

*INFANT CRIMINALS.*

The recent ghastly tragedy—the alleged murder of an infant by a girl of thirteen years—has given the City of Toronto an unenviable notoriety. The peculiar circumstances of the case and the tender age of the self-confessed offender lends it an interest from a legal point of view. It will not, therefore, be inappropriate to refer to the law affecting the punishment of juvenile criminals.

Section 9 of the Criminal Code 1892 provides that “no person shall be convicted of an offence by reason of any act or omission of such person when under the age of seven years.” Section 10 provides that “no person shall be convicted of an offence by reason of an act of omission of such person when of the age of seven, but under the age of fourteen years unless he was competent to know the nature and consequence of his conduct and to appreciate that it was wrong.”

The Code thus makes it clear that a child under the age of seven is to be deemed absolutely incapable of committing a crime and no evidence can rebut this presumption. The case is different as to a child between seven and fourteen, as while in such case there is a presumption that such child was *doli incapax* still this presumption may be rebutted, and for this purpose evidence may, it appears, be given of a mischievous discretion for capacity to commit crime which it is said by text writers “is not so much measured by years and days as by the strength of the delinquent’s understanding and judgment.” See Archbold’s Criminal Pleading and Evidence, 22nd ed. p. 21; Roscoe’s Criminal Evidence, 12th ed. p. 856.

In Russell on Crimes, 6th ed. vol. 1, p. 115, it is said that “the evidence of malice, however, which is to supply age should be strong and clear beyond all doubt and contradiction; but if it appear to the Court and jury that the offender was *doli capax* and could discern between good and evil, he may be convicted and suffer death. Thus it is said that an infant of eight years old may be guilty of murder and shall be hanged for it, and where an infant between eight and nine years old was indicted and found guilty of burning two barns, and it appeared upon