

under natural imbecility or disease of the mind, to such an extent as to render him incapable of appreciating the nature and quality of the act or omission, and of knowing that such an act or omission was wrong.

2. DELUSIONS.—A person labouring under specific delusions, but in other respects sane, shall be not acquitted on the ground of insanity, under the provisions hereinafter contained, unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act or omission.

3. PRESUMPTION OF SANITY.—Every one shall be presumed to be sane at the time of doing or omitting to do any act until the contrary is proved. 55-56 V., c. 29, s. 11.

In sub-section (1) the word "wrong" means legally not morally wrong.

See sections 966 to 970 as to procedure when plea of insanity has been maintained.

There are three stages of insanity recognized by law as an excuse for criminal acts. They are respectively illustrated in the three cases following: 1. *R. v. Arnold* (1724); 2. *R. v. Bellingham* (1812), 1 Russel on Crimes 118; 3. *R. v. McNaughten* (1843), 10 C. & F. 200. All three cases are in Kenney's Criminal Cases.

Under the present law, insanity is a good plea: 1. When the mind of the accused was affected to such an extent, at the time of his commission of the act, that he was unable to understand the wrong he was doing; or, 2. When his mind is troubled with delusions which cause him to imagine a condition of things which, if they were as he imagines, would justify his act. *R. v. Offord* (1831), 5 C. & P. 169; *R. v. Oxford* (1840), Warb. Lead. Cas. 21, 9 C. & P. 525; *R. v. Haynes* (1859), 1 F. & F. 606; *R. v. Townley* (1863), 3 F. & F. 839.

Delusions which indicate a defective sanity such as will relieve a person from criminal responsibility are delusions of the senses, such as relate to facts or objects. It is not enough to shew that they have a diseased or depraved mind nor are mere wrong notions or impressions, or that the sense of right and wrong are still. See *R. v. Burton* (1863), 3 F. & F. 772.

A good test to apply is, would he have committed the crime had a policeman been there at the time of the act?

If the accused sets up the defence of insanity he must accept the *onus probandi*. *R. v. Layton* (1849, 4 Cox C. C. 149).

Being drunk is no excuse for crime. *Pierson's Case* (1835), 2 Lewin, C. C. 144. But may be taken into consideration in ascertaining the motive and state of the accused person's mind. *R. v. Meakins* (1836), 7 C. & P. 297; *R. v. Cruise* (1838), 8 C. & P. 541; *R. v. Monkhouse*, (1849), 4 Cox C. C. 55; *R. v. Moore* (1852), 3 C. & K. 319; *R. v. Gamlen* (1858), 1 F. & F. 90.

Delirium tremens is treated the same as insanity if accused was in such a state of madness as to render himself temporarily incapable of distinguishing right from wrong. *R. v. Davis* (1881), 14 C. x C. C. 563.

See 3 Burn's Just. 180; 1 Russ. 11; *R. v. Dubois*, 17 Q. J. R. 203; *R. v. Dove*, 3 Stephen's Hist. 426.