinquents Act, without any restriction whatsoever as to the nature of the infraction, offence or crime committed, determine that any individual who may be arrested, if he is of any age such that he must be considered a child (within the age limit as determined in any given province), shall be brought before the juvenile court, whether he has or not previously been brought before another court which might be, in all ways other but that pertaining to his age, competent to adjudicate. This section further adds that in any such case the juvenile court shall hear and dispose of the case.

Sections 10 (1), (2)[7] and 28 (2)[8] determine, in a restrictive manner, who shall be informed of an audition to be held, of the date thereof and of the circumstances pertaining to the delinquency imputed to the child and who, moreover, can be present at the hearing.

Section 12(1) and (2)[9] indicate to what extent the legislator

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[4] Section 38 "This Act shall be liberally construed to the end that its purpose may be carried out, namely, that the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance. 1929, c. 46, s. 38."

[5] Section 4 "Save as provided in section 9, the Juvenile Court has exclusive jurisdiction in cases of delinquency including cases where, after the committing of the delinquency, the child has passed the age limit mentioned in paragraph (a) of subsection (1) of section 2. 1929, c. 46, s. 4."

[6] Section 8(1) "When any child is arrested, with or without a warrant, such child shall, instead of being taken before a justice, be taken before the Juvenile Court; and, if a child is taken before a justice, upon a summons or under a warrant or for any other reason, it is the duty of the justice to transfer the case to the Juvenile Court, and of the officer having the child in charge to take the child before that Court, and in any such case the Juvenile Court shall hear and dispose of the case in the same manner as if such child had been brought before it upon information originally laid therein."

[7] Section 10(1) "Due notice of the hearing of any charge of delinquency shall be served on the parent or parents or the guardian of the child, or if there be neither parent nor guardian, or if the residence of the parent or parents or guardian be unknown, then on some near relative living in the city, town or county, if any there be, whose whereabouts is known, and any person so served has the right to be present at the hearing."

[8] Section 28(2) "Representatives of the Juvenile Court Committee, who are members of that Committee, may be present at any session of the Juvenile Court."

[9] Section 12(3) "No report of a delinquency committed, or said to have been committed, by a child, or of the trial or other disposition of a charge against a child, or of a charge against an adult brought in the Juvenile Court under section 33 or under section 35, in which the name of the child or of its parent or guardian or of any school or institution that the child is alleged to have been attending or of which it is alleged to

has moreover desired to encompass with precaution and care the circumstances pertaining to proceedings against children since these provisions require the non-publicity of the trials. Section 12 (3) and (4) further stresses the fact that a presumed delinquency or a delinquency and all and any proceedings pertaining thereto shall be surrounded with a total void of published information anywhere in Canada, whether or not the law be otherwise in force in the place of publication.

In view of the dispositions of section 6 (1), every judge of a juvenile court has the power to impose such penalty as determined by law upon any who infringe the dispositions of the section.

III. *Application of Section Nine*

Consideration having been given to these sections, one cannot but conclude that section 9 of the Act is of an exceptional nature, when considered in relation to them.

In view of this, it is my respectful opinion that the application of section 9:

(a) can only be effected by the judge who, having to consider the possibility of such an application, keeps in mind the overriding principles laid down in the above-mentioned sections;

(b) demands, because of its very exceptional nature, strict adherence to every and all conditions mentioned in its text.

One must note that to order a child to be proceeded against by indictment in an ordinary court of criminal jurisdiction, the juvenile court before which the child appears, must, and these words are of capital importance, conclude that such a deferment[10] is demanded for the good of the child *and* in the interest of the community.

The here-underlined conjunction is, I submit, of paramount importance and creates a twofold requirement which is a *sine qua non.*

The judge having the child before him who concludes to the existence of these two conditions simultaneously must have an order prepared to the effect of deferring the child and therein state

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have been an inmate is disclosed, or in which the identity of the child is otherwise indicated, shall without the special leave of the Court, be published in any newspaper or other publication. (4) Subsection (3) applies to all newspapers and other publications published anywhere in Canada, whether or not this Act is otherwise in force in the place of publication. 1929, c. 46, s. 12."

[10] Deferment: This word, of no legal use in our criminal terminology, is applied hereafter to avoid the repetitious use of the words: "order to proceed against by indictment" in section 9.

that, after consideration of the matter, it is his opinion that the deferment is demanded for the good of the child and in the interest of the community.

Such a deferment has no judicial value unless completed with the above information enclosed in the order. This has been expressively stipulated in the considerations of the judgment rendered in *Rex* v. *Newton*.[11]

The principle established is extremely sound for whatever may be the seriousness of any presumed crime, the text of the section requires that the court give due consideration to a possible deferment before it is made, since it must be of a given opinion to order such deferment.

Moreover it is but a logical consequence thereof that the ordinary court of criminal jurisdiction, which is thus exceptionally ordered to receive and judge a child, be informed that the requirements of the text for such a deferment have been adhered to, and this can only be done if the order specifically states that the juvenile court, having exercised its discretion, is of the opinion that the good of the child and the interest of the community demand the deferment.

Under what circumstances would the application of section 9 be advisable? Three situations may arise and are, I believe, especially worthy of being examined: when no previous deferment has been made, when there has been a previous deferment and when a child is charged with murder.

(1) In any matter which constitutes an indictable offence, the dispositions of section 9 should be applied only when the court has exhausted all the means at its disposal to help, direct and give supervision to the child as required by section 3 of the Act.[12] Can the court face with equanimity that the good of the child demands the deferment if all these means have not been tried? Only once he has exhausted them can the judge face without misgiving an order to proceed by indictment in the hope that subsequent rehabilitation may be more effectively obtained by the means at the disposal of the ordinary criminal courts.

(2) Where a child, having previously been committed to an

[11] (1949), 7 C.R. 422; (1949), 94 Can. C.C. 180.

[12] Section 3(1) "The commission by a child of any of the acts enumerated in paragraph (h) of subsection (1) of section 2, constitutes an offence to be known as a delinquency, and shall be dealt with as hereinafter provided." (2) "Where a child is adjudged to have committed a delinquency he shall be dealt with, not as an offender, but as one in a condition of delinquency and therefore requiring help and guidance and proper supervision. 1929, c. 46, s. 3."

ordinary court of criminal jurisdiction, is again brought before the juvenile court, this court must seriously consider deferring the child to the ordinary court of criminal jurisdiction, upon his appearance for another offence.

Indeed, the court in such a case may take into consideration that, before the previous committal to an ordinary court of criminal jurisdiction, the juvenile court had then exhausted all the means available to avoid such a committal and consequently assume it was both for the good of the child and in the interest of the community that the previous committal had been made.

Nonetheless, I feel that the text of this section requires that each appearance be considered individually and that consequently a previous deferment is not to be deemed as a justification for an "automatic" deferment but purely as one more element to be weighed before a deferment is ordered.

(3) In a case of murder, I do not believe a deferment can be made.

In fact, the Juvenile Delinquents Act is a federal statute having full legal effect wheresoever proclamations have been issued and published in the Canada Gazette.[13] Though several sections pertaining to this Act have been amended, some on more than one occasion, the text of this section has never been revised.

The very text of section 9 of the present Act is identical to that in the original Act[14], the sole change being in its number (it then was section 7) and in the fact the two paragraphs of section 9 formed but a single paragraph in the original text.

Moreover, the legislators who enacted this statute and those who subsequently made the appropriate amendments did so upon the experienced and weighty opinions of various commissions, committees and jurists who had thorough knowledge of all the sections of the Criminal Code including those pertaining to murder, and no amendment to the original Act was ever deemed advisable to create an obligation, in the case of a child being accused of murder, of deferring him to an ordinary court of criminal jurisdiction.

It is my opinion, that in a case of murder, the juvenile court neither follows the text nor the spirit of the law by deferring a child in pursuit of the dispositions of section 9(1).

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[13] Section 44 "This Act shall go into force only when and as proclamations declaring it in force in any province, city, town or other portion of the province are issued and published in the *Canada Gazette*. 1929, c. 46, s. 44."

[14] 7-8 Ed. VII, c. 40.

Indeed, the application of section 9(1) demands three essential conditions which must all be applicable to put into effect the dispositions of this section:

(1) The matter concerned must be in the nature of an indictable offence.

(2) The child must be apparently or actually over the age of fourteen years.

(3) The court, upon having used its discretion, and such discretion has to be used since an opinion is required, must be of the opinion that the good of the child and the interest of the community demand a deferment.

That the first two conditions may be met can be easily perceived, but it is, in my opinion, very difficult to perceive that these two conditions will be met with the double requirement of the third condition demanded in the section.

The text and the spirit of the law demand that the judge, faced with a child who has committed a delinquency, shall bring to this child, help, guidance and proper supervision and the solutions given to this purpose are detailed in the dispositions enumerated in section 20(1)[15] of the Act.

Nothing prevents murder from being adjudged a delinquency. On the contrary section 3(1), coupled with section 2 (1)(h), clearly states that any crime, without exception, in the Criminal Code may be a delinquency. Thus a juvenile court, faced with a child charged

[15] Section 20(1) "In the case of a child adjudged to be a juvenile delinquent the court may, in its discretion, take either one or more of the several courses of action hereinafter in this section set out, as it may in its judgment deem proper in the circumstances of the case:

(a) suspend final disposition;

(b) adjourn the hearing or disposition of the case from time to time for any definite or indefinite period;

(c) impose a fine not exceeding twenty-five dollars, which may be paid in periodical amounts or otherwise;

(d) commit the child to the care or custody of a probation officer or of any other suitable person;

(e) allow the child to remain in its home, subject to the visitation of a probation officer, such child to report to the court or to the probation officer as often as may be required;

(f) cause the child to be placed in a suitable family home as a foster home, subject to the friendly supervision of a probation officer and the further order of the court;

(g) impose upon the delinquent such further or other conditions as may be deemed advisable;

(h) commit the child to the charge of any children's aid society, duly organized under an Act of the legislature of the province and approved by the Lieutenant-Governor in Council, or, in any municipality in which there is no children's aid society, to the charge of the superintendent, if one there be; or

(i) commit the child to an industrial school duly approved by the Lieutenant-Governor in Council."

with murder, may, if it deems it necessary, order the deferment but nothing in such text, creates an obligation to do so.

I believe here it is of great importance to determine the meaning of the words "good of the child" and "interest of the community". It seems to me that "the good of the child" will not be found in the means themselves by which he is judged (by a jury before the assizes or by a juvenile court) but in the solution given by law upon issue of trial being reached. Neither is "the good of the child" his present, actual good upon appearance, because his status at the moment of his appearance is indeterminate or unsettled which can be neither good nor bad as being, at that moment, without a solution. Nor is it his good if acquitted, because, in such a case, any court can do nothing but free him.

It is my belief that "the good of the child" as mentioned in section 9(1), is the future good of the child if he should be found guilty. In this connection, it is worthy of note that section 20 (5),[16] which mentions the good of the child and the best interests of the community, presupposes an adjudication of guilt[17] and that these words are the same as those used in section 9(1).

As to the words "the interest of the community" they can signify little else but to have in its midst a sound and honest citizen coupled with a need of public security. The court which takes upon itself to defer a child upon a murder charge cannot foresee for this child, after such deferment, any other but two legal solutions: acquittal or death.[18] Here, I must state that I respectfully disagree with the learned judge in the case of *Regina* v. *Paquin and de Tonnancoure*,[19] where he states that it is neither in the interest of the accused nor in that of the community that the accused be judged in such a case of having committed a delinquency and that this be by one man sitting in camera (judge without jury). Our law does not demand that the solution adopted be in the interest of the child but for the good of the child, and the interest of the child is not always necessarily identical to his good. It is my submission that the distinction must all the more be noted in that the legislators themselves have made it.

Furthermore, in his judgment, the judge refers to *Scott* v. *Scott*[20]

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[16] Section 20(5) "The action taken shall, in every case, be that which the court is of opinion the child's own good and the best interests of the community require. 1929, c. 46, s. 20."

[17] Section 20(1), *ante*, footnote 15.

[18] Section 206, Crim. Code: Punishment for murder. "Every one who commits murder is guilty of an indictable offence and shall be sentenced to death."

[19] (1955), 111 Can. C.C. 312.

[20] [1913] A.C. 417.

a judgment of the House of Lords, which involved a divorce and the order given to hear the case in chambers had been so made without jurisdiction. I beg to differ from the opinion of the learned judge that the principle concerning a private or in camera trial expressed in the *Scott* case, however noteworthy in itself it may be, can mainstay an application of this section, the more so that not only does our law permit to proceed in chambers (or other private room) and without publicity, but also the text itself of the law, at section 12,[21] makes this mandatory.

I here wish to re-emphasize that the legislators in full knowledge of the dispositions of the Criminal Code, including those concerning murder, never determined, neither upon enactment of the law nor in any subsequent amendment thereto, that there was an obligation in the case of murder for the juvenile court to make a deferment. Far from it, in full knowledge of what was previously mentioned, the legislators enacted that the juvenile court should consider, to justify a deferment, not only the interest of the community but the good of the child. I can, in no way, visualize how the good of the child can be foreseen by the juvenile court judge upon a deferment being made by him, in a charge of murder, when he knows a verdict of guilt will carry the death sentence.

The case of *Rex* v. *D.P.P.*[22] is also of interest to demonstrate this. The learned judge states: "As an experienced judge [when speaking of the juvenile court judge] we may conclude that he knew sufficiently the interest of the community and the preferable mode of trial when such a serious charge as murder was made."

I respectfully submit that "the preferable mode of trial", the importance of which is here stressed by its very mention upon a plane with the interest of the community, is not in itself one of the two prime considerations but solely one of the various matters to be kept in mind by the juvenile court judge when considering whether the deferment is demanded for the good of the child and in the interest of the community.

The learned judge further adds: "An acquittal by a jury on

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[21] Section 12(1) "The trials of children shall take place without publicity and separately and apart from the trials of other accused persons, and at suitable times to be designated and appointed for that purpose. (2) Such trials may be held in the private office of the judge or in some other private room in the court house or municipal building, or in the detention home, or if no such room or place is available, then in the ordinary court room, but when held in the ordinary court room an interval of half an hour shall be allowed to elapse between the close of the trial or examination of any adult and the beginning of the trial of a child." (3) *Ante*, footnote 9, (4) *ante*, footnote 9.

[22] (1949), 6 C.R. 326, at p. 329.

that charge would, as it seems, be much more for the good of the accused than a trial in camera before a single judge of any court." One can but note the word "acquittal", no mention is made of his good in the case of a conviction. And also: " . . . with due respect, I cannot accept the opinion of counsel for the accused that the good of the accused is inferentially paramount as against the interest of the community, and especially when it is given in contradiction to the opinion of the experienced Learned Judge of the Juvenile Court." The judge here takes into account and weighs the opinion of counsel as against that of the juvenile court judge. I feel that this creates a comparison of the importance between the good of the child and the interest of the community as against the text which requires that both exist per se. The text of section 9 demands that both conditions be fulfilled in the court's opinion and, only if so, can the deferment be ordered. To all legal intents and purposes, "the good of the child" as mentioned in section 9 is not his good in the case of an acquittal, because in such a case the court has no subsequent jurisdiction whatsoever over him, but his future good in the case of an adverse issue of his trial, and it is difficult to conceive that, in such a case, the child may have any future good as the only issue of a verdict of guilt can legally be the death sentence. Wherefore, the text and spirit of the section as enacted hardly allow its application in the case of a child appearing on a murder charge.

I also feel that section 3(2) must be coupled in the judge's mind with the dispositions of section 9(1), when the deferment is considered. It may here be of interest to refer to *Rex* v. *L.Y. No. 1*,[23] in which the judge determined various reasons for which he believes there were good and sufficient grounds why the juvenile court did rightly issue the order. More especially, at page 106, one can note that the reasons given, in subparagraphs a, b, c, d, e, f, g, h, i, j, of the judgment, as justifying the deferment, are all considerations which not only the legislators were able to, but must have, foreseen and nonetheless no obligation was ever created, by any amendment to the text, to make the deferment.

A re-appraisal, by our juvenile courts, of the meaning of this section is certainly required. This opinion, though set forth only after very extensive consideration, is diametrically in opposition to what appears not only a well-nigh unanimous jursiprudence, but also, thereby, to the consequent application of the awesome tradition and principles of trial by jury in a case of murder.

[23] (1944), 82 Can. C.C. 105.

But here, I believe, is the very heart of the matter. Our juvenile courts, when called upon to decide as to what need be done upon the appearance of a child charged with murder, have been, no doubt, often overwhelmingly embarrassed by these very traditions and principles.

The judges of the juvenile courts as well as those of the higher courts who are called upon to review their decisions, steeped in the ordinary principles and long tradition as to the procedure in a murder case, have interpreted, it is felt, section 9 of this new law[24] within the confines of these principles and tradition. Because of this, our legal perspective, impregnated by such thinking, has brought into existence a jurisprudence which has at times overshadowed the text itself in making it well-nigh mandatory to order the deferment, though the very text of the law states:

(a) Section 2(1)(h): "'juvenile delinquent' means any child who violates *any* provision of the Criminal Code . . . ."

(b) Section 3, referring to section 2(1)(h): the delinquent "shall be dealt with, *not as an offender*, but as one requiring help and guidance and proper supervision".

(c) Section 9(1): ". . . but such course [the deferment] shall *in no case* be followed unless the Court is of the opinion that the good of the child *and* the interest of the community demand it." [Italics supplied].

These considerations being given, it may be doubtful that public interest in itself be best served by having a child tried for murder before a juvenile court; it may well be that such public interest demands that all or any murder charge be heard by a jury. But, I submit that in regard to the text of the law as it now stands, I can only face with misgiving that a judge may conclude that it is for the good of the child that section 9 be applied in a case of murder when two solutions only can be the outcome of its application: an acquittal, in which case the judge has no longer jurisdiction over the child, or a verdict of guilty when no good can be done to the child since the law demands the death penalty.

IV. *Limitation or Rescission of the Order Specified in Section Nine*

It may be of interest to establish in what circumstances a judge of the juvenile court may put into application the dispositions of section 9(2), as to rescinding the order given.

[24] For what are fifty years — 1907-08, 7-8 Ed. VII, c. 40, — against the centuries which have sanctioned the principle of trial by jury on a murder charge!

The powers of the juvenile court are very restricted as to the rescission delay of an order to proceed by indictment even though, at first sight, it might appear the court has quite considerable discretionary power to this purpose. In fact and in law, the discretionary power of the court is limited to a well determined period of time, to wit, that between the moment an order to proceed by indictment has been given, and that before any proceeding has been initiated. From the moment proceedings have been initiated against the child in the ordinary criminal courts, the juvenile court loses all its jurisdiction over the child.

Here, one must immediately determine what constitutes "the initiating of any proceeding." These words are subject to interpretation and might permit one to consider them as applicable to one of various stages of the proceedings before the ordinary criminal courts, such as to the appearance or to the committal. I believe these words have been correctly described by the learned judge in the case of *Regina* v. *Paquin and de Tonnancourt*,[25] when he uses for "initiation of proceeding" the words "laying of the charge" which, as such, is constituted by the setting in writing of an information and the swearing thereto, as described in section 439 of the Criminal Code.

In other words, the juvenile court, or any other such court which has the administration of the Juvenile Delinquents Act, loses its jurisdiction over the child against whom an order to proceed by indictment has been made, from the moment a complaint has been sworn to before a justice of the peace or other judge of an ordinary court of criminal jurisdiction. To maintain that the juvenile court could apply the dispositions of section 9(2), at any time subsequent to that of the swearing to of the information before an ordinary court of criminal jurisdiction, would necessarily bring about a double jurisdiction, possible or real, for a more or less lengthy period after the information before the latter court has been laid. Such an accumulation could easily bring about a conflict of jurisdiction with difficult, not to say unfortunate, consequences for the child concerned and would assuredly have as ultimate result a faulty administration of justice.

Thus, to all logical intents and purposes, the period of time for the rescission of the order is consequently limited to such time as exists or may exist between the signing by the juvenile court of the order to proceed by indictment and the signing of the information, upon said being sworn to before the ordinary criminal court.

[25] *Ante*, footnote 19, at p. 316.

V. *Conclusion*

Should a review of the text of this section be made? This has undoubtedly been considered often, but as previously mentioned, no amendment thereto has ever been made. As for myself, I have given the matter very lengthy and considered thought, and I think none should, as I believe its present text fulfills our requirements in the matter. Even where adults are concerned, the reforms very recently made to the criminal law in cases of murder in the United Kingdom, where various degrees of punishment have been established for different types of murder, are evidence of a definite trend towards more interpretative thinking.

Thus, believing the text of this section is satisfactory as it is, I feel we need not look to any modification, but should have our interpretative thinking bear upon the text as it stands. Also, we must ever keep in mind that our Juvenile Delinquents Act and criminal law do actually consider the individual as a human being in various stages of development and require that he be treated accordingly.

Sections 12[26] and 13[27] of the Criminal Code and section 2(1)(a),[28] coupled with section 2 (1)(h),[29] of the Juvenile Delinquents Act basically recognize the distinction to be made in the non-responsibility, capacity of, degree of responsibility and total responsibility of the individual respectively under 7 years of age, between 7 and 14, between 14 and 16 (or 17 or 18) years, and from 16 (or 17 or 18) years.

It is submitted that, though the principle still prevails in our law of "a life for a life", the ultimate penalty, in view of the distinction, not only made, but, I believe soundly made, in our Juvenile Delinquents Act and criminal law, should be faced only by one acknowledged as having full legal maturity.

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[26] Section 12, Crim. Code: Child under seven. "No person shall be convicted of an offence in respect of an act or omission on his part while he was under the age of seven years".

[27] Section 13, Crim. Code: Person between seven and fourteen. "No person shall be convicted of an offence in respect of an act or omission on his part while he was seven years of age or more, but under the age of fourteen years, unless he was competent to know the nature and consequences of his conduct and to appreciate that it was wrong".

[28] *Ante*, footnote 2. [29] *Ante*, foootnote 1.