

SOME NOTES ON EXPERT TESTIMONY BY ALIENISTS AND NEUROLOGISTS.*

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I have been prompted to write this paper principally because it concerns a civil case of much prominence recently heard in the Montreal courts. Dr. T. J. W. Burgess and the writer were summoned, both being witnesses as to fact; the plaintiff's father at the time was a patient at Verdun Hospital.

Such a paper, it must be confessed, brought before this Society, smacks strongly of "Carrying coals to Newcastle," when one considers the many excellent monographs on this subject presented to you in the past few years. My apology must be that a dart, though feebly delivered at an evil, may strike its mark. The writer assumes there is no disagreement among the members of the profession with the assertion that there is room for improvement in the methods allowed and practised, on the one hand, regarding the securing and hearing of expert testimony, and the giving of it, on the other, in the courts of the United States and Canada. This applies particularly to civil cases which hinge upon proof or non-proof of insanity, an example of which it is hoped to demonstrate in this paper; certainly, the contradictory character of the evidence submitted by the various experts in the case here dealt with, calls for some remedy.

Thirteen physicians gave evidence in the case herewith sketched, eleven of whom have made a special study of psychiatry or neurology. The review of their statements, under oath, which forms the major part of this paper, furnishes one of the most instructive examples as to why expert testimony, by alienists especially, in Canada and the United States is to-day liable to be received with a damning smile of tolerance that can well be imagined. The spectacle of reputable medical men (for be it understood that all concerned were, and are highly so) making depositions so bluntly opposed to each other, can but cast a shadow on the physician's

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reliability or knowledge, or both, when he is in the witness box—whatever he may be when outside of it.

The fact might as well be squarely faced that a physician is but human, and notwithstanding the high ethical and professional standards to which he is bound, and in justice be it said, to which he faithfully adheres, the influences of partizanship, personal feelings, and the desire that his side shall win in the courtroom, have, in degree, an effect upon his testimony, as upon that of the non-professional and inexperienced witness. A prominent and most able judge of Toronto, Can., not so long ago remarked to the writer that even in his official capacity, when hearing evidence, he felt that subconsciously he gave heed to the very expression of a witness, his manner and his method of answering questions under cross-examination, and that while all these points were distinctly not pertinent to the evidence, they, to a limited extent, tended to bias his belief as to the value of the testimony adduced, either favorably or unfavorably. If a man, with a wealth of experience on the bench, will honestly make such a statement, it would be surprising indeed if the quasi-expert testator could prevent himself from showing some trace of partiality, although he might intend and desire to preserve the aloofness and detachment that one totally disinterested as to the issue in a given case should manifest.

The spirit in which this paper is written is not one of arraignment; it is intended to point out, by a practical example, that the matter of experts and their selection, etc., deserves the most serious deliberation by legislator and physician alike. It is hardly possible in a paper of this scope to attempt suggestions as to how this may be best done. Some practical ideas by an eminent English judge, which bear upon the point of how more unanimity of opinion may be arrived at among medical witnesses, is worth reading, and I quote it with pleasure. In "A History of the Criminal Law of England," by Sir James Fitzjames Stephen, K. C. (Edition 1883, page 575), he says:

It is impossible to say what an expert is to be, if he is not to be a witness like other witnesses. If he is to decide upon medical or other scientific questions connected with the case so as to bind either the judge or the jury, the inevitable result is a divided responsibility which would destroy the whole value of the trial. If the expert is to tell the jury what is the law—say, about madness—he supersedes the judge. If he is to decide whether, in fact, the prisoner is mad, he supersedes the jury. If

he is only to advise the court, is he or is he not to do so publicly, and to be liable to cross-examination? If yes, he is a witness like any other; if no, he will be placed in a position opposed to all principle. The judge and the jury alike are, and ought to be, instructed only by witnesses publicly testifying in open court on oath.

It never would be, and never ought to be, endured for a moment that a judge should have irresponsible advisers protected against cross-examination.

And proceeding, he says:

The truth is, that the demand for experts is simply a protest made by medical men against cross-examination. They are not accustomed to it and they do not like it, but I should say that no class of witnesses ought to be so carefully watched and so strictly cross-examined.

There is one way in which medical men may altogether avoid the inconveniences of which they complain, and that is by knowing their business and giving their testimony with absolute candor and frankness. There have been, no doubt, and there still occasionally are, scenes between medical witnesses and the counsel who cross-examine them which are not creditable, but the reason is that medical witnesses in such cases are not really witnesses, but counsel in disguise, who have come to support the side by which they are called. The practice is, happily, rarer than it used to be, but when it occurs it can be met and exposed only by the most searching, and no doubt unpleasant, questioning. By proper means it may be wholly avoided. If medical men laid down for themselves a positive rule that they would not give evidence, unless before doing so they met in consultation the medical men to be called on the other side and exchanged their views fully, so that the medical witnesses on the one side might know what was to be said by the medical witnesses on the other, they would be able to give a full and impartial account of the case, which would not provoke cross-examination. For many years this course has been invariably pursued by all the most eminent physicians and surgeons in Leeds, and the result is that, in trials at Leeds (where actions for injuries in railway accidents and the like are very common), the medical witnesses are hardly ever cross-examined at all, and it is by no means uncommon for them to be called on one side only. Such a practice, of course, implies a high standard of honor and professional knowledge on the part of the witnesses employed to give evidence; but this is a matter for medical men. If they steadily refuse to act as counsel, and insist on knowing what is to be said on both sides before they testify, they need not fear cross-examination.

I would also refer to the law in France regarding expert witnesses, from which we in Canada, as well as the United States, might glean much of profit to improve faults common to both countries.

In "Précis de Medecine Legale," by L. Thoinot, professor of legal medicine of the Faculty of Medicine of Paris (Edition 1913, Vol. 1, pages 36-37), we learn that the nomination of medical experts in France is governed by a decree of November, 1892, Art. XIV, which states that "The duties of medical experts can only be filled by medical men holding French degrees." As to the appointment of medical experts by a decree of November, 1893, Art. I, we find the following: "At the commencement of each judicial year and in the month which follows its opening, the Courts of Appeal in Chambers, the Attorney-General being present, will designate upon their lists the doctors in medicine on whom they will confer the title of expert before the courts." Article II, amended by the decree of April, 1906, states: "The nominees of the court must be graduates of a French medical school residing within the jurisdiction of the court. They must have five years practice in their profession or have a diploma from the University of Paris bearing the special qualification of Médecine légale et Psychiatrie, or a similar diploma created by the other French universities."

The French Republic, certainly not a backward nation in legal matters, deems medico-legal experts—and it follows their testimony—of sufficiently grave importance to officially designate who shall be deemed worthy of this title. These experts are appointed yearly, by one of the most powerful judicial bodies of France, and are invariably men fully qualified; they must reside in the judicial district in which the trial takes place, none being called from outside the "arrondissement" of the tribunal, *i. e.*, the district over which a particular court presides, and a special diploma is exacted in lieu of five years' practice. Such a system unquestionably makes for a high standard in the personnel of the medical expert, and surely it cannot but place his testimony on a plane not easily assailed by even the most astute attorney, as well as armor it against cavil by the laity.

Now as to the case at issue: First, the salient points regarding certain physical features and the character of the psychosis from which the patient suffered may well be presented.

G. M., Montreal. Previous History: Admitted July 15, 1912, to Verdun Hospital, aet. 66; first attack manifested itself November, 1911, in insomnia, irregularities in finance; at present shows visual hallucinations;

suicidal propensities; capricious appetite; insomnia; heavy drinker for thirty years; progressive muscular atrophy evident in wasting muscles of right thenar eminence; has lost weight; has arteriosclerosis; emotionally depressed and states he contemplated suicide.

On Admission: Depressed; speaks of suicide and claims to have attempted it; delusion that detectives are continually on his track; says he lost several hundred thousand dollars in poor business deals and that he is financially ruined; worrying greatly over his son, who is now seriously ill with typhoid; sleepless.

Abstract of Physical Examination.—Pulse 68. Circulatory System: Arteriosclerosis of radial and temporal arteries evident; blood pressure 168, pulse pressure 65. Kidneys: Examination of urine; nothing abnormal. Syncopal attacks several (five or six).

Diagnosis.—Melancholia of involution type.

The litigation in the case centers about these facts. The patient, G. M., was certified as insane in July, 1912, and committed to Verdun Hospital in that month. In the months of February and March, 1912, he had made over certain bonds and securities, worth some \$70,000, to his nephew, W. M. The patient's son, R. M., claimed that this collateral was given to the nephew without adequate consideration of any kind and that his father's mind was affected when he made the transaction. He, R. M., therefore brought suit against W. M. to recover the said securities, etc. The question to be decided resolved itself into, whether when G. M. transferred this valuable collateral to his nephew he was in a fit mental state to do so or not. Both sides called a number of expert witnesses, and the vital portion of their testimony is appended in juxtaposition. Were any one of you who read this article called upon to be the judge, from the learned expert testimony presented, what would your decision be? You are not required to give your opinion on the value of expert evidence in the connection; it were better left to the imagination. I have totally disregarded in this paper what has been said by the lay witnesses. It has no particular place, as it is quite non-technical. Suffice it to say that it brings much to prove the man was absolutely insane and perfectly sane when he consummated the business deal out of which the suit arose.

A brief hearing of the depositions of Dr. S. and Dr. T., the physicians who saw the patient in January and March, 1912, should first be considered. Neither affected alienism or neurology, both being general practitioners. Their declarations seem of especial

value, owing to the symptoms which both observed, and the early dates, viz., January and March, 1912, on which they saw the patient.

Deposition of Dr. S., a witness produced and examined on behalf of the plaintiff in this matter.

Examined by H. J. E., counsel for plaintiff.

Q. Will you describe to us the condition in which you found the interdict, G. M., when you made your first examination in January, 1912?

A. A physical examination developed a condition of marked arteriosclerosis, or hardening of the arteries, enlargement of the heart, and wasting of the muscles of the hand. The nervous symptoms at the time were insomnia, great agitation and inability to fix his mind on what I talked to him about.

By the Court:

Q. Inability of concentration?

A. Yes. A "stary" look when you talked to him for a while, and you had to recall him to himself in order to get him to answer questions correctly. He also had an idea that he had ruined his boy.

Mr. E., continuing:

Q. When was this?

A. Early in January. I prescribed for him and the case went along. At times I heard from Mrs. M. that he was still walking the floor at night, and unable to sleep; that he was taciturn and would not talk. The next act of importance in his case was toward the end of February, when he had a revolver and thought he would do away with himself. Mrs. M. took the revolver from him.

Q. From your examination of the patient up till that time, and from your practically constant observation of the man, what is your opinion, as a medical man, as to his mental condition at that time?

A. I think he was mentally unfit at that time, and he was gradually getting worse.

Q. What condition did you find him in prior to the 5th of March, when you advised his incarceration in a sanitarium? Was he sane or insane?

A. Insane.

By the Court:

Q. And it goes without saying that he was insane in June when you came back?

A. Yes.

By Mr. E., continuing:

Q. In your opinion, what would be the effect of such a condition on his capability to conduct business?

A. I don't think he was fit, for the simple reason that he could not concentrate his mind on the business he had to perform.

Deposition of Dr. T., a witness produced and examined on behalf of the plaintiff in this matter.

Examined by Mr. S., counsel for plaintiff.

Q. Do you know G. M., now a patient in the Verdun Asylum?

A. Yes, I do.

Q. How long have you known him?

A. I have known him since the beginning of his son's illness. As far as I can remember, it may have been September or October, 1911. It was the beginning of the autumn of the year he was taken ill. As far as I can remember the first time I saw Mr. G. M. professionally was some time in the first two weeks in March. I could not be quite precise about the date.

Q. March, 1912?

A. Yes.

Q. Some time in the first two weeks of March?

A. Yes, as near as I can remember.

Q. What was his condition at that time?

A. When I saw him I remember it was in the late afternoon. It was pretty dark in the room where he was. I saw him sitting in a chair looking very downcast. I sat down and began to question him. I asked him what the matter was, and I told him that Mrs. M. was worried about him and had asked me to see him. At first I could not get any answers at all. He simply sat there in a gloomy condition, and I had the greatest difficulty in getting any information at all from him. I asked him whether he felt ill himself, that is, whether he was physically ill, and he said, "No." I then asked him what was the matter, and he said, I cannot give you his exact words, because I cannot pretend to do so at this distance, but he said, "It is terrible. I have ruined my family." That was really the first intimation I had that there was anything wrong with him.

Q. What idea did you form, if any, as to the character of the mental trouble from which he was suffering?

A. Well, I came, first of all, to the immediate conclusion that he was profoundly melancholic. Nobody could have seen that man in the attitude in which he was, and the way he answered questions, without coming to the conclusion that he was in the larger sense melancholic.

Q. Will you tell the court the opinion you formed as to whether he was rational or irrational?

A. I may say, whenever I spoke to him, asking him what he felt like, or how he was, he would always come back upon this same idea that he had ruined his family. That was the invariable topic which he drifted back to, and that without my suggestion. If you asked him what was the matter with him he would answer, "Oh, I have ruined my family. It is terrible." That was the usual way he spoke.

Q. Did you tender any advice to the family concerning him during that period?

A. I did, yes. The advice was that, in the first place, I considered Mr. G. M. was not in his right mind, and that it was a question as to what should be done with him.

None of the alienists or neurologists whose evidence is subsequently submitted examined the patient until after he had been committed to Verdun Hospital in July, 1912; they were unanimous in their opinion as to his condition when seen by them; they all state that the man was a case of involution melancholia beyond doubt. It is in their deductions as to how long the disease had existed *before* they saw the patient, that their amazing differences of interpretation are manifested.

EXTRACTS FROM EXPERT
TESTIMONY, AND CROSS-
EXAMINATION THEREON,
AS GIVEN FOR PLAINTIFF.

DEPOSITION OF DR. U.

Examined by Mr. C. H. S., of
counsel for plaintiff.

Q. Dr. U., you are Superintendent
of the ——— Hospital for the
Insane?

A. Yes.

Q. It is recognized by the Govern-
ment of the Province of Quebec?

A. Oh, yes. As a matter of fact,
I am appointed as superintendent by
the government.

Q. How long have you occupied
the position of superintendent of
this institution?

A. Twenty-three years.

Q. Before that, were you in the
same profession?

A. I have been forty years in the
same profession.

Q. As a specialist in mental dis-
eases?

A. Yes. Very nearly forty years.
Practically forty years.

Q. Have you among the patients
at the ——— Hospital for the In-
sane a person named G. M.?

A. Yes.

EXTRACTS FROM EXPERT
TESTIMONY, AND CROSS-
EXAMINATION THEREON,
AS GIVEN FOR DEFENDANT.

DEPOSITION OF DR. E.

Examined by Mr. S. L. D. H., of
counsel for defendant.

Q. Are you a practising physi-
cian and surgeon?

A. Yes.

Q. What is your position?

A. I am superintendent of the
——— Hospital for the Insane at
———.

Q. That is the public hospital for
the insane?

A. Yes.

Q. Did you examine G. M., who
has been referred to in this case?

A. Yes.

Q. What was the date of your
examination?

A. December 17.

Q. December 17, 1913?

A. Yes. Together with Dr. B.

Q. In what condition did you find
him? Was he suffering from any
trouble?

A. Yes. I found him suffering
from melancholia.

Q. In view of all the evidence
which has been given at this trial,

Q. How long has he been incarcerated there?

A. I was absent in Europe at the time he came in, but according to our records he came in on the 15th of July, 1912.

Q. You were absent at the time?

A. Yes. I first saw him, I think, on the 27th of August.

Q. Did you examine him personally on your return?

A. I did. Either the first or second day after my return.

Q. Did you have a report with regard to him when you returned?

A. I had the case book reports.

Q. What was the condition of G. M. when you personally examined him?

A. I found him suffering from melancholia.

Q. Is that a technical expression?

A. It is the ordinary technical phrase for that form of mental disorder. Of course there are any number of subdivisions of that form. If I had to put it down before a lot of medical men, I would say he was suffering from involutional melancholia.

By the Court:

Q. Does that mean melancholy against his will?

A. No, sir. Evolutional is a gradual progress forward. Involutional is a progress backwards.

By Mr. S., continuing:

Q. Is that a form of mental disease?

A. Decidedly.

Q. Would you call it insanity?

A. Certainly.

Q. Will you describe to the court the characteristics and peculiarities of this form of mental disease?

A. Melancholia, especially this form, is a disease of very slow

and the documents which have been filed in this case, what is your conclusion as to the sanity or insanity of G. M. during the months of December, 1911, January, February, March, 1912?

A. In December, 1911, and January, February, March, 1912, I do not consider he was insane at that time.

Q. Do you consider he was sane?

A. Yes.

Q. On this evidence and on the documents filed, what in your opinion was the mental capacity of G. M. to appreciate the nature of the transactions referred to in this case? That is to say, on or about the 5th of March, 1912, and about the 21st of February, 1912?

A. I think he had the mental capacity to fully appreciate the nature and quality of his act at that time.

Q. You say you think—is that your opinion?

A. I give that as my professional opinion.

Q. Would you consider from the evidence made in this case, and from the documents filed, that Mr. G. M. was suffering from confirmed melancholia (which is a continuous and progressive disease) during the months of December, 1911, January, February and March, 1912?

A. No.

Q. With regard to the evidence of Dr. S. and Dr. T., what have you to say?

A. I have gone very carefully over the evidence of Dr. S. and Dr. T. and studied their descriptions as carefully as I possibly could. Dr. S. had first observed Mr. M.'s condition in the beginning of the year. He said he was agitated and that

growth, ordinarily speaking (I am speaking, of course, of cases that come into hospitals). The disease exists for months and months prior to the admission of the patient. The beginning of the disease is so insidious that very often the friends do not notice it in the early stages at all. After that it is gradually progressive. The disease in many cases (especially in involuntional melancholia) is dependent upon a condition that we call arteriosclerosis—that is, hardening of the arteries—and that disease is progressive beyond a doubt. At the beginning the symptoms are very insidious, and perhaps the friends do not notice it at all. They gradually become worse and worse, and finally the man has to be taken in charge. After he is taken in charge he still continues to grow worse. Finally he winds up in a condition of what we would call dementia, which is followed by death.

Q. Is there any going back, or recovery?

A. I think not. Not in a case of arteriosclerosis. You cannot soften the arteries when they are once hardened up.

By the Court:

Q. Then, it is a result of a physical condition?

A. A physical condition, probably plus some worry as an exciting cause. The thing depends in the start upon a physical condition—a condition of the arteries.

By Mr. S., continuing:

Q. And that is what G. M. had and has?

A. Yes; he had and has.

Q. Would you say that was the cause of his mental condition?

he had insomnia. These are the two principal points he brings out. He made no mental examination, and so he declares. He prescribed nothing for him except some bromide. Then, coming on toward the end of March (he had seen him during these months and had made no examination), I realize fully the statement he makes that he advised Mrs. M. to send him to a sanitarium and he stated that he took this action on the advice of Mrs. M. He is quite careful to state that in his evidence.

By Mr. S., of counsel for plaintiff:

Q. Now coming to Dr. T.'s evidence?

A. Dr. T. sees him in March, presumably the week of the 5th of March, or, say, during the first two weeks of March. He also states that he made no mental examination. His examination was directed to Mr. M.'s physical condition rather than to his mental condition. He states that Mr. M. had an idea that he had lost his property and that he had ruined his son. I cannot quote the exact words, but this would be the substance of it. Dr. T. states that he cannot tell whether this condition was permanent or transitory, but he makes the very significant statement later on that the case developed during the months of May and June. Now these are the statements of Dr. S. and Dr. T., and these statements go to show that the man was depressed, suffering from worry, which is quite normal under the circumstances. I attribute this, of course, to the fact that his son was ill, and that the property of the son—quite large amounts as given by the evidence—was in a somewhat

A. I think so. As I say, that probably plus some worry. I don't know what it would be at all. The condition of arteriosclerosis tends toward mental enfeeblement.

Q. Inevitably?

A. Inevitably.

Q. Insanity, I presume, has many different forms?

A. Oh, many.

Q. Are they classified at all?

A. They are. Too much so, very often.

Q. When you use the expression, "melancholia," that is one of the classifications?

A. Yes, it is one.

Q. It is the one into which you put this particular case?

A. Yes. As I say, there are several forms. You might divide melancholia into a number of forms, but, ordinarily speaking, it is melancholia.

Q. It is that form of insanity which is known among scientific men as melancholia?

A. Yes.

Q. How does it affect a patient with regard to his capacity for doing business?

A. I should think it would affect him deleteriously.

By the Court:

Q. What do you mean by "deleteriously?"

A. That is giving a general opinion. I think any man suffering from melancholia could not make as fair a judgment as an average man. Of course, I cannot say anything at all positively as to Mr. M.'s judgment prior to my seeing him. I can only judge that this disease had made slow progress, and, in my opinion, must have existed for

embarrassed condition. It is only normal that a man under these circumstances should be in this condition of worry.

Q. What conclusion do you draw from the evidence of Dr. S. and of Dr. T., presuming that all the facts they state are correct?

A. The conclusion I draw from the evidence of Dr. S. and Dr. T., after giving every possible consideration to it, is that during the months of January, February and March, 1912, Mr. M. was suffering from worry and anxiety, due to the condition of his son and his son's affairs, and that he was not insane.

Q. Assuming that Mr. G. M. did make the statement on different occasions that his family was ruined, and his son was ruined, and that he was ruined, prior to the first week of March, 1912, does that, in your opinion, indicate that he was insane and incapable of appreciating any of these transactions with W. M.?

A. No, I don't think so, because it is quite natural that at these times he would be suffering from extreme depression and anxiety with these facts in his mind. He might very well feel, and very naturally feel, very much depressed and would therefore probably give expression to rather exaggerated ideas of depression.

Q. Presuming that on one occasion, about the end of February, Mr. G. M. did make a statement to his wife that the best thing would be for the three of them to die together, does that, in your opinion, indicate that he was suffering from continuous and progressive melancholia, and that he was unable to appreciate his actions?

months, or probably a year or more, before he came into my care. Of course, that is only a supposition. I can only speak of the man as I found him.

Q. Do you conclude from the condition in which you found him that that disease must have existed for a year?

A. For months before.

Q. Six months?

A. I should think more. I do not think that that condition of arteriosclerosis could have originated in six months.

Q. During that time—six months—would that patient be in an ordinary, normal condition to transact business?

A. Ordinarily speaking, I should think not. In this special case, I cannot say.

Q. What has been the conduct of the patient since your return—can you speak of that personally?

A. He has been a case of melancholia, with all manner of delusions, to the effect that he was ruined, and his family was ruined; that he was to be arrested and put in prison, and that he was to be tortured in all sorts of ways. These were the original symptoms when I saw him first. Prior to that, of course, there was a number of things of which other witnesses can speak. I am only speaking of my own personal knowledge. That was his condition when I first saw him, and that condition has continued, and continues to-day.

Q. Does it get better or worse?

A. If anything, worse. There is a tendency towards what we call "feeble-mindedness."

Q. According to your experience and observation, at the time you

A. No. I would not say that. He might make that same statement if he was quite depressed, owing to the condition of his son. If he felt that his son was dying, he might make use of the expression that it was better for all three of them to die together. However, you must follow that by his actions subsequently. He had plenty of opportunity during the following month, if he was determined to suicide, to do so. That would be before he was interdicted, but he did not do so, as far as I can read the evidence.

Q. What I want to know is, if a person suffering from the disease which you found G. M. suffering from, can at times or on certain subjects behave rationally and talk rationally?

A. On certain subjects? Do you mean on certain subjects or rationally at all, at any time?

Q. I mean can he conduct himself rationally, eat, drink, and go to bed, and do all that kind of thing, like an ordinary person?

A. If a man has a condition of melancholia, while he is ill with that disease, he does not conduct himself rationally on all subjects, no.

Q. I did not say on all subjects. I said on any subject?

A. Yes. My answer is that a man with melancholia may intelligently discuss many things.

Q. Is it not a fact that patients suffering from melancholia and depression and delusions, as you have described it, might deceive an ordinary person as to their condition, or might dissimulate their condition, and deceive persons who are not experts as to their delusions?

A. You are quite contrary to the facts. They magnify enor-

first saw the patient, had the disease made marked progress?

A. My conclusion, when I first saw the man, was that the disease must have existed for quite a lengthy period beforehand. I could not just say how long. Of course, I might be wrong, but that would be the conclusion I would draw from the condition of the man—that the disease must have existed over months and months previously. That is the conclusion I would draw as a medical man.

Q. According to your observation, for what length of time had the mental condition of the patient existed at the time you saw him?

A. It is impossible to say definitely, but in my own opinion (although I cannot say definitely) he must have been insane for months before. In my opinion, I have no doubt of it. Of course, I cannot say positively. It is only an opinion.

By the Court:

Q. That is, months before you saw him in the month of August?

A. Months before I saw him in August. Of course, I could not say any definite, fixed time.

By Mr. S.:

Q. Is that according to your experience?

A. That is according to my experience.

Q. I presume you have had experience in many similar cases?

A. Probably some thousands.

Q. Is it according to your experience that the disease with which G. M. is afflicted is continuous and without intermission?

A. It is continuous and progressive—both according to my own observations, and from the weight of

mously their condition, and their hypochondriasis. They never hide their condition. They do not try to hide their case at all. They give it away too much.

By the Court:

Q. At the present time, can this man converse with apparent good sense on some subjects?

A. On some subjects. For instance, he talked to me over the early history of his life in N. B., and told me how he tramped the rivers from there, and he knew a great deal about the geography of it. He told me, to my surprise, that his son, R. M., was a cadet at the K. Military College when he learned that I was from K.

all authorities I have read at different times. It is continuous and progressive.

Q. How does arteriosclerosis affect the brain?

A. By the changes in the circulation. The smaller blood vessels become thickened and the larger ones become what we call calciform—that is, deposits such as lime come in the coats, and they get thickened, so that the circulation in the brain is markedly affected, and this increases all the time; finally, if the patient lives long enough, it leads to what we call dementia.

In rebuttal:

Q. Dr. U., you have already been examined in this case?

A. Yes.

Q. Were you present yesterday when the medical experts for the defense gave their evidence?

A. Part of the time. I may say I have not read any of the evidence at all, thank the Lord. I did not have to. I heard part of the evidence yesterday.

Q. The opinion was expressed yesterday by one of the medical experts for the defense that it was not possible to discover by examination of the patient whether he is suffering from cerebral arteriosclerosis or not. Do you agree with that? You understand, I do not mean any patient in particular?

A. I do not agree with that entirely. For instance, if I find a man with marked arteriosclerosis in the radial arteries, there is a strong suspicion in my mind that that arteriosclerosis extends more or less all over the body, including the brain. If I find, then, there is marked arteriosclerosis of the tem-

poral arteries, then I am still more confirmed in my belief. Then, if the man has attacks of dizziness—almost semi-paralytic attacks—I would not hesitate to diagnose cerebral arteriosclerosis. I might be wrong, but that would be my opinion as a medical man.

Q. Suppose cerebral arteriosclerosis does exist, does it constitute an organic lesion of the brain?

A. Certainly. Not of the brain substance, but of the brain as a whole.

Q. What is the effect of that?

A. The effect is to weaken a man's intellect all through.

Q. Would that be a curable condition or an incurable condition?

A. Absolutely incurable.

Q. There is no going back?

A. No going back.

Q. It has been sworn to here, in the medical evidence for the defense, that the condition of a patient suffering from melancholia is at all times apparent, and that it is impossible for the patient to conceal it or dissimulate it. Do you agree with that or not?

A. I do not. I could cite you a score of cases of marked melancholia confined in an asylum where I would defy anyone, for days, to say it was a case of melancholia. I do not agree with that opinion at all.

Q. Are you speaking now from your personal experience in the asylum?

A. That is my personal experience, extending over forty years, and covering perhaps 8000 or 9000 cases.

Cross-examined by Mr. G.:

Q. Do you suggest that this particular melancholiac G. M. dissimulates?

A. No; I don't think so.

Q. And that was the meaning of your answer to Mr. S.?

A. That is the meaning of my answer to Mr. S. He might appear to be sane for a time, but no insane man can imitate sanity. If I may be allowed to say it, an insane man might pass muster for a time as a sane man. I can cite you dozens of cases.

By the Court:

Q. Could a man suffering from melancholia meet old friends, for example, and be able to converse with them about the affairs of his childhood, and of his former life, in apparently a perfectly rational way?

A. It is quite possible. I have known a number of cases of the kind in my own experience. Of course, he could not do it for any extreme length of time, but I have known cases of melancholia go for a day or two, or perhaps a week, brightened up so that they would be apparently sane. However, at the same time they were insane.

Q. With a melancholiac there is usually some delusion or apprehension?

A. Usually.

Q. When there is such a delusion, is it the tendency of the melancholiac to give vent to that delusion in speaking of his friends and companions?

A. I think the tendency is that way. On the other hand, the melancholiac sometimes has the power to restrain himself to a large extent. Probably his will power is not lost entirely. Of course, the tendency is to talk freely about his delusions, but, if something else comes to his mind, he has the

power to control himself to a certain extent and not give expression to the delusions. I have seen scores of cases of that kind. As I say, I have probably had 8000 or 9000 or 10,000 cases of insanity to deal with in my experience, and I know they can control themselves to a certain extent, and appear absolutely sane.

DEPOSITIONS OF DRs. V. AND X.
DR. V.

Examined by Mr. H. J. E., of counsel for plaintiff:

Q. How many years have you been practising medicine, Dr. V.?

A. Since 1883, 30 years.

Q. I understand you have made a specialty of mental diseases?

A. I have.

Q. How long have you been engaged in that special work?

A. About twenty-six years.

Q. You were connected with one of the hospitals for the insane here in Montreal?

A. I am.

Q. Which one?

A. The ——— Hospital.

Q. Is that a large hospital?

A. It is.

Q. About how many patients would you have there under treatment at a time?

A. I was looking up the records the other day, and we had altogether, public and private, about 2300 cases.

Q. Did you have occasion to visit and examine G. M., now confined in the Verdun Asylum?

A. I did.

Q. When did you examine him?

A. A week ago last Sunday. November 30, I think it was.

DEPOSITION OF DR. D.

Examined by Mr. S. L. D. H., of counsel for defendant:

Q. What is your present position?

A. Superintendent of the ——— Sanitarium, ———, Ontario.

Q. What has been your experience with mental diseases?

A. I graduated in Toronto in 1890. I spent two years in general medicine, and from that time on I have been continuously in mental work. I spent ten or eleven years in ——— Asylum, and the balance of the time at ———.

Q. What sort of people do you treat at ———?

A. At the ——— Asylum we treated all mental diseases. At the ——— Sanitarium we have all classes of patients.

Q. What is the size of the ——— Asylum?

A. The ——— Asylum has about 1000 or 1100. In the ——— Sanitarium we have a capacity of about 130.

Q. I understand you examined G. M. a short time ago?

A. December 11, 1913.

Q. Did you find him suffering from any mental disease then?

A. I found him suffering from melancholia, with delusions.

Q. Will you please describe to the court the condition in which you found him on your examination?

A. I found him suffering from profound involuntional melancholia. His depression was very, very marked. He was overcome by an intense idea of ruination. I found his memory very much affected. He could not tell me the date nor the year. He could not tell me how long he had been in the institution. He was under the impression that his wife was in an adjoining part of the institution and he had certain expressions that he made use of in the course of the conversation quite characteristic of melancholia of involution, such as "My God"! "My God"! At times in all of these cases, even in the advanced stages, there is a certain amount of coherency of thought and they can answer questions and their answers taken by themselves are quite coherent.

Q. From your examination at that time, and from your examination alone, were you able to form any opinion as to the date when this disease had its beginning?

A. Taking his case, independent of any legal connection, but in the ordinary run of my experience, I should say from the enfeeblement I noticed in his memory I would naturally come to the conclusion, as I have in many other cases which I have observed, that the disease had an antecedent history of quite a duration of time.

Q. Have you been present in court during the hearing of this trial?

A. Yes.

Q. Did you hear the evidence of Dr. W.?

Q. You have, I understand, read all the evidence which has been given at the trial?

A. Yes. I heard part of it and I read it all.

Q. From the evidence and from the documents filed which you may have read are you able to form an opinion as to the sanity of Mr. G. M., the father of the plaintiff, during the months of December, 1911, and January, February, March, 1912?

A. I consider he was sane.

Q. During these months?

A. During these months.

Q. Basing yourself on the evidence and the documents filed, what in your opinion was the mental capacity of G. M. to appreciate the nature of his transactions with Mr. M. which are referred to in this case?

A. He was mentally capable of doing it.

Q. That is your opinion?

A. That is my opinion.

Q. Do you mean that he was naturally capable of appreciating it?

A. Yes.

Q. Would you consider from the evidence you read and from the documents you read that G. M. was suffering from confirmed melancholia (which I understand is continuous and progressive) during the months in question?

A. No.

Q. What are your reasons briefly for the opinions you have expressed regarding G. M.'s condition during these months of January, February and March?

A. Well, as from the evidence as given by Mr. W., his solicitor, who

A. I did.

Q. And Dr. S.?

A. Yes.

Q. And Dr. T.?

A. Yes.

Q. Assuming that the facts recited by these several witnesses are correct, have you in these facts a basis upon which to form an opinion, and if so, will you state to the court what that opinion is as to the date of the commencement of this disease in Mr. M.?

A. Assuming these facts to be true, I am of the opinion that the man was insane for quite a period of time prior to his commitment to the Verdun Asylum. I would be of the opinion that the man was insane in the month of January or February positively.

Q. 1912?

A. 1912.

Q. What is the character of this particular disease? By what name would you term it?

A. In later years we have adopted for the time being only, as a quasi classification of insanity, the German classification, and such conditions as are observed in the case of Mr. M. we place in the category of melancholia of involution. This is a disease characterized by uniform depression, accompanied with fear. It is, however, accompanied by distinct delusions, self-accusations, and self-depreciation of a persecutory nature and of a hypochondriac nature, with disturbances in the train of thought, and in the vast majority of cases it ends up with deterioration of the brain. There is a certain percentage of cases which are considered to recover, but they are very small.

saw him frequently in these months—between December and March—and who transacted business for him. Mr. W. drew up certain documents, and he states in his evidence that Mr. M. insisted on and directed certain changes in these documents, and that he was capable of understanding them. Mr. W. also says that he did not notice anything unusual in the man at the time. That is one of my reasons. Another reason is that he performed certain business transactions during these months, as evidenced by the deposition of Mr. D., who told us what Mr. M. had done with reference to the dredges. This is also evidenced by Mr. B., whom Mr. M. advised in regard to some farm lands, and by the evidence of Mr. P. in regard to the purchase of some real estate in Montreal. I consider all this evidence is good evidence of the man's mental condition and capability of doing business at that time. He also met many witnesses upon the streets in Montreal, who knew him well. He met them in the different hotels, the Corona, the St. Lawrence Hall, the Windsor Hotel, and so on. They had conversations with him and they stated that they noticed nothing out of the way in his actions or speech. A little more important is the evidence of men like Mr. S. and Mr. J., both capable business men, who impressed me here in the witness box as being straightforward business men. They saw Mr. M. frequently during the same months and had conversations extending from ten minutes to an hour with him at different times. They knew him intimately and they stated that they

Q. From the history of this case, do you find any evidence of intermission in the disease, or was it continuous and progressive?

A. In my humble opinion there was no intermission; simply a progression of symptoms.

Q. So that, assuming as a matter of fact that this disease existed in January (or certainly in February), in your opinion was the man insane from that time on?

A. It is my opinion that from that time on he was insane.

His Lordship: From what time on, Mr. E.?

Mr. E.: From the month of January, 1912, my Lord.

By the Court:

Q. Is that what you mean, Dr. V.? Is it your opinion that he was insane from the month of January, 1912?

A. Yes, my Lord; from towards the close of the month of January.

Cross-examined by Mr. H., of counsel for defendant:

Q. Will you tell us exactly what you mean by "insane?"

A. I would say that the man was deprived of the power of exercising his common sense.

Q. You consider he was deprived of the power of exercising his common sense since January?

A. I would say that he was deprived of the exercise of his common sense. I might specify more clearly by saying in matters involving the higher relations in his life.

Q. What do you mean by the "higher relations?"

A. Passing judgment upon matters of importance to himself and those connected with him.

Q. Will you tell us exactly what were the facts upon which you base

saw nothing wrong with him in his actions or his reasoning power. They did not notice anything out of the way. Then, evidence is given of certain documents or letters that he wrote in reference to business matters during these months. These documents show fairly clear reasoning. We also have the evidence of Mr. S., an independent lawyer, who occupied adjoining offices to Mr. W. Mr. S. saw him frequently during the same months. He did not have any business transactions with him whatever. I think he was absolutely independent in his opinion. He stated he saw nothing wrong with Mr. M. during that time. In the converse we have the evidence of Dr. S. and Dr. T. and the sanitarium nurses, who saw him during the same period at certain intervals. They stated he was very much agitated, suffered from insomnia and they noticed a number of conditions which I consider were, at that time, the natural anxieties of a man suffering from stress and worry. That is my own evidence in regard to his condition. He was anxious and worried over his son's business and his own affairs at the time.

Q. Assuming that on certain occasions prior to the first week of March, 1912, or about that time G. M. made statements to the effect that he was ruined or that his family was ruined or his son was ruined (as stated in the evidence), would that in your opinion indicate that he was insane and incapable of appreciating the nature of these transactions with Mr. M. and Mrs. M., referred to in this action?

A. This man was under great stress and strain at the time, and,

the opinion that he was insane in January?

A. In the first place, I base myself upon the fact that in melancholia there is a delusional state which differs from the delusional states observed in other forms of insanity. That is to say, the delusional state of ruin or depression is of such a character and such an intensity that once it takes a hold of the individual attacked it dominates his whole psychic being, even without there being anything in his external appearance or in his conversation to cite the fact in particular. While I do not feel that any close observation, such as we ordinarily make of a patient coming under observation, was made, still there was a sufficient examination made, and the description of the examination as given by Dr. T. was a very classical presentation of a case of melancholia of that character, as it would appear in the wards of our asylum. The manner in which Dr. T. described his interview with the patient, his downcast appearance, his state of torpor; when put a plain, ordinary, sensible question as to what was the matter with him he could not describe it except as that of a condition of ruin. The very words he used are typical of these cases—"It is terrible." "It is terrible." These are the words that a melancholiac would use. It is a vague expression, if you will, of the profound disturbance of his mind.

DEPOSITION OF DR. X.

Examined by Mr. L., of counsel for plaintiff:

Q. For how many years have you been practising your profession?

I believe, was in a fair way to lose a large amount of money. It appeared to the man, who had worked very hard in times gone by, that this looked as if the commencement of ruin was upon him, and that it might go on. He expressed these delusions especially when he was in the hospital, in contiguity to his son, who was very ill. I consider these were normal anxieties at that time.

Q. In giving your opinion, do you bear in mind the statement he made on certain occasions as to ruin, or the statement made by Mrs. M. that on one occasion he said the best thing would be for the three of them to die together?

A. I think in his normal mind he might give expression to a thought of that kind when they were suffering. At a certain time he might give expression to the idea that the best thing to do would be to die. I have known normal men give expression to the thought that they wished to God they were out of the world, or wished they were dead, or something like that.

Q. You have borne these facts in mind in giving your opinion?

A. I include them together with the fact that he met these intelligent people at different times on the street and never expressed these ideas to them at all, which, undoubtedly, he would have done if the disease of melancholia were established at that time.

Cross-examined by Mr. S., of counsel for plaintiff:

Q. May a person be insane with that form of insanity known as melancholia and yet perform the usual acts of life in the usual way?

A. It depends again upon the delusion that he may have.

A. Since 1889.

Q. Have you made a specialty of the study of certain diseases?

A. Yes, sir. Since 1894 I have been occupying the position of Medical Superintendent of the ——— Hospital for the Insane.

Q. How does that hospital compare with others in the Province of Quebec for importance?

A. I think it is the largest asylum in the Province of Quebec, and I think about the second largest in Canada, if not the largest.

Q. You have been there since 1894?

A. Yes.

Q. Did you ever examine Mr. G. M., who is in question in this case?

A. Yes, sir.

Q. Will you say on how many occasions?

A. I examined Mr. M. on the 28th of February last, 1913.

Q. At the request of whom?

A. I examined him at the request of Dr. Y., who sought my opinion as to Mr. M.'s condition at the time, and as to whether I could form an opinion in regard to his condition for some time previous to that.

Q. Let us deal with the marks whereby you recognized this form of insanity which you call melancholia. What were these marks?

A. At the time I found Mr. G. M. a patient in the Verdun Hospital for the Insane. He was in a great state of anxiety and was suffering from delusions of a depressing and terrifying nature. He was also suffering from hallucinations of hearing, also of a depressing and terrifying nature.

Q. Starting from what you found on the 28th of February, and adding

Q. If we leave aside the question of the remissions and come back to the question I asked you, I would like you to inform the court whether persons recognized to be insane with that form of insanity known as melancholia may perform all the usual acts of life in the usual way?

A. Again I must answer it depends upon the intensity.

Q. I am not speaking of the intensity at all. I am speaking of persons who are recognized as being insane?

A. I am speaking of the same people.

Q. So that, according to you, persons recognized to be insane from melancholia may perform the usual acts of life in the usual way?

A. Under certain circumstances.

Q. I am speaking of any patient suffering from melancholia. I am not speaking of all patients.

A. It depends on the intensity. In the remissions the disease still exists, but at these times they may, and do, direct one in carrying on certain business, in ways which are perfectly justified and perfectly clear.

Q. During these remissions, are they sane or insane?

A. They are insane; the depression still exists.

Q. Is it not a fact, Dr. D., that a patient so afflicted may converse for a considerable length of time without betraying his condition?

A. Not in my experience. They worry the life and soul out of me every day. It is hard to get away from them. They will persist in talking about their delusions.

Q. Is it not a fact that in an unlimited number of cases the patient

to your own findings those of Dr. S. and Dr. T., at the respective dates they have mentioned, and also the evidence of Dr. U. and Dr. W., would these findings and these facts constitute a previous history of the case sufficient to complete your conclusions as to the duration of time during which this disease had pre-existed?

A. Yes, sir.

Q. Taking these findings and these facts in conjunction with your own observations on the 28th of February, what conclusion have you reached as to the time during which this disease probably pre-existed?

A. I would date it at least as far back as December, 1911, and would say that it was continuous and progressive since that time.

Q. When you say "progressive" I suppose in matters such as this it is merely a figure of speech, because it is progressive the wrong way. It is an aggravation really?

A. Yes. "Progressive" means aggravation.

Q. Now, Dr. X., you are not a business man?

A. No. I have no time for that.

Q. But you have made contracts. Apart from the contract of marriage, of course?

A. I never made a contract in my life. I never did anything but study medicine.

Q. You know what a contract is?

A. Yes; sure.

Q. Would you believe that a man laboring under this disease of melancholia, the presence of which was detected as far back as December, 1911, and which became graver up to the month of March, 1912, would

will converse for a certain length of time without referring to his delusions at all, unless his attention is called to them? That is to say, as long as you keep the patient on indifferent subjects he may be perfectly sane, to all outward appearances, but as soon as you approach him on the subject of his delusions then he is persistent and the delusions become predominant and paramount?

A. My experience is, with friends constantly visiting the patients, they are always harping on their delusions. The friends are constantly telling me, "Well, So and So will persistently talk about his ruin," or whatever the delusion may be. My experience has not been with strangers, but with the friends of the patients. These people persist in talking to their friends about their delusions.

Q. So that you would give it as your definite opinion that patients afflicted with melancholia must always betray their condition to persons with whom they are in conversation?

A. Particularly friends and relatives.

Q. According to your experience, how long would the disease have existed in this man before he was committed on July 15?

A. In May and June. I agree with Dr. S. and the evidence of Dr. T., and the fact that in that month he noticed a change.

Q. So that, in your opinion, he was insane as far back as May, 1912?

A. Yes; the end of May.

Q. You will not go back any further than that?

be able to exercise his judgment and mental faculties for the purpose of transacting business, or entering into contracts?

A. No; certainly not.

Cross-examined by Mr. G., of counsel for defendant:

Q. Will you please specify to me the facts which you have seen in the evidence which have induced you to say that in December, January and February it was a case of confirmed melancholia?

A. I find there most of the symptoms which I found myself in February, 1913, and which gave me the opinion then that it was a confirmed stage of melancholia.

Q. I am asking you to specify these symptoms, which, according to what you understood or read in the evidence, existed in December, 1911, and January and February, 1912?

A. We find the man to have been in a great state of moral pain, anxiety and anguish, and that he had delusions that he had ruined himself and family. He was acting in a very excited manner and speaking incoherently, according to the evidence. This condition is stated to have existed in December, 1911. Then, we find these ideas repeated at frequent intervals by those who observed him in January, February, March, April, June, July, and so on.

DEPOSITION OF DR. Z.

Examined by Mr. S., of counsel for plaintiff:

Q. You are a practising physician in the City of Montreal?

A. Yes.

A. I cannot find evidence that would commit the man further back than that.

Q. Is the disease of melancholia one of rapid development or of slow development?

A. It depends on the case. Sudden shock will bring a patient into melancholia in a short time.

Q. He cannot be sane and insane at the same time of course?

A. No; he cannot be water and oil.

DEPOSITION OF DR. A.

Examined by Mr. S. L. D. H., of counsel for defendant:

Q. You are practising your profession in Montreal?

A. Yes.

Q. Since how long?

A. I graduated in 1901 in medicine and in 1897 in arts at McGill.

Q. Have you been practising in Montreal ever since?

A. No. I was two years at the — as house surgeon; then I went to the — Hospital in Baltimore for the better part of a year. Then I went to Europe and I had a year in Switzerland with Professor Von Munerkof, working in his laboratory. Then I was in various parts of Germany, Berlin, and so on. After that I went to Paris. Then I spent a year in London, at the National Hospital for the Paralyzed and Epileptics, where they make a specialty of diseases of the nervous system.

Q. If I understand you rightly, you have made a specialty of nervous diseases?

A. Nervous and mental diseases; yes.

Q. You visited Mr. M. at the asylum?

A. Yes.

Q. In what condition did you find him?

A. I have a letter which I wrote to Dr. Y. I think if I were permitted to read that letter to the court it might save time and convey all to you that I could convey by my evidence.

Q. Was the letter you are about to read written after your visit?

A. Yes. I wrote it that same evening.

The letter in question reads as follows:

MONTREAL, May 3, 1913.

MY DEAR DR. Y.: Re Mr. M., whom I examined in your presence at the Protestant Hospital for the

Q. Have you specialized in any particular branch of medicine?

A. Nervous and mental diseases.

Q. What is your experience in that regard?

A. I am lecturer on nervous diseases at — University. I am neurologist at the — General Hospital. I am consulting neurologist at the Hospital for Insane, —. I am professor of nervous and mental diseases, University of —, and have been for over twelve years. I was associated for some time with the — Hospital for the Insane. I am consultant for the Hospital of Mental Disease, —, Vermont. I was associated for some time with the Hospital for the Insane at —, England. I have been employed by the United States Government for many years as an expert for the criminal insane in the State of — and the State of —. I am neurologist for the — Railroad. I am a member of the — Neurological Association. I am a member of the — Association. I am a member of the — Institute for Criminal Law and Criminology.

Q. How long have you been practising your profession?

A. I graduated twenty-eight years ago.

Q. From where did you graduate?

A. — University, —.

Q. You say you are consulting physician at — Asylum. Is that the — for Insane at —?

A. Yes.

Q. With which Dr. U. and Dr. W., examined here on behalf of the plaintiff, are connected?

A. Yes.

Insane at Verdun, the 2d inst., I find that this patient is suffering from great mental depression, associated with delusions of a persecutory nature. Suicidal tendencies are evidently marked, also he has made more than one attempt on his life. He imagines that he has ruined his whole family by giving away money and also some contract that his son had. He has, he thinks, committed the great sin—he is lost. When asked why he gave away his son's money he answered that he did not know; he must simply have got a notion. He could not remember just when or where he had done it. Instead of a shrewd business man, his mind is now full of indecisions. He practically never makes a positive statement, and seldom ever gives a positive answer to a question. He has insane delusions and imagines that people are saying things against him of a horrible nature. He stated that everything he said to us was overheard because the room was wired and connected with telephones and all our remarks were noted down already somewhere. Examination showed paralysis of the movements, atrophy of the optic nerve, and blindness of the right eye, the result of an attempt at suicide with a pair of scissors. He has all the evidence of marked arteriosclerosis. I am, therefore, of the opinion that this patient is suffering from mental disease of the nature of an involutional melancholia, associated with cerebral arteriosclerosis. In answer to the question as to whether this would have had bearing of an etiological nature on his peculiar action in giving away the money, one can only answer that it probably

Q. You are consultant for mental diseases at that hospital?

A. Yes.

Q. In your practise at the hospital and the different places you have described you confine yourself to nervous and mental diseases?

A. Yes.

By the Court:

Q. Has your work as a specialist been running for many years?

A. About eighteen years.

By Mr. H., continuing:

Q. I understand you have had occasion to examine G. M., the father of the plaintiff in this case?

A. Yes.

Q. At the Verdun Asylum?

A. Yes.

Q. On what date did you examine him, and what did you find him suffering from?

A. I examined him on the 11th of December, 1913. He was suffering from melancholia.

Q. You have read through the evidence given on both sides of this case?

A. I have.

Q. You have also read the letters filed as exhibits from G. M. to W. M., the defendant, and from Mrs. M. to M., as well as the other writings of G. M. filed in this case?

A. I have.

Q. Are you able to form any opinion, as a result of the evidence given and the documents filed as to the sanity or insanity of Mr. G. M. during the months of December, 1911, and January, February and March, 1912?

A. I believe he was sane.

Q. Is that your opinion as a medical man?

A. That is my opinion as a medical man.

did, but one would need corroborative evidence of some change in character, some peculiarity of ideas and actions present at the time. One of course recognized that the symptoms of cerebral arteriosclerosis may often come on almost acutely, following some shock either mental or physical, or as a result of mental strain. I would, therefore, urge the necessity of searching for corroborative evidence of the nature referred to.

With kind regards, I remain,
Yours sincerely.

Q. Did you or were you able to form an opinion as to how long the condition in which you found the patient had lasted?

Witness: Do you mean at the time of that examination or since?

Counsel: At the time you made the examination?

A. I could form no opinion from what I saw, except that it must have been present for some time. One could not say more than that.

By the Court:

Q. What would "some time" indicate? "Some time" is a general expression of course. As regards weeks, months, or years, what would you want the court to understand?

A. One could definitely say it had existed for some months I think; especially if one could take into account the history one got with the patient one could very positively say it had existed for some months.

Q. From what you knew at the time you went there to examine him?

A. From my examination of Mr. M. at that time I would say that the condition might have lasted for a

Q. And as a specialist?

A. And as a specialist.

Q. Basing yourself on the same evidence and the same documents, what is your opinion as to the mental capacity of G. M. to appreciate the nature of the dispositions of his property in question in this case, about February 21, 1912?

A. I think he was a sane man and perfectly capable of doing it.

Q. You consider he was capable of appreciating the nature of these transactions?

A. I do.

Q. Would you consider from the evidence and documents on record that Mr. G. M. was suffering from confirmed melancholia (which is a continuous and progressive disease) during and throughout these months?

A. He was not.

Q. Will you give us briefly some of the reasons for the opinions you have expressed in regard to Mr. G. M.'s mental condition?

A. To make it brief, I may say that I agree thoroughly with Dr. E. and Dr. C., Dr. D. and Dr. B. I agree with what they have said in connection with the different witnesses who came up from Dalhousie and who were residing in the neighborhood of Montreal.

Q. Do you agree with the reasons they expressed with regard to their opinion as to the mental condition of G. M. during the time in question?

A. Yes. I also agree with them in their opinion as regards the nurses in the sanitarium—that at no time was a delusion demonstrated or ever shown to be a fixed delusion. I think that, as the court

couple of years or it might have lasted for a less period. One could not make a statement, as I said in that letter, as to how long this had lasted. One could not judge from one's examination.

Q. Did you hear the evidence which had been given in this case by other specialists and by those intimate with the patient?

A. I heard Dr. W.'s evidence and I heard the evidence of Dr. U. I also heard the evidence of Dr. S. and Dr. T.

Q. Does that enable you to form any more definite opinion with regard to the time this disease may have lasted?

A. I think it does; yes. Dr. S. gave evidence that in January the man was suffering from insomnia, mental indecision, and that he was worrying and showed lack of concentration. This was in January. Now, in February and March Dr. S. recommended that they should send him to a sanitarium for mental diseases. Evidently he had progressed backwards a good deal. In June Dr. S. had to bring him home from the corner of Peel street. This man was then standing in the middle of the street in a state of mental confusion. On July 11 he had definite delusions. Then, as far as I know, he was a man quite well off, but at the same time he was going around asking everybody for ridiculous positions. I mean to say he was asking for positions that were ridiculous, taking into account his position and his age. Imagine a man of his age volunteering or thinking of climbing telegraph poles. He was a man who had managed big business affairs,

stated yesterday, we may apparently be taking sides, and to offset this, I believe we should lay particular stress on that part of the evidence where no outside influence can be brought into play. That in particular would be the letters written by Mr. M. during that period. They speak for themselves. These letters relate to certain business transactions which have been shown to be carried out and which were, in my opinion, carried out in a very correct manner. If G. M. was able to undertake journeys, considerable distances from Montreal and carry out business on these journeys—if he was able to go, in the spring of the year, some hundreds of miles alone, down to Dalhousie and come back again, to my mind this clearly demonstrates that the man used his will power and his judgment and nothing in his conduct in any way showed that he was suffering from an insane condition. Dr. S., who saw him in December and examined him for the first time in January, says that at that time he was suffering from nervousness, agitation and depression. At that time Dr. S. did not see any symptoms of insanity. It was not until about the beginning of March, when his attention was drawn to Mr. M.'s condition by Mrs. M. and the statement was made with regard to the revolver, that he thought it was necessary to advise a sanitarium. Dr. T. saw him about that time and made an examination. He states he paid particular attention to M.'s physical condition. At the same time he mentions that M. did show some nervous states, but that he did not make a mental examination. I was

and he had made a success of things. I think any idea of this kind showed decided mental deterioration at that time.

Q. What about his will power, Dr. Z.?

Witness: What do you mean by "will power?"

Q. There would be marked enfeeblement of the power of the will, so as to act independently of others, or would he be subject to being influenced by the will of others more than he would in his normal condition?

A. He would be uncertain in undertaking new lines, but in regard to actions that were caused by his delusions, he might be very obstinate. He would, perhaps, be dependent upon the help of other people in undertaking new lines, and new thoughts, and new ideas, and new affairs—he would feel his own enfeeblement.

Q. From the personal examination you made of the patient at the time, could you say whether arteriosclerosis that he had was known as cerebral arteriosclerosis or not?

A. Oh, yes. He had definite evidences of cerebral arteriosclerosis.

Cross-examined by Mr. D. H., of counsel for defendant:

Q. I suppose that before you examined Mr. M. you were told something of his case, were you not?

A. Oh, yes, of his case.

By the Court:

Q. Do I understand you to say that very few people whose minds are affected are free from insomnia?

A. No, my Lord; I did not say that. I say there are very few people suffering from insomnia whose minds do not become affected, more or less of course.

not present during the examination of Dr. S. or the examination of Dr. T., but there is a feeling to the effect that they stated Mr. M. was insane. I cannot think it possible, seeing that he was allowed his full liberty, and allowed to journey down to Dalhousie, and allowed to go around the hotels just as he liked. Dr. T. is one of our leading men in the City of Montreal, and a case of insanity would be treated by him like a case of diphtheria—in a case of diphtheria we naturally take precaution to save the individual and to save the people at large. In insanity we do the same thing. So far as I am concerned I cannot think for a moment that Mr. M. was insane in the months of January, February and March. True, he did speak about being ruined, or ruining his family. Dr. S. tells us about him being worried and stating repeatedly that he was ruined, yet he was known to give two thousand dollars to Mr. M. in April. He did not act like a man who had a delusion—a melancholiac. He certainly had nervous symptoms. He was agitated, depressed and emotional. I might say he was peculiar, but all alienists know that peculiarity in character frequently is present in those cases of people who develop melancholia later on. For these reasons and others I conclude that Mr. M. was a sane man in the months of January, February and March, 1912.

Q. Assuming that Mr. M. had been suffering from melancholia during these two months what would you say as to the possibility of persons with whom he came in contact during that period noticing anything about his condition?

Q. It is one of the initial stages of mental trouble?

A. It may be. It is not always.

Q. A man may have insomnia for a few months, and then right himself?

A. Yes.

Q. But if it be continuous?

A. A man may have insomnia from worry or from pain. You have to take the whole case together. Here is a man suffering from arteriosclerosis, and a very definite worry, beginning to suffer from constant insomnia. That is a very different and very serious symptom.

By Mr. H.:

Q. A man suffering from melancholia is not necessarily at all times incapable of appreciating what he is doing?

A. A man suffering from melancholia with mental deterioration is at all times under the power of his delusions.

Q. But there has to be mental deterioration also?

A. Well, even without mental deterioration, a man who is suffering from melancholia would be influenced by his delusions. Of course there are melancholiacs and melancholiacs. If we stick to the point as you know, this man was suffering from involutional melancholia.

Q. That is when you saw him in May, 1913?

A. Yes; I have no doubt in my mind, from the testimony I have heard here, that in January, 1912, he also had it. I have no doubt he had it then. If we just stick to the point, I am perfectly certain that man was influenced by his delusions constantly from time to time, and he had mental deterioration at that time.

A. I think if a man is suffering from melancholia he could not meet his friends as Mr. M. did without displaying it. He could not meet friends from day to day, sometimes twice a day, and not manifest the symptoms of the disease.

Q. In giving your opinion do you bear in mind the facts (assuming them to be true) that Mr. M. did, on certain occasions, during these months make statements to the effect that he or his family or his son were ruined, or on one occasion he said the best thing would be for the three of them to die together?

A. Yes, I have borne that in mind. I believe a sane man might make a statement like that if he was worried as Mr. M. was by his son's condition and other things. He might very well do these things and not mean anything thereby, as the statements were not repeated time and time again.

Q. Would you consider the fact that G. M. was addicted to the use of alcohol would have any bearing on his making a statement of this kind?

A. I believe it would.

Q. In what way?

A. Well, he might be depressed from the effects of the alcohol.

Q. Does that occur?

A. Frequently.

Q. What opinion can you give as regards Mr. M.'s will power and the liability of undue influence being exerted over him these months?

A. I think his will power was perfectly normal.

Q. In addition to reading the evidence of the different witnesses in the case I understand you were present in court every day?

Q. What are the delusions to which you refer?

A. He had delusions that he was ruined, and that he had ruined his family. He had delusions that he was being persecuted and that he was going to be put in jail.

Re-examined by Mr. S., of counsel for plaintiff:

Q. The opinion you have given us, Dr. Z., is based on the ensemble of the facts which you have learned; it is not based on any one particular fact?

A. It is on the whole thing.

Q. Taken together?

A. Yes.

By the Court:

Q. The opinion you give is that this man was insane from the month of January, 1912?

A. Yes.

Q. And continuously insane from that time forward?

A. Absolutely.

His Lordship: The witness has taken notes and has given you certain opinions based on these notes. He took notes of what he considered important in the evidence of the different witnesses. He says these notes represent what to him was important, from his point of view, in the evidence of these different witnesses, and that he used these notes to base his opinion on. The result of his examination of these notes is that he has no hesitation in stating that the man must have been insane in the month of January, and that he never recovered his sanity. Is that correct?

Witness: Yes, my Lord; that is correct.

A. Every day with the exception of part of one day.

Q. From the commencement?

A. Yes.

Q. So you have also practically heard all the evidence from the witnesses themselves?

A. Yes.

Q. In fact, you have read through all the evidence given in the case in addition to hearing it?

A. I read it through quite a number of times.

Cross-examined by Mr. S., of counsel for plaintiff:

Q. When did you see Mr. M. at the asylum?

A. December 11, 1913.

Q. At that time was he sane or insane?

A. Insane.

Q. How long had he been insane

A. I could not say.

Q. You heard the evidence of the other expert witnesses, Dr. E., Dr. C., Dr. D., and Dr. B., to the effect that this man had been insane, in their opinion, since the month of May of that year?

A. From the evidence I had, it is likely.

Q. You heard the evidence of the other expert witnesses, Dr. E., Dr. C., Dr. D. and Dr. B. to the effect that this man had been insane, in their opinion, since the month of May of that year?

A. Well, I cannot say I did. I cannot recollect that. They may have said it or they may not.

Q. Do you agree with that or not?

A. Well, I don't know. They spoke about the condition of the patient developing in May or June. By that they may have meant that the disease started in May or June.

Q. Can you say whether in your opinion G. M. was sane or insane when he was confined to the asylum?

A. He was certainly insane.

Q. How long had he been insane previous to the 15th of July?

A. Well, it is pretty hard to say. He showed symptoms, as brought out by the evidence, before that. Dr. S. speaks about him losing himself and other things. It looks as if in May and June the disease was present.

Q. So that you are not able to say whether or not he was insane in the month of May?

A. I would not like to swear to it.

Q. But I would like to have your opinion and see whether you agree with these other gentlemen who were examined here and who said that in their opinion M. was insane about the middle of May?

A. I would not like to give a date.

Q. Have you any doubt at all that he was insane previous to July?

A. He certainly was insane before July.

Q. Before the 15th of July?

A. Yes.

Q. I think you have said that a person suffering from melancholia cannot hide his condition or dissimulate his condition for any length of time so as to deceive others. Is that right?

A. That is what I said.

Q. Then, how do you account for the fact that one of the principal witnesses for the defendant saw him on an average of fifteen times out of every month, that is to say, every other day from the beginning of the year down to the 15th of July, and never saw anything of the kind?

A. It may be he did not open his eyes or open his ears sufficiently. I cannot answer for him.

Q. But he says he saw him and conversed with him and talked business with him as frequently as on an average of every other day in the month, down to the time he was put in the asylum, and that he saw nothing unusual about him at all. How do you account for that?

Witness: Might I ask what witness that was?

Counsel: That was the witness McL. Did you read his evidence?

A. I must have. Who is Mr. McL.?

Counsel: Mr. McL. describes himself as an insurance agent.

A. Oh, yes; I remember all about him now.

Q. This witness saw M. right down to the time he went into the asylum, every other day on an average. He had conversations with him every other day, and still noticed nothing unusual about him. How do you account for that?

A. I cannot understand it.

Q. Was he telling the truth?

A. This gentleman must have lacked some quality of observation or as they were frequently meeting at the bar—I don't mean to say this in any bad spirit—they may have been taking some spirits. The only other explanation is that Mr. M. was a record case. I never heard or saw of a person suffering from melancholia who could discuss topics of this kind, as described, and still appear normal.

DEPOSITION OF DR. Y.

Examined by Mr. S., of counsel for plaintiff:

Q. Have you made a specialty of certain diseases?

DEPOSITION OF DR. B.

Examined by Mr. D. H., of counsel for defendant:

Q. Are you practising your profession in Montreal?

A. Of mental diseases for twenty years.

Q. This implies that you have made special preparatory studies?

A. Yes, sir. I entered the asylum of —, where I spent seven years of practice.

Q. You have been seven years there and afterwards you started to practice?

A. I make a practice of mental and nervous diseases. I am attached to the — Hospital, where I am consultant for all mental and nervous diseases, and for two years I have been attached as alienist for the Recorder's Court, to examine all patients that are to be confined in any asylum, at the expense of the government and the city.

Q. Doctor, regarding your report of the interviews with G. M., the 22d of February, the 28th of February and the 2d of May, will you enumerate what are the observations you made as a physician?

A. He (G. M.) appeared very depressed; talked with difficulty; questions had to be repeated before he would answer. Said he was ruined; that his family was ruined; that he was hunted; that they wanted to put him in prison and torture him. He heard voices. He imagined that there were detectives who were watching him; he heard them talking.

Q. Voices? Not yours; voices other than yours?

A. Other than mine or the employees or other patients in the hospital. These were hallucinations. This delirium of the first interview did not appear to me to be very coherent. It did not appear to be a delirium well organized. It

A. Yes.

Q. As a general practitioner?

A. Yes.

Q. You have also given special attention for some years past to the subject of nervous diseases?

A. I have.

Q. Will you tell us briefly what has been your experience?

A. Well, I studied a year in Europe, paying special attention to nervous diseases.

Q. Did you examine G. M., the father of the plaintiff in this case?

A. I did.

Q. On what date?

A. December 7, 1913.

Q. What did you find his mental condition to be?

A. I found him suffering from melancholia.

Q. Have you been able to form any opinion from the evidence and documents which you have read, and which are filed in this case, as to the mental condition of G. M., and his sanity or insanity during the months of December, 1911, January, February and March, 1912?

A. I believe he was sane.

Q. That is your opinion?

A. That is my opinion.

Q. What, in your opinion, based on the evidence made in this case, was the mental capacity of G. M. to appreciate the nature of the transfer made to the defendant of certain mortgages on or about the 5th of March, 1912, and the transaction by which he endorsed a certain note and receipts for bonds as described in this case to Mrs. M. on February 21, 1912?

A. I believe he could understand what he was doing.

Q. That is your opinion?

appeared to me as if he had already presented at that date fresh intelligence. I could not very easily connect the different delirious ideas.

By the Court:

Q. You say at the first interview?

A. From the first interview he appeared as having had a weak intellect. I came to this conclusion later, especially at the last examination, where he did not remember the length of time he had been in the hospital. He was not accurate as to facts, dates, or anything at all.

Q. What conclusions have you come to yourself?

A. That the sickness has existed a long time.

Q. Would you be able to state approximately how long the patient has been suffering from the sickness which you have observed?

A. The examination alone makes it difficult to give a precise date, but the state that he was in when I saw him gave the impression that he had already been suffering from a weak intellect, and would give one the impression that it had existed for a long time back. To arrive at the beginning of the disease and the weakness in intellect, I think one would have to consider or take into consideration the proof brought by other witnesses, who saw him at different periods of his life.

Q. Exactly; and this brings us to what has been stated by the testimonies which have been given here in court?

A. Yes.

Q. You have heard these testimonies?

A. Yes.

By Mr. L., of counsel for plaintiff:

A. That is my opinion.

Q. From the evidence adduced in this case and from the exhibits filed, would you consider that Mr. G. M. was suffering from progressive and continuous melancholia during these months?

A. No.

Q. Do you consider that if G. M. was suffering from continuous and progressive melancholia at this time this condition would have been noticeable to the various friends whom he met and with whom he talked during the periods as described in the evidence?

A. I believe it would have been. As far as I have seen in the evidence, the people who saw him depressed and with these ideas of ruin and so on saw him in the hospital, where he was in contact with his son, who was very ill and who was believed to be dying, or they were persons who had something to do with the business of his son, which was then in a very bad way, as far as the evidence shows. Of course, this was very depressing. At the same time, and on the same days practically, he would meet other people and appear in an ordinary mental condition.

Q. How many cases of melancholia have you had under treatment?

A. I don't know. I have had quite a few.

Q. How many?

A. I could not recollect.

Q. Surely you can recollect within five, or ten, or twenty, or twenty-five?

A. No.

Q. Did you have one?

A. Yes.

Q. Now, considering the inter-mittence or non-intermittence of this disease, which you have stated is present, what have you got to say?

A. In the disease G. M. suffers from there is no intermission. The disease is continuous.

Q. If you please, will you give me precisely what are the facts in this proof that bring you to this conclusion, in the proof that you have heard that the malady was of long duration?

A. There is what Dr. S. said who examined G. M. on the 8th of January, I believe, and he declares that Mr. M. had ideas of ruin at that time. He has the proof brought by Dr. T. who examined him a little later, and he declares that at that time he was insane. In January he commenced to want to look for a situation, pretending that he had need to work to support his wife and son, who were at the hospital. In December, from the 1st of December, I believe, he found himself absolutely incapable of regulating the affairs of his son.

Q. Have you had more than one?

A. Yes; I have had more than one. I see some of these cases in connection with the nervous clinic. We do not have the certified cases.

Q. You do not classify yourself as being an alienist, but you classify yourself as being an expert in nervous diseases?

A. We have mental diseases in the incipient stages, too.

Q. The nervous diseases form the greater part of your studies?

A. Yes.

Q. In cases where these patients can maintain their self-control and repress the outward expression of their symptoms do you believe they can maintain this self-control for any length of time?

A. Not for any length of time. I think that especially meeting old friends and talking over old times the delusions would come to the surface very quickly.

Q. Can you tell us how many cases of melancholia you have had under treatment and examination?

A. No, I could not.

Q. You cannot remember the number of cases?

A. No.

Q. Did you have two cases?

A. I have seen far more than two cases. I have seen many cases at the hospital.

Q. But I am not asking you that. I am asking you how many cases you have had under treatment?

A. I have had a certain number of cases in my private practice, and we have had many at the hospital.

Q. I mean cases of melancholia which came under your observation as a physician—under your personal treatment?

DEPOSITION OF DR. W.

Examined by Mr. C. H. S., of counsel for plaintiff:

Q. Dr. W., are you an alienist?

A. My specialty is mental diseases and their treatment.

Q. For how long have you been such?

A. Ten and a half years.

Q. You occupy a position in the Asylum?

A. Yes.

Q. What is your position?

A. Assistant Medical Superintendent.

Q. You were there at the time G. M. was admitted to the asylum, as explained by Dr. U.?

A. Yes.

Q. In the meantime, can you state from recollection on whose application he was admitted?

A. I am pretty sure it was Mrs. M., his wife, because her son was sick at the time.

Q. Who are the medical men who made the necessary certificates?

A. Dr. S. and Dr. T.

Q. Did you examine G. M. when he was admitted?

A. I did. I examined him within a few hours of his admission. It might have been the next morning,

A. Yes, I understand.

Q. How many have you had?

A. I have no idea.

By the Court:

Q. You could not say whether it was one hundred or one thousand?

A. It certainly was not one thousand.

Q. Would it be one hundred?

A. We certainly must have had one hundred showing melancholic symptoms.

DEPOSITION OF DR. C.

Examined by Mr. S. L. D. H., of counsel for defendant:

Q. Have you specialized in any particular branch of your profession?

A. Yes; I have specialized in mental and nervous diseases.

Q. Will you give us briefly your experience in connection with these diseases as a professional man?

A. I spent four years in Europe, in Edinburgh, London, Paris and Vienna chiefly, attending the best hospitals there in this branch of work. I have had a private hospital of my own for the better part of twenty years; so in that way I have had an opportunity of studying and examining nervous conditions. I established a ward in the general hospital for nervous troubles, with the special intention of demonstrating the prevention of insanity.

Q. What class of patients do you treat in this hospital?

A. Nervous patients.

Q. What do you mean by nervous patients?

A. I mean patients suffering from psychical symptoms—in other words, patients suffering from mental symptoms, in the proper sense of

but it was within a few hours of his admission.

Q. Will you please describe to the court the condition in which you found him?

A. I found him very depressed and emotional. He spoke of suicide and claimed to have attempted it. Do you want all these details?

Counsel: Yes; we would like to have them.

A. He had the delusion that detectives were continually on his track. He stated that he had lost several hundred thousand dollars in poor business deals and that he was financially ruined. He was worrying very greatly over his son, who was seriously ill with typhoid at the time of his admission, July 15. His condition was one of marked mental anxiety and mental pain or depression, and I had not the slightest doubt after my first examination that it was a case of melancholia. The case was very evident.

Q. Was he sane or insane?

A. He was insane.

Q. Could you form any opinion as to how long he had been insane?

A. For one thing, on the papers that accompanied him the statement was made. . . .

Mr. G., of counsel for defendant, objects to the witness giving an opinion based upon what other doctors may have told him.

By the Court:

Q. Do you mean the statements of the doctors on the certificates?

A. Yes.

His Lordship: If the witness is going to base his opinion on the history as described by the other doctors, I think it is admissible. At

the word. I do not distinguish between psychical and mental symptoms indicating insanity. I do not take insane cases in my own hospital. My hospital is not for that, but for a previous stage of the condition.

Q. A pre-insane condition?

A. Yes, a pre-insane condition. Of course there are the organic diseases of the brain, and so on, which are part of the work, but, more largely, the pre-insane conditions have been prominent in my work for many years. I devote my time exclusively to this work. I do not do any general work or that kind of thing. I am a specialist in the proper sense of the word, so far as devoting all my time to these nervous and mental troubles is concerned.

Q. Do you have to deal with depressed or melancholic conditions?

A. Yes. I deal with both depressed and melancholic conditions.

Q. I understand you have examined Mr. G. M., the father of the plaintiff in this case?

A. Yes.

Q. At the Verdun Asylum?

A. Yes.

Q. When did you examine him?

A. On December 11, last, 1913.

Q. What was his condition when you examined him?

A. I found him in a condition of involuntal melancholia with delusions.

Q. From the evidence, and from the documents filed, did you form any opinion as to the sanity or insanity of Mr. G. M. during the months of December, 1911, January, February and March, 1912?

A. Yes. I believe he was sane.

the same time, I will take your objection, Mr. G., and will allow the evidence under reserve.

Witness: On the papers accompanying Mr. M., or preceding him—the papers of commitment—it was stated by the physicians that mental symptoms had shown themselves in November, 1911, if my memory serves me correctly. From my own observation of the patient at that time, believing him to be a case of melancholia of his age and that type, to the best of my professional knowledge of that disease, I should say the mental symptoms had existed for some time before he came to us. I say that on my own knowledge, not on the history as given to me or as given to us by the examining physicians. I deduce that, from the man's condition, and the type of mental disease from which he suffered, his mental disease had existed for some time before he came to us.

By Mr. S.:

Q. One year?

No answer.

By the Court:

Q. What length of time?

A. Well, I must answer that to the best of my judgment in such cases. I could not state that, because it is impossible to say definitely; at the same time, from my knowledge of other cases, I should say it would have lasted certainly some weeks, possibly months, possibly three or four months.

By Mr. S.:

Q. That is, the condition in which you found him?

A. Yes, based on my own observation of his case as a type of mental disorder.

Q. That is your opinion?

A. That is my opinion.

Q. Basing yourself on the evidence and on the documents filed, what, in your opinion, was the mental capacity of Mr. G. M. to appreciate the nature of the transactions in question in this case?

A. Quite good as far as G. M. was concerned.

Q. Would you consider from the evidence in the case that Mr. G. M. was suffering from confirmed melancholia (that is, I understand a progressive and continuous disease) during these months?

A. I would not.

Q. Will you give us the reasons for the opinion you have expressed in regard to Mr. M.'s mental condition during the months in question?

A. You ask me why I would consider G. M. as being sane at this time. In order to judge of a man's sanity you first have to obtain his normal condition, as near as you can, in order to learn how much he deviates from that normal in whatever acts he may perform. What I think is an important item in regard to it is this: in looking over the evidence we find that G. M. was always subject to certain eccentricities and when crossed, for example, he would curse or swear, walk up and down and mutter to himself. We also learn that he was a practical joker; that he was a pessimist, that he always hesitated to begin business or undertake anything new; that he lacked confidence in his own business ability. These, I think, are a few of his peculiarities as they came out in the evidence so far. They struck me as bearing on the case particularly. He

Q. What, in your opinion, would be the effect of the condition in which you found the patient on his capacity for transacting business?

A. Well, if you put that as a hypothetical question, I should say he would not be in the full possession of his mental faculties. In all probability there would be an inability on his part to conduct his own affairs with the same prudence and judgment as he would before the attack came on or before any sign of mental disease manifested itself.

Q. Was his mental condition due to any physical disorder, as far as you could discover?

A. I think it was due to a combination of physical causes and mental causes. I would put down arteriosclerosis—disease of the arteries—as one cause, acted on by mental worry and grief over the illness of his son and possibly by other worries. I think the underlying cause was long-continued and progressive arteriosclerosis—arterial disease.

Q. Might I ask you a scientific question? Is there a physical cause for every mental disease?

Mr. G., of counsel for defendant, objects to this question as being irrelevant and illegal.

The question is allowed.

A. In certain forms of insanity there is a well-marked physical cause; in others a physical cause is suspected, but it is obscure and not proven to be the cause.

Q. Will you give us a little more detail as to the conduct of the patient after his admission to the hospital?

Mr. G., of counsel for defendant, objects to this question as being irrelevant and illegal.

was always inclined to borrow trouble, as a natural man. These conditions existed in this particular individual for a number of years—for instance at the time when he was a member of Parliament and was doing the business of the country. These were also characteristic conditions in the individual in later years. The next point I consider is the evidence of the doctors who saw him at the time. If we go into this medical evidence we find that Dr. S. examined Mr. M. early in January; that he found certain physical symptoms and certain nervous symptoms. Dr. S. found certain nervous symptoms—he found insomnia; he found inability on the part of the patient to fix his attention. He states that he answered questions slowly but correctly; that he was considerably agitated, and he spoke of ruining his boy. I believe these are all the symptoms Dr. S. mentions as a result of his examination in January. Of course, it is very hard to keep all these things in one's mind where there is such a mass of evidence, but I would like to feel that I had covered all the symptoms mentioned by Dr. S., because, being a medical man in charge of the case, one would naturally expect to place a great deal of weight upon his opinion. Dr. S. says he saw M. from time to time, but he made no further examination and that there were no new symptoms up to the time he left, just prior to March 5. There was no mental alteration in the man that Dr. S. considered sufficient to add to these symptoms at that time. Mrs. M. made a statement that Mr. M. had a revolver or threatened to shoot himself. Dr. S. says distinctly that if she had not

The objection is reserved by the court.

A. The patient continued to show this marked mental depression. He showed insomnia. He was restless. He refused his food frequently, because he stated it was tainted with human fecal matter, put in by his persecutors. At one time, about a month after his admission, I think it was in August—he attempted to suicide by driving a pair of scissors which he clutched suddenly into his right eye. They penetrated several inches and resulted in loss of vision in the right eye. Of course, we watched him very carefully after that, as we considered him then to be dangerously and actively suicidal. From that time on until the present he has shown a deterioration in every way, with a persistence of these depressing delusions of various kinds, and delusions of a persecutory character. For instance, he told me to-day that he was to be taken and exhibited through Philadelphia and Chicago as a terrible example of human guilt; that he was to be made to eat manure on the main street of Montreal. I just mention these to show you that his delusions are of a very horrible, terrifying and depressing character.

Q. What is the condition of G. M. at the present time?

A. His condition is one of involutional melancholia, verging into pre-senile insanity, and with certain signs of general mental and intellectual deterioration.

Q. Has there been any time since his admission to the hospital in which you would say he was better?

A. Absolutely no.

Q. Has there been any time in which you would call him sane?

made that statement he would not have considered him insane, or advised his going to an asylum. Dr. S., in the earlier stages, did not have any apparent anxiety as to this man's mental condition or as to his being insane, otherwise, he would have suggested a consultation, which is a very natural and ordinary thing to do. There is no evidence of his having done this. He prescribed for M.'s sleeplessness, which he said was the main cause for which he had examined him. I think it is clear that with no change in his mental symptoms, or nothing new in his mental symptoms (which I believe are the exact words used by Dr. S.), there was not sufficient ground in them to consider him insane. We now come to Dr. T.'s evidence: When Dr. T. took the case over from Dr. S. I presume Dr. S. would give him some history of the condition; in other words, would tell him what he had found on previous occasions and what the conditions were, so that Dr. T. would not have to go to the trouble of determining for himself the previous condition of the plaintiff; that he would have a history of the case from Dr. S. This is the usual practice and I think it is a fair inference to say it was done in this case. Dr. T. examined the general condition of the patient. He says he has no recollection of making an examination from a mental point of view. If Dr. S. had said to Dr. T., "This man is insane," surely Dr. T., with his experience in everything and with the practice he has had—if this man was in the position of a confirmed melancholiac—would have considered the mental side of it. However, the only statement Dr. T. makes in re-

A. No.

Q. Is his present condition in accordance with what you would expect from the nature of his disease?

A. Yes; it certainly is.

Q. Is it in accordance with what the symptoms as described by the doctors who gave their medical certificates for his admission would imply?

A. It is exactly what I would look for in melancholic symptoms appearing in a man of his age, with his history of alcoholism plus arteriosclerosis; yes.

Q. What is the effect of such a condition upon the capacity of the patient to transact business?

A. Well, insofar as his mind and emotions are dominated by these delusions, he is quite unable to form the same clear conception and judgment, because his mind fails to have the proper concentration that it had before and his judgment is not normal.

Q. What have you to say about his will power?

A. Well, his power of voluntary action and so on is affected by these delusions, as well as weakened or lessened—decidedly impaired.

Q. Does it make the patient liable to be easily influenced?

Witness: You might elaborate that question a little.

Q. I mean to be led or influenced by others.

A. Along the line of his delusions, possibly yes. In order to protect himself from these supposed persecutors he might be influenced quite easily along such lines, having delusions.

Q. If the patient's will is weakened in consequence of the disease,

garg to it is that he thought it was a mental condition rather than a physical one. He made no diagnosis—he said so distinctly—before the examination in July. It is true M. was depressed when Dr. T. saw him, and that he had a downcast look, and did not reply to Dr. T.'s questions, and spoke of the ruin of his family. This, however, did not impress Dr. T. with the man's insanity, or that he was even suffering from delusions. These were to my mind simply examples of the great discouragement under which the man was at that time, and Dr. T., I think very wisely, says that he cannot state whether that condition was transitory or permanent. As I say, that was the only examination Dr. S. or Dr. T. made prior to the end of April and this examination took place during the first two weeks of March. There is one important point, I think, in Dr. T.'s evidence to which I should refer, he having been there at the time and seeing the case subsequently. He expressed the opinion that the case developed in the months of May and June. That, from the physician in attendance at the time, who saw the patient constantly, was a matter which impressed me in regard to the evidence. Another important point, to my mind, was the number of witnesses of all classes of life who saw Mr. M. during the months in question—that is, December, January, February and March. We find members of Parliament, managers of large businesses, and so on. In fact, people in all walks of life, ladies as well. They are prepared to say, and do state in their evidence, that many of them had known him for a number of years and had

as you have indicated, would it not result necessarily from that weakening of the will power that a person might be led to do, at the suggestion of others, things that he would not do in his normal condition?

Mr. G. objects and the objection is maintained.

Q. Where the mind of a patient is weakened, in consequence of the disease which you have described, what is your experience as to the patient's power of resistance?

Witness: Power of resistance in regard to what?

Counsel: To the will of others?

A. That varies very greatly, dependent upon the form of mental disorder which one encounters.

Q. I mean the form which you have described?

A. In cases of melancholia of that character, while they are under the domination of their delusions more or less, they are very likely to follow out their dictates altogether regardless of anything that is brought to bear on them from an external source, especially if the influence has to do with trying to convince them that their delusions are delusions, because their delusions are really true beliefs to them as far as they go. My experience with cases of melancholia is that while acting under the domination of their delusions they are not easily led by outsiders. The delusions dominate them rather than the outsiders.

By Mr. G.:

Q. They are influenced by their delusions?

A. Yes.

talked with him on a great variety of subjects at various and irregular times throughout the whole interval—not for a week or two weeks at a time, but a day here, and perhaps three or four days later on. In that time they did not find that G. M. was in any way abnormal.

Q. If Mr. G. M. had been suffering from delusional melancholia (which I understand is continuous and progressive) in your opinion would it have been evident to the various persons with whom he came in contact during these months?

A. I think it certainly would have been apparent.

Q. Presuming that Mr. G. M. made a statement to his wife, about the end of February, that he thought the best thing that could happen would be for the three of them to die together (as appears from Mrs. M.'s evidence), would that indicate, in your opinion, that he was insane or suffering from confirmed melancholia at that time?

A. No. It would not; for the simple reason that, as a rule, any person suffering from melancholia—a melancholiac—the delusion would begin gradually, and would be repeated much more frequently. This was an isolated statement to the effect that it would be better for them all to die together. He did not make any attempt or do anything to show that it was a delusion in any sense of the word. It was simply a statement made in a moment of depression.

Q. Assuming that he made a statement to the effect that he had ruined his boy or ruined his family, and that he had ruined himself, dur-

By Mr. S.:

Q. That is, with respect to the subject of their delusions?

A. Surely.

By the Court:

Q. Is the mind of a melancholiac, so far as it governs his ordinary conduct, liable to work along normal lines?

A. Absolutely no. It is not. At no time is his mental condition not influenced and governed to a certain extent in all his intellectual processes—all the processes of thought, emotion, judgment, perception and so on—except by the delusions and the depressed character. That influences him at all times, and consequently you cannot say that a case of melancholia has a normal mental process going on at any time.

By Mr. S.:

Q. Did you hear the evidence given by Dr. T. and Dr. S.?

A. Yes.

Q. In your belief, from the time these gentlemen first examined G. M., considering the condition in which they found him, was there any time since then that he had been normal?

A. To the best of my knowledge and belief and experience with mental cases of that character and of that age, and knowing what I may know of their development and their progress, I should say from the time Dr. T. and Dr. S. found that man as emotionally depressed as they say he was—from that time until the present day he has not been normal mentally.

Cross-examined by Mr. G.:

Q. Do I construe your last answer correctly in saying that you

ing the months of January, February and March, in your opinion, would that indicate that he was insane and incapable of appreciating the nature of the transactions with M. referred to in this case?

A. No. I think not. If G. M. had believed he was ruined he would have shown it in his dress, and he would have shown it in his changed life, just as any other melancholiac would do.

Q. Supposing, for the sake of argument, that G. M. was suffering from a delusion that he was ruined, or that his family was ruined, during the months of January, February and March, what have you to say in regard to his failure to refer to this when speaking to the many people with whom he came in contact?

A. Assuming that he had these delusions, he would have been talking to every one about them. He would have been pounding it into everybody he came across.

Cross-examined by Mr. L., of counsel for plaintiff:

Q. Dr. C., for my own satisfaction and perhaps for the satisfaction of the court, will you kindly tell me what is a medical specialist?

Witness: A mental specialist?

Counsel: No, a medical specialist?

A. One who devotes his entire time to the treatment of a certain condition.

Q. That implies first that a man has made a special study of medicine?

A. Presumably, yes.

Q. And, of course, the narrower the limits of the specialty the better

consider the man ceased to be normal mentally when the delusions began or would you antedate it?

A. I would state that the disease was in the early stage of establishment at the time Dr. S. and Dr. T. found him in that abnormally depressed condition, with these delusions that he had lost everything, and wasted his substance and so on. I would consider the disease was established then.

In rebuttal:

Dr. W., examined by Mr. C. H. S.:

Q. You have already been examined on behalf of the plaintiff in this matter?

A. Yes.

Q. You have heard the testimony which has been given with regard to the possibility of recognizing or determining whether a patient is or is not afflicted with cerebral arteriosclerosis?

A. Yes.

Q. What is your opinion with regard to that?

A. I think it is possible for a doctor to determine with a reasonable degree of assurance whether a case is suffering from cerebral arteriosclerosis or not.

Q. Speaking with regard to the power of a patient suffering from delusional melancholia to conceal his condition, what have you to say to the court?

A. My experience is that patients suffering from melancholia and who have the disease established, may for limited periods conceal their delusions, and may, at certain times of the day—notably in the late afternoon or early evening—really appear brighter and seem to show that the melancholia has lifted

the specialist, other things being equal?

A. Provided it included the whole of that specialty; not half of it.

Q. So that a specialist who would have devoted all his time to the study of mental diseases would, other things being equal, be more competent than a specialist who has distributed his attentions to diseases of the nervous system and diseases of the mind?

A. You ask my opinion about that, and I say emphatically no.

Q. Give us the reason?

A. Well, if I am not correct in my appreciation of your question I would be glad to be put right. From a practical point of view the alienist sees these cases only after they are certified insane. The preceding stage of the condition is certainly more or less unknown to him, and for the very simple reason that these people—

Q. (Interrupting) Which people?

A. The people who are admitted to the asylums. They are there in an advanced stage of the condition. They are declared insane, but probably there is a long period of confirmed mental condition preceding that which the alienist does not see, unless he is also a neurologist and among these cases.

Q. So that a gentleman who like yourself, has devoted his time to the study of nervous diseases and what I would call the semi-ready stages of insanity—

A. (Interrupting) The preliminary stages of insanity—

Q. Is better fitted to pronounce an opinion than the specialist who is known as an alienist?

A. My opinion is that the man who is conversant with these con-

somewhat. I have seen many cases of that kind. I might refer to a case which came under my observation and treatment at the hospital not long ago, as a typical case to prove the point I refer to. We had a case at the institution, a man aged 55 years. He came to us in April and went away in May. During the last fortnight of his stay with us he appeared very well so far as his wife and family were concerned. When they came to see him he appeared to be very well and they objected very much to leaving him there. They took him out against our advice. We said that the man would be better with us and that he certainly was not a well man, but was a danger to himself. Notwithstanding this, they took him away. He did not show any depression to them and he did not talk over his delusions with them. When they came to see him he appeared to be sane. Indeed, he did not talk over his delusions very much with us, but, at the same time, we recognized that he was not very well. They took him out of the hospital on May 13, and about the middle of August he committed suicide. In other words, the disease was still there. It was continuous all the time. There was no remission and there was no intermission. The man was not well. He had the disease and he had these delusions which caused him to think that he should leave this world and that he should take his own life. As I say, he successfully concealed these delusions from his wife and family.

Q. Was he capable of talking rationally during that time?

ditions and who sees them every day would be able to give a better opinion than the man who only sees then when the pronounced stage is reached.

A. He talked very clearly and connectedly on many topics and in regard to many things.

Cross-examined by Mr. A. G.:

Q. Will you please listen to the question which I will read you from page 13 of your deposition given on behalf of the plaintiff in chief?

By the Court:

Q. Is the mind of a melancholic, so far as it governs his ordinary conduct, liable to work along normal lines?

"A. No. Absolutely. It is not. At no time is his mental condition not influenced and governed to a certain extent in all his intellectual processes—all the processes of thought, emotion, perception and so on, except by the delusions and depressed character. They influence him at all times; and consequently you cannot say that a case of melancholia has a normal mental process going on at any time." Is that answer correct?

A. Certainly it is correct. The process is not normal. I did not consider the case of the man I mentioned a moment ago as being normal. What I said was that he appeared so.

Q. But you did not confine yourself in that answer to saying that it was not normal. You went on to say that all the processes of thought, emotion, judgment, perception and so on, are influenced exclusively by the delusions and the depressed character?

A. I still maintain they are.

Q. You maintain that a man may absolutely create the impression he is cured, although every one of the processes of thought, emotion, judgment, perception and so on,

are influenced exclusively by these delusions?

A. Not influenced exclusively.

Q. You said in your answer, "At no time is his mental condition not influenced and governed to a certain extent in all his intellectual processes—all the processes of thought, emotion, judgment, perception and so on, except by the delusions and the depressed character?"

A. Yes; that is quite correct.

Q. They are influenced to a certain extent by the delusions. Do you maintain that he can be in that state and influenced at all times in all his intellectual processes by his delusions?

A. To a certain extent, yes. A man may be influenced by his delusions that he is a terrible criminal, for instance, and must get out of the world, or must rid the world of himself; yet, he may be able to conceal that delusion, so as to get an opportunity to kill himself.

Q. You are now suggesting that he may conceal his delusion so as to get an opportunity to carry out his plans?

A. It is merely one activity of the human mind.

Q. Do you suggest that he can carry that out to the extent of absolutely hiding his condition so that he will appear sane?

A. I do not suggest it. I absolutely know it. I have seen it.

Q. How do you know this man did not have a remission?

Witness: Which man?

Counsel: The man you mentioned a few moments ago as an example?

A. Because he was under my personal care and observation every day up to the time he left the hos-

pital. When he went out of the institution he was still suffering from melancholia, and he had these delusions, although, as I say, he did not show them to the very friends and relatives on whom he depended to take him away and who actually did take him away against our advice.

Q. Your idea is that this man was hiding his delusions for the purpose of being taken home?

A. At the time, he was.

Q. That would be the explanation of his behavior?

A. Yes.

Q. Nevertheless, he was not hiding his delusions from you?

A. No.

Q. He was perfectly confident that they were safely hidden if he hid them from his relatives and friends, and told them to you?

A. I could not say as to that.

Q. In any event, you did not think of suggesting to his relatives that they should question him in regard to these delusions?

A. I told his relatives, as I have said two or three times, that I considered the man dangerous. He mentioned these things to me, and I knew they were still in his mind, and that they ought not to take him away.

A. What sort of melancholic was he?

A. He was one of the involutional types of melancholia.

Q. What do you mean by "one of the involutional types?"

A. Depending on retrogressive and degenerative change physically. He was a man about 55 years of age.

Q. What was the cause of his melancholia?

A. I am not absolutely sure, without looking up the records. I think there was some statement made, but I am not sure what it was.

Q. What was his delusion?

A. He had the delusion that he ought to die. He thought he had lived a very sinful life, and it would be much better if he were out of the world. The man was a plasterer and had not been working for some time. He was not able to work, and he thought he was better out of the world.

Q. Do you suggest that these cases of men able to dissimulate completely to a certain class of people, while exhibiting their delusion to another class, are frequent cases, or do you deny the statement which I think I heard made that the general tendency of the melancholic is to harp on his delusions, unless there is some special reason which keeps him away from them?

A. I should say the average case of melancholia does dwell very continuously on the delusions. There is no doubt about that.

Q. What was the age of G. M.?

A. He was said to be 66 at the date of his admission.

Q. You say you can discover whether arteriosclerosis affects the brain or not?

A. I did not say that. I said that a doctor meeting certain symptoms in his patient might very reasonably come to a well-founded conclusion that cerebral arteriosclerosis did exist. That was the gist of my statement.

Q. Of course, you would not pronounce a man insane simply because you found evidence of arteriosclerosis, or even of cerebral arteriosclerosis?

A. No. I certainly would not.

Q. A mental examination would be necessary?

A. Decidedly.

Q. You may have a man suffering from arteriosclerosis and showing some of these symptoms which, according to you, indicate the probability of cerebral arteriosclerosis, and this man may be insane from other causes which have nothing to do with the arteriosclerosis?

A. Certainly.

Q. You have known of such men or have heard of such men having recovered.

A. I will not say that. I know I have had many cases of insanity recover, who have had arteriosclerosis in different parts of the body.

Q. In the present stage of science, the fact that they recover would be a conclusive demonstration that the insanity was not due to arteriosclerosis?

A. Yes.

Q. Take the case of a man who is insane, and who has arteriosclerosis and exhibits the symptoms which, according to you, indicate that he had not cerebral arteriosclerosis?

A. I would say not. If I found these symptoms pointing to arteriosclerosis, I would not expect a man to recover.

Q. That is not the idea I have in mind. I say take a case where the circumstances are such that, in the present state of science, your diagnosis would be that the man was suffering from cerebral arteriosclerosis. In other words, I ask you whether in the present state of science your diagnosis that he would not recover would be infallible?

A. No; nobody's diagnosis can be infallible.

Q. Was the patient to whom you referred as an example suffering from the same form of insanity as G. M. is suffering from?

A. I would call it an involuntional melancholia, but the sclerotic condition was not nearly as marked.

Q. That is to say, the sclerotic condition in M.'s case was more marked?

A. Yes.

Q. Was it the same class of melancholia?

A. Yes; I would class it the same. We diagnosed M. as a case of involuntional melancholia. I would also diagnose this other case as one of involuntional melancholia. Of course, any two cases of involuntional melancholia may show a diversity in certain symptoms.

It is hoped that a perusal of the above evidence will establish beyond doubt the foundation of which this paper is the superstructure, viz:—that there is great need for more agreement in the rendering of evidence by alienists and neurologists, and that such a diversity of findings from known facts as appear herein can only obstruct and not hasten the ends of justice.

NOTE: To Mr. Justice Cross, Mr. Henry J. Elliott, K. C., and Drs. G. Villeneuve, F. E. Devlin, and T. J. W. Burgess, of Montreal, I am indebted for valuable aid in the preparation of this paper. Dr. H. V. Robinson has compiled the expert evidence which was submitted in the case.