

C-105.

First Session, Twenty-Seventh Parliament, 14 Elizabeth II, 1966.

THE HOUSE OF COMMONS OF CANADA.

BILL C-105.

An Act to amend the Criminal Code.
(Insanity).

First reading, January 24, 1966.

Mr. BREWIN.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

23225

1st Session, 27th Parliament, 14 Elizabeth II, 1966.

THE HOUSE OF COMMONS OF CANADA.

BILL C-105.

An Act to amend the Criminal Code.
(Insanity).

1953-54, c. 51;
1955, cc. 2, 45;
1956, c. 48;
1957-58, c. 28;
1958, c. 18;
1959, c. 41;
1960, c. 37;
1960-61, cc.
21, 42, 43, 44;
1962-63, c. 4;
1963, c. 8;
1964-65, cc. 22,
35, 53.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Section 16 of the *Criminal Code* is repealed and the following substituted therefor: 5

Insanity.

“16. (1) No person shall be convicted of an offence in respect of any act or omission on his part while he was insane.

When insane.

(2) For the purposes of this section a person is insane if the act or omission is the product of mental disease or defect. 10

Presumption of sanity.

(3) Every one shall, until the contrary is proved, be presumed to be and to have been sane.”

EXPLANATORY NOTES.

1. Subsection (2), on the opposite page, is new and is substituted for subsections (2) and (3) of section 16 of the *Criminal Code*, which section at present reads as follows:

"16. (1) No person shall be convicted of an offence in respect of an act or omission on his part while he was insane.

(2) *For the purposes of this section a person is insane when he is in a state of natural imbecility or has disease of the mind to an extent that renders him incapable of appreciating the nature and quality of an act or omission or of knowing that an act or omission is wrong.*

(3) *A person who has specific delusions, but is in other respects sane, shall not be acquitted on the ground of insanity unless the delusions caused him to believe in the existence of a state of things that, if it existed, would have justified or excused his act or omission.*

(4) Every one shall, until the contrary is proved, be presumed to be and to have been sane."

The purpose of this amendment is to abolish the M'Naghten rule embodied in the present subsection (2) and to substitute a rule more consistent with modern concepts of mental illness and criminal responsibility. The proposed new rule was adopted by the United States Court of Appeals in 1954 in the case of *Durham vs. the United States*.

The present subsection (3), above, is no longer necessary if the suggested amendment is adopted.